

A.K. JAYASANKARAN NAMBIAR, J.

&

SHAJI P. CHALY, J.

SUO MOTU WPC (UNNUMBERED) OF 2020

Dated this the 30th day of March, 2020

ORDER

A.K. Jayasankaran Nambiar, J.

Amidst the din of the Pandemic that engulfs us all, our laws cannot remain silent. They must continue to operate so as to protect the rights of our citizens. It is well established in our jurisprudence that the fundamental right to life and personal liberty, under Art.21 of our Constitution, cannot be suspended even during an emergency. As the sentinel on the qui vive, this Court must be alert to the cries of the citizenry, alleging violation of their Constitutional rights.

2. In the wake of the call for a twenty one day lock down by the Central and State Governments, and with a view to aid the efforts of the health authorities who have been striving relentlessly to “break the chain” of transmission of the viral infection, this Court too has adjourned its regular sitting. The objective of the lock down is apparently to enforce social distancing among the people so that the chain of transmission of the virus is broken. Towards the said objective, the State executive has, apart from health workers, also deployed police personnel throughout the State to monitor the movement of persons, and to ensure that

people do not venture outside their respective homes except for procuring essential provisions and articles required for their sustenance.

3. While we have come across an abundance of material in the print and social media, that would lead us to believe that exemplary work is being done by the health authorities as well as by the police personnel, we cannot turn a blind eye to some of the other material that has been published in the print, electronic and social media in the past week, that would point to excesses committed by the police personnel in the course of discharge of their duties. We have also to allay the fear amongst the citizenry as regards infringement of their fundamental rights. We are therefore of the view that the implementation of the lockdown in this State, by the Central or State authorities, must be under the watchful eyes of the Judiciary and, towards this end, we deem it appropriate to institute this *suo motu* proceedings to monitor State action during the lockdown period.

4. We might add that we have convened this sitting under exceptional and compelling circumstances, with a view to attend to urgent matters, even as there is a call for social distancing in vogue. The hearings are scheduled through video conferencing and cases are taken up after assigning a temporary/provisional number to them, with the rider that they will be assigned a regular number once the lock down period is over and regular sitting commences. In keeping with this procedure, we direct the Registry to number this *suo motu* case as well. Notice in

this writ petition may be sent to the following persons through the e-mail address to be furnished by the Government Pleader and the Assistant Solicitor General.

1. The State of Kerala, represented by the Chief Secretary to the Government of Kerala, Secretariat, Trivandrum.
2. The Secretary, Home Department, Government of Kerala
3. The State Police Chief, Police Head Quarters, Trivandrum
4. The Union of India, represented by the Secretary, Ministry of Home Affairs, Government of India, New Delhi.

**A.K.JAYASANKARAN NAMBIAR
JUDGE**

**SHAJI P. CHALY
JUDGE**