

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

Bail Appl.No. 1006 of 2015

CRIME NO. 988/2014 OF CHENGANNOOR POLICE STATION, ALAPPUZHA
.....

PETITIONER(S)/ACCUSED:

- 1. BIJU, AGED 31 YEARS,
S/O.RAJAPPAN, BAIJU BHAVANAM, AREEKARA,
MULAKKUZHA VILLAGE, ALAPPUZHA DISTRICT.**
- 2. REMANI, AGED 60 YEARS,
W/O.RAJAPPAN, BAIJU BHAVANAM, AREEKARA,
MULAKKUZHA VILLAGE, ALAPPUZHA DISTRICT.**

BY ADV. SRI.A.C.DEVY

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM, KOCHI - 31.**
- 2. SUB INSPECTOR OF POLICE,
CHENGANNOOR, ALAPPUZHA DISTRICT6 - 688 501.**

BY PUBLIC PROSECUTOR SRI.SHIBU GEORGE

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
09-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

B.KEMAL PASHA, J.

B.A.No.1006 of 2015

Dated this the 9th day of March 2015

ORDER

Petition under Section 438 Cr.P.C.

2. Petitioners are the accused in Crime No.988/2014 of Chenganoor Police Station, Alappuzha district registered for the offences punishable under Sections 376 of the I.P.C. and 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. The allegation against the petitioners is that on a promise of marriage, the first petitioner used to subject the *de facto complainant* woman, who is the member of a Scheduled caste, for sexual intercourse, on several occasions and subsequently, he backed out from his promise and married another lady. It is further

alleged that the second petitioner, who is the mother of the first petitioner, severely abused the *de facto complainant* and called her caste name in public, thereby humiliating and dishonouring her. The petitioners belong to Ezhava community, which is neither a Scheduled Caste nor Scheduled Tribe.

4. Heard the learned counsel for the petitioners and the learned Public Prosecutor.

5. When the offence under Section 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 have been alleged, there is clear bar under Section 18 of the said Act, in applying the provisions under Section 438 Code of Criminal Procedure in the matter. Matters being so, this bail application is not maintainable and hence, this bail application is dismissed.

Sd/-
B.KEMAL PASHA,
JUDGE

dl

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PA to Judge