

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

FRIDAY, THE 22ND DAY OF MAY 2015/1ST JYAISHTA, 1937

Bail Appl..No. 1986 of 2015

CRIME NO. 329/2015 OF KODANAD POLICE STATION, ERNAKULAM DISTRICT

PETITIONER(S)/ACCUSED :

**SUNDARAN, AGED 46 YEARS,
S/O.VELAPPAN, NEDUVELIKKUDI HOUSE,
VENGOOR WEST VILLAGE, ELAMBAKAPILLY KARA,
ERNAKULAM DITRICT.**

**BY ADVS.SRI.N.K.KARNIS
SRI.LATHEESH SEBASTIAN**

RESPONDENT(S)/STATE AND COMPLAINANT :

- 1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM- 682 031.**
- 2. DEPUTY SUPERINTENDENT OF POLICE,
PERUMBAVOOR, ERNAKULAM DISTRICT- 683 542.**
- 3. SUB INSPECTOR OF POLICE,
KODANAD POLICE STATION, ERNAKULAM DISTRICT.- 683 544.**

BY PUBLIC PROSECUTOR SRI.V.S.SREEJITH

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 22-05-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

Msd.

K. ABRAHAM MATHEW, J.

B.A. No.1986 of 2015

Dated this the 22nd day of May, 2015

O R D E R

Petition filed under Section 438 Cr.P.C.

2. Petitioner is alleged to have committed the offences under Secs.294(b), 324, 427, 447, 506(ii) of Indian Penal Code read with Secs.3(1)(x) and 3(2)(v) of the Scheduled Caste & Scheduled Tribe (Prevention of Atrocities) Act, 1989. The allegation is that he uttered obscene words, committed mischief, assaulted the victim who belongs to a scheduled caste, called him his caste name and intimidated him.

3. Heard both sides.

4. Learned counsel for the petitioner submits that in the First Information Statement, there was no allegation that the petitioner committed any offence under the SC/ST (Prevention of Atrocities) Act. That is true. But, this Court cannot enter a finding at this stage that the offence is not attracted. Sec.18 of the SC/ST

(Prevention of Atrocities) Act bars invoking jurisdiction under Sec.438 Cr.P.C. The learned Magistrate may take into consideration the fact that initially there was no allegation that the petitioner committed any offence under the SC/ST (Prevention of Atrocities) Act. He shall also take notice of the fact that the allegation was made subsequent to the registration of the case.

In the result, this bail application is dismissed with the above observations.

Sd/-
K. ABRAHAM MATHEW
JUDGE

/ True Copy /

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P.A. To Judge