

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

Bail Appl..No. 8652 of 2014

CRIME NO. 2239/2014 OF THIRUVALLA POLICE STATION , PATHANAMTITTA

PETITIONER(S)/ACCUSED 11,13,14 AND 16.:

- 1. MARYKUTTY P.M, AGED 37 YEARS
W/O.ANIL SAMUEL, NADUVILEPARAMBIL, THIRUVALLA P.O.
PIN-689101.**
- 2. ROSAMMA @ ROSAMMA MATHAI, AGED 50 YEARS
W/O.VARGHESE MATHAI, VALUPARAMBIL
MANJADI P.O., THIRUVALLA, PIN-689101.**
- 3. RAECHAL, AGED 54 YEARS,
W/O.LUCKYNATH, KODIYATTUKALAYIL HOUSE, THIRUVALLA P.O.
PIN-689101.**
- 4. DEENAMMA, AGED 50 YEARS,
W/O.PHILIP, PARUTHIKKATTIL, IRUVELLIPRA
THIRUVALLA, PIN-689101.**

**BY ADVS.SRI.N.P.PRAJEESH
SRI.BIJO THOMAS GEORGE**

RESPONDENT(S)/STATE:

- 1. STATE OF KERALA
REPRESENTED BY SUB INSPECTOR OF POLICE
THIRUVALLA POLICE STATION BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA AT ERNAKULAM.**

*** ADDL.R2 IMPEADED**

- 2. SHEEBA KURIAN, AGED 48, W/O.PASTOR KURIAN,
IPC EBENEZAR, MANJADY, THIRUVALLA-689105.**

ADDL.R2 IMPEADED AS PER ORDER DATED 5/1/2015 IN CRL.MA.11761/2014

**R1 BY PUBLIC PROSECUTOR SRI.SREEJITH V.S.
R2 BY ADV. SRI.V.PHILIP MATHEW**

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 15-01-2015,
ALONG WITH BA.NO.9096/2014, THE COURT ON THE SAME DAY PASSED
THE FOLLOWING:**

PJ

B. KEMAL PASHA, J.

.....
B.A. Nos.8652 & 9096 of 2014
.....

Dated this the 15th day of January, 2015

ORDER

~ ~ ~ ~ ~

Petitions under Section 438 Cr.P.C.

2. Petitioners in B.A.No.9096/2014 are A3, A4, A6, A7, A8, A9 and A15 and petitioners in B.A.No.8652/2014 are A11, A13, A14 and A16 in Crime No.2239/2014 of Thiruvalla Police Station registered for the offences punishable under Sections 323, 324, 452, 354, 294(b) and 427 read with Section 34 IPC.

3. A factional feud among the members of a Penthacostal church has led to untoward incidents for which a series of cases are there. It is alleged that on 09.11.2014 at 11.45 p.m., the petitioners along with the other accused committed house trespass into the parsonage attached to the Penthacostal church, wherein the husband of the *defacto complainant* is functioning as the Pastor. He along

with his wife, who is the *defacto complainant*, and two daughters are residing in the parsonage. It is alleged that, after committing house trespass, the petitioners have severely outraged the modesty of the *defacto complainant*. She was beaten up, dragged and hit with weapons. It is alleged that they have committed mischief by damaging the mobile phones of the *defacto complainant* and her daughters, thereby causing a wrongful loss of ₹30,000/-.

4. Heard the learned counsel for the petitioners, the learned counsel for the *defacto complainant* and the learned Public Prosecutor.

5. The contents of the CD reveal that the modesty of the *defacto complainant* was outraged. It seems that she was beaten up. The petitioners in B.A.No.8652/2014 are women. Considering the fact that they are women, who are members of the very same community, I am of the view that anticipatory bail can be granted to them.

6. In the result, B.A.No.8652/2014 is allowed and

the investigating officer or such other police officer, who is conducting the arrest of the petitioners, is directed to enlarge the petitioners on bail in the event of their arrest on each of them executing a bond for ₹25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the officer conducting arrest, and subject to the following terms and conditions:-

(i) The petitioners shall report before the investigating officer in between 9 a.m. and 11 a.m. on all Thursdays and Mondays, commencing from 22.01.2015 for a period of three months or till the filing of the final report in this case, whichever is earlier.

(ii) The petitioners shall not tamper with the evidence or influence witnesses.

(iii) The petitioners shall make themselves available for interrogation as and when required by the investigating officer.

(iv) The petitioners shall not involve in any offence while on bail.

It is made clear that the violation of any of the conditions stipulated above will result in the cancellation of

bail.

7. At the same time, considering the seriousness of the allegations against the petitioners in B.A.No.9096/2014, I am of the view that they are not entitled to the discretionary relief of anticipatory bail. The investigation is not over. It has been reported that 8 other cases are pending against them. Considering all the above, I am of the view that, while dismissing B.A.No.9096/2014, an opportunity can be granted to the petitioners to surrender before the investigating officer and to co-operate with the investigation.

Accordingly, B.A.No.9096/2014 is dismissed. At the same time, if so advised, the petitioners may surrender before the investigating officer within ten days from today and in such case, the investigating officer can interrogate the petitioners, effect recovery if any, and conduct the investigation and produce the petitioners without delay before the concerned Judicial First Class Magistrate's Court, where the petitioners can move for bail. In such case, the

BA.8652&9096/2014

: 5 :

learned Magistrate shall pass appropriate orders, preferably on the same day itself, provided advance notice on such application has been given to the Assistant Public Prosecutor also.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/15/01

// True Copy //

PA to Judge