

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 14TH DAY OF JANUARY 2015/24TH POUSHA, 1936

Crl.MC.No. 228 of 2015 ()

CRIME NO. 457/2014 OF VENGARA POLICE STATION , MALAPPURAM DISTRICT
=====

PETITIONER/ACCUSED:

**ABBAS KOYISSAN, S/O.ALAVI, KOYISSAN HOUSE
PADAPARAMBU, KANNAMANGALAM
VENGARA, MALAPPURAM DISTRICT, KERALA.**

BY ADV. SRI.JOSEPH SEBASTIAN PURAYIDAM

RESPONDENTS/STATE AND DEFACTO COMPLAINANT:

- 1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.**
- 2. VINOD, S/O.KEERANKUTTY, KANJOLIPADIKKAL HOUSE
MUTTUMPURAM, KANNAMANGALAM, VENGARA
MALAPPURAM DISTRICT-676 304.**

R1 BY PUBLIC PROSECUTOR SMT. S. HYMA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 14-01-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

**ANNEXURE A : TRUE COPY OF THE FIR DATED 09-11-2014 WITH NO.0457/2014 OF
VENGARA POLICE STATION WITH THE F.I. STATEMENT.**

**ANNEXURE B : TRUE COPY OF THE FIR NO.458/2014 OF VENGARA POLICE STATION
WITH THE FI STATEMENT.**

**ANNEXURE C : TRUE COPY OF THE APPLICATION SUBMITTED BY THE SUB
INSPECTOR OF POLICE, VENGARA POLICE STATION BEFORE THE
JUDICIAL FIRST CLASS MAGISTRATE COURT, MALAPPURAM DATED
29-11-2014 IN CRIME NO.457/2014 OF VENGARA POLICE STATION.**

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY // P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No. 228 of 2015

Dated this the 14^h day of January, 2015

O R D E R

The petitioner herein is the sole accused in Crime No.457/2014 of the Vengara Police Station, registered under Sections 323, 324 and 341 IPC, on the complaint of one Vinod. Police has not so far arrested him. Now, his grievance is that the police has submitted a mischievous report in court incorporating Section 3(1) X of The Scheduled Castes & The Scheduled Tribes (Prevention of Attrocities) Act, 1989 (for short, 'the SC/ST Act'), when the complaint made by the said Vinod does not contain anything essential to attract such a prosecution. He apprehends that in view of the said report and the mischievous steps taken by the police at the instance of somebody behind, he will be arrested, and on production before the learned Magistrate he will be remanded to judicial custody. He seeks a direction from this Court to the learned Magistrate under Section 482 Cr.P.C. to release him on bail, or in the alternate, to consider his application for bail on the date of surrender itself. Of course, on a perusal of

the First Information Statement which led to the registration of Annexure-A FIR, I find that a definite complaint of abuse, or humiliation, or insult of a member of Scheduled Caste as such is not there. It is not known on what material the investigating officer proceeded to incorporate such a section. The investigating officer will have to ensure that the provisions of the special Act meant for the protection of members of Scheduled Caste and Scheduled Tribe are not, in any manner, misused or abused by anybody. He will have to properly and legally satisfy himself that such elements are there for such a prosecution. Any way, the request made by the petitioner, or the relief sought by him that the court below shall be directed to release him on bail, cannot be now considered, at this stage. He will have to surrender before the learned Magistrate, and make application for regular bail. In view of the prohibition contained in Section 18 of the SC/ST Act, he cannot apply for pre-arrest bail. But the learned Magistrate having jurisdiction can definitely entertain the application under Section 437 Cr.P.C., and he can pass appropriate orders. Judicial Magistrates will have jurisdiction to grant bail in appropriate

cases. The learned Magistrate having jurisdiction will have to consider the petitioner's grievance. However, a direction can be made to the court below to consider and dispose of the application without delay.

In the result, this Crl.M.C. is closed, with direction to the court below, that in case the petitioner makes application for regular bail on surrender in Crime No.457/2014 of the Vengara Police Station, the same shall be judiciously considered and appropriate decision on bail shall be taken on the date of surrender itself, however with notice to the other side.

Sd/-

P. UBAID, JUDGE

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