

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 12TH DAY OF MARCH 2015/21ST PHALGUNA, 1936

Crl.MC.No. 824 of 2015 ()

**CRIME NO. 704/2014 OF ERNAKULAM TOWN NORTH POLICE STATION,
ERNAKULAM DISTRICT**

PETITIONER/ACCUSED:

**THAHIR, AGED 29 YEARS, S/O.SIDHQUE,
PARAPPURATH HOUSE, KRISHNANTHI ROAD,
S.R.M ROAD, ERNAKULAM.**

**BY ADVS.SRI.S.RENJITH
SRI.S.UNNIKRISHNAN (NELLAD)**

RESPONDENT(S)/RESPONDENTS :

- 1. STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. PRATHIBA PAVITHRAN,
PEEDIYECKAL HOUSE, SRM ROAD,
ERNAKULAM.**

R1 BY PUBLIC PROSECUTOR SRI.JIBU P. THOMAS

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 12-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' ANNEXURES

- ANNEX-A1. CERTIFIED COPY OF THE FIR IN CRIME NO.704/2014 OF ERNAKULAM TOWN NORTH POLICE STATION
- ANNEX-A2. COPY OF THE COMPLAINT SUBMITTED BY THE 2ND RESPONDENT BEFORE THE DIRECTOR GENERAL OF POLICE, KERALA DATED 2/5/2014.
- ANNEX-A3. COPY OF THE MEDICAL CERTIFICATE ISSUED BY THE DISTRICT MEDICAL BOARD, ERNAKULAM DATED 8/5/2014.
- ANNEX-A4. COPY OF THE FIR IN CRIME NO.532/2014 OF ERNAKULAM TOWN NORTH POLICE STATION
- ANNEX-A5. COPY OF THE FIR IN CRIME NO.729/2014 OF CENTRAL POLICE STATION ALONG WITH FIS.
- ANNEX-A6. COPY OF THE NEWS PUBLISHED BY THE MADHYAMAM DAILY DATED 17/4/2014.
- ANNEX-A7. COPY OF THE NEWS PUBLISHED BY THE DESHABHIMANI DAILY DATED 17/4/2014.

RESPONDENT(S)' ANNEXURES: NIL

/TRUE COPY/

P.A.TO.JUDGE

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B. KEMAL PASHA, J.

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Crl.M.C. No.824 of 2015
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Dated this the 12th day of March, 2015

ORDER

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The accused in Crime No.704/2014 of Ernakulam Town North Police Station registered for the offences punishable under Sections 354(A)(1), 294(b), 341, 506(i) and 323 IPC and Sections 3(1)(x) and 3(1)(xi) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, has come up under Section 482 Cr.P.C. for getting Annexure-A1 FIR in the crime quashed.

2. The petitioner has produced the documents which show that other criminal cases are pending between the parties. The parties have been in loggerheads. It is highly probable to think that the offences under Sections 3 (1)(x) and 3(1)(xi) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 in this case are incorporated with a view to preventing the petitioner from

getting anticipatory bail. Documents have been produced to show that the petitioner is 60% handicapped.

3. When an offence under the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is alleged, the provisions under Section 438 Cr.P.C. are not applicable to the same in view of Section 18 of the said Act. It is true that the offences under the said Act are triable by the Special Court, which is the Court of Sessions. At the same time, time and again, this Court has held repeatedly in **Ali Vs. State of Kerala** [2000 (2) KLT 280] and **Shanu Vs. State of Kerala** [2000 (3) KLT 452] and in several other decisions that the Judicial First Class Magistrates are not powerless to grant bail in offences coming under the said Act in appropriate cases. The learned Magistrate shall take note of the decisions noted *supra*.

In the result, this CrI.M.C. is disposed of with a direction to the court below to dispose of the application seeking bail that may be filed by the petitioner on his

surrender, on the date of surrender itself by relying on the decisions noted *supra*, provided advance notice on such application has been given to the Assistant Public Prosecutor also.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/13/03

// True Copy //

PA to Judge