

**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. 1272 of 2015 ()**

**CRIME NO. 16/2014 OF TIRUR POLICE STATION, MALAPPURAM DISTRICT.**

**.....**

**PETITIONERS/ACCUSED 1 & 2 IN CRIME NO.147/2015 OF TIRUR POLICE STATION :**

- 1. LEELAVATHY, AGED 43 YEARS,  
W/O. SALGUNAN, PAYYAPANTHA HOUSE,  
TIRUR AMSOM, THUMARAKAVU DESOM,  
POOKAYIL P.O., TIRUR, MALAPPURAM DISTRICT-676 107.**
- 2. SALGUNAN, AGED 54 YEARS,  
S/O. PARANGODAN, PAYYAPANTHA HOUSE,  
TIRUR AMSOM, THUMARAKAVU DESOM,  
POOKAYIL P.O., TIRUR, MALAPPURAM DISTRICT-676 107.**

**BY ADVS.SRI.NIRMAL V.NAIR,  
SRI.ANEESH JOSEPH,  
SRI.RILGIN V.GEORGE,  
SRI.M.ANEESH.**

**RESPONDENT(S):**

**STATE OF KERALA,  
REPRESENTED BY THE PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM-682 031.**

**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:**

**rs.**

**Crl.MC.No. 1272 of 2015**

**APPENDIX**

**PETITIONER'S ANNEXURES:-**

**ANNEXURE A1 : COPY OF THE FIR IN CRIME NO.16/2014 OF THE  
TIRUR POLICE STATION.**

**RESPONDENT'S ANNEXURES:- NIL.**

**//TRUE COPY//**

**PA. TO JUDGE**

**rs.**

**B. KEMAL PASHA, J.**

.....  
Crl.M.C. No.1272 of 2015  
.....

*Dated this the 12<sup>th</sup> day of March, 2015*

**ORDER**

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The accused in Crime No.147/2015 of Tirur Police Station registered for the offences punishable under Sections 447 and 294(b) read with Section 34 IPC and Section 3(1)(x) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, have come up under Section 482 Cr.P.C. for a direction to the Judicial First Class Magistrate's Court, Tirur to consider and dispose of their application seeking bail on the date of surrender itself and to release the petitioners on bail.

2. There is long standing dispute between the parties relating to a property. There is everything to believe

that the present crime is also one in continuation of such disputes. 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. The learned Magistrate shall take note of the decisions noted *supra*.

In the result, this Crl.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 petitioners on their surrender, on the date of surrender itself by relying of 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/12/03

*// True Copy //*

*PA to Judge*