

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 25TH DAY OF NOVEMBER 2015/4TH AGRAHAYANA, 1937

Cr1.MC.No. 3110 of 2014 ()

CRIME NO. 468/2014 OF THIRURANGADY POLICE STATION, MALAPPURAM

PETITIONER/4TH ACCUSED:

AMMUKUTTY AMMA,
W/O GOVINDANKUTTY NAIR, 'ATHEKKATTIL' HOUSE,
THALAPPARA (P.O), MALAPPURAM DISTRICT.

BY ADV. SRI.JESWIN P.VARGHESE

RESPONDENT/COMPLAINANT:

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

*ADDL. R2 IMPEADED:

ADDL.R2. CHANDRAN,
S/O. KANNAN KUTTY, PATHIYIL,
'ATHEKKATTIL' HOUSE,
MUNNIYUR, THALAPPARA, THIRURANGADY (P.O.),
MALAPPURAM DISTRICT. PIN-676 306.

*ADDL.R2 IS IMPEADED AS PER ORDER DATED 17.06.2014 IN
CRL.M.A.NO.5517 OF 2014 IN CRL.M.C.NO.3110/2014.

R1 BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE
ADDL.2 BY ADVS. SRI.K.P.SUDHEER
SRI.ARUN MATHEW VADAKKAN

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 25-11-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

DSV/25/11/15

Cr1.MC.No. 3110 of 2014 ()

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A : COPY OF THE FIR IN CRIME NO.468/2014 OF
THIRURANGADY POLICE STATION IN MALAPPURAM DISTRICT DATED
18.04.2014.

ANNEXURE B : COPY OF THE COMPLAINT LODGED BEFORE THE DISTRICT
POLICE CHIEF, MALAPPURAM DATED 17.05.2014

RESPONDENTS' ANNEXURES:

NIL

// True Copy //

P.A. To Judge

DSV/25/11/15

B.KEMAL PASHA, J.

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Crl.M.C. No. 3110 of 2014

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Dated this the 25th day of November, 2015

ORDER

Heard the learned counsel for the petitioner, learned counsel for the 2nd respondent and the learned Public Prosecutor.

2. The present stage is too premature to say whether there are ingredients in the offence alleged against the petitioner under Section 3(1)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. It is a question that has to be considered by the investigating officer at the time of the filing of Final Report after investigation, and also the

concerned Special Court at the time of framing charges.

3. The apprehension expressed by the learned counsel for the petitioner is that the learned Magistrate, before whom the crime is pending, may take a view that the learned Magistrate is powerless to grant bail in a case wherein an offence under the said Special Act is alleged, especially when, the offence is triable by a Special Court, who is the learned Sessions Judge of the District. There need not be any such apprehension in view of the decisions of this Court in ***Ali Vs. State of Kerala*** [2000(2) KLT 280] and ***Shanu Vs. State of Kerala*** [2000(3) KLT 452]. It is made clear that the learned Magistrate has power to enlarge the petitioner on bail even in a case in which an offence under the said Special Act is alleged.

4. The other offences under IPC alleged against the petitioner are bailable. The learned Magistrate shall consider the said aspects and dispose of the application seeking bail that may be filed by the petitioner on her surrender before the court

below within a period of ten days from today, on the date of filing itself, provided advance notice on such application has been given to the Assistant Public Prosecutor in charge of the case also.

In the result, this Crl.M.C. is disposed of as above.

Sd/-

**B.KEMAL PASHA
JUDGE**

DSV/25/11/15

// True Copy //

P.A. To Judge