

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 15TH DAY OF OCTOBER 2015/23RD ASWINA, 1937

Crl.MC.No. 6708 of 2015 ()

**S.C.NO. 389/2015 of THE PRINCIPAL DISTRICT AND SESSIONS COURT, PALAKKAD
CRIME NO. 380/2013 OF KOTTAYI POLICE STATION , PALAKKAD**

PETITIONER/ACCUSED:

**SUNU. K @ SUNOJ, AGED 32 YEARS,
S/O. KRISHNAN, KOTTODEVEEDU, THOLANUR, KUTHANUR, PALAKKAD.**

**BY ADVS.SRI.PRASUN.S
SRI.PAUL MATHEW (PERUMPILLIL)**

RESPONDENT/COMPLAINANT-STATE:

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

R BY PUBLIC PROSECUTOR

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
15-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' ANNEXURE:

- ANNEXURE A1:** THE TRUE PHOTOCOPY OF THE ORDER DATED 25.08.2015 IN C.M.P. NO. 6562 OF 2015 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-I, PALAKKAD.
- ANNEXURE A2:** THE TRUE PHOTOCOPY OF THE FIRST INFORMATION STATEMENT DATED 12.07.2013, IN CRIME NO. 380 OF 2013 OF KOTTAYI POLICE STATION.
- ANNEXURE A3:** THE TRUE PHOTOCOPY OF THE FIRST INFORMATION REPORT DATED 12.07.2013, IN CRIME NO. 380 OF 2013 OF KOTTAYI POLICE STATION.
- ANNEXURE A4:** THE TRUE PHOTOCOPY OF FINAL REPORT DATED 29.10.2014 IN S.C.NO. 389 OF 2015 OF THE PRINCIPAL DISTRICT AND SESSIONS COURT, PALAKKAD.

RESPONDENT(S)' ANNEXURE: NIL

/TRUE COPY/

P.A. TO JUDGE

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P.UBAID, J.

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Crl.M.C.No.6708 of 2015

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Dated this the 15th day of October, 2015

ORDER

The petitioner herein is the sole accused in SC No.389 of 2015 of the Court of Session, Palakkad. He was granted bail on surrender by the learned Judicial First Class Court-I, Palakkad on 25.08.2015 on a condition that the petitioner shall surrender his passport in Court. Accordingly, he surrendered his passport, and now the petitioner seeks orders quashing the said condition. Though filed under Section 482 Cr.P.C. this application is treated as one under Section 439(1)(b) Cr.P.C. The crime involves some simple offences under the Indian Penal Code, besides the offence alleged under Section 3(i)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The learned counsel submits that there is absolutely no material in the prosecution records to attract Section 3(i)(x) of the SC/ST Act. Ofcourse, to bring under Section 3(i)(x) of the SC/ST Act, the offence alleged must have been committed within public view, and it must have been committed with the object of abusing or humiliating a

member of some Scheduled Caste or Scheduled Tribe, on the ground that the victim belongs to such a Caste. A mere abuse, and that too, not made within public, view will not come under Section 3(i)(x) of the SC/ST Act. These are all matters to be looked into by the trial court. In this matter the concern of the Court is whether the condition imposed by the learned Magistrate should continue in force. The petitioner's grievance is that such a condition will stand in the way of his seeking employment abroad. Conditions imposed by Courts shall not stand in the way of the accused seeking employment here or abroad. It is not known when the case would come up for trial. Anyway, in the particular facts and circumstances, I feel that the petitioner's passport can be released to him. He has already executed bond as ordered by the learned Magistrate. This case does not involve any compelling circumstance to direct the petitioner to surrender his passport as a condition for bail.

In the result, the petition is allowed. The objectionable condition imposed by the learned Judicial First Class Magistrate Court-I, Palakkad directing the petitioner to surrender his passport, will stand lifted. The passport will be released to the petitioner.

H/O

**P.UBAID
JUDGE**

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//TRUE COPY//

P.A. TO JUDGE