

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 16TH DAY OF FEBRUARY 2015/27TH MAGHA, 1936

Crl.Rev.Pet.No. 1729 of 2014 ()

**CMP. NO. 2359/2014 IN S.C. NO. 435/2012 OF PRINCIPAL SESSIONS COURT,
PATHANAMTHITTA**

REVISION PETITIONERS/ACCUSED :

- 1. JOY VARGHESE, AGED 56 YEARS,
S/O.T.V.VARGHESE, THAZHEMANNIL HOUSE, KUDAMURUTTY,
KARIKULAM MURI, ATHIKKAYAM VILLAGE, RANNI TALUK,
PATHANAMTHITTA DISTRICT.**
- 2. LOVELY JOY, AGED 52 YEARS,
W/O.JOY VARGHESE, THAZHEMANNIL HOUSE, KUDAMURUTTY,
KARIKULAM MURI, ATHIKKAYAM VILLAGE, RANNI TALUK,
PATHANAMTHITTA DISTRICT.**

BY ADV. SRI.V.SETHUNATH

RESPONDENTS/COMPLAINANT/DE FACTO COMPLAINANT :

- 1. DY. S.P OF POLICE
THIRUVALLA (CRIME OF PERUNAD POLICE STATION)
PATHANAMTHITTA DISTRICT.**
- 2. HARITHA, AGED 17 YEARS,
REPRESENTED BY HER MOTHER, OMANA, W/O.HARIPRASAD,
PADALIL VEETIL, KUDAMURUTTY, KARKULAM MURI,
ATHIKKAYAM VILLAGE, RANNI TALUK,
PATHANAMTHITTA DISTRICT, PIN-689682.**
- 3. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.**

R1 & R3 BY PUBLIC PROSECUTOR SRI. JIBU P. THOMAS

**THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 16-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

bp

APPENDIX

PETITIONER'S ANNEXURES :

ANNEXURE 1: COPY OF THE ORDER OF THIS COURT IN CR.M.C. NO. 3749/2014

ANNEXURE 2: COPY OF THE DISCHARGE PETITION FILED BY THE ACCUSED PERSONS.

ANNEXURE 3: COPY OF THE ORDER OF THE SESSIONS COURT, PATHANAMTHITTA IN CRL.M.P. NO. 2359/2014.

ANNEXURE 4: COPY OF THE FINAL REPORT IN CRIME NO. 111/2010 OF PERUNAD POLICE STATION, NOW PENDING AS S.C. NO. 435/2012 ON THE FILE OF THE PRINCIPAL SESSIONS COURT, PATHANAMTHITTA.

ANNEXURE 5: COPY OF THE JUDGMENT & DECREE OF THE MUNSIFF'S COURT, RANNI IN O.S. NO. 252/2004.

ANNEXURE 6: COPY OF THE JUDGMENT & DECREE OF THE DISTRICT COURT, PATHANAMTHITTA IN A.S. NO. 223/2006.

ANNEXURE 7: COPY OF THE JUDGMENT OF THE HIGH COURT IN R.S.A. NO. 1026/2011.

ANNEXURE 8: COPY OF THE ORDER F THIS COURT IN WPC NO. 3000/2014 (Y)

RESPONDENT'S ANNEXURES : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

B.KEMAL PASHA, J.

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Crl.R.P. No.1729 of 2014

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Dated this the 16th day of February, 2015

O R D E R

Petitioners are accused in Sessions Case No.435 of 2012, pending before the Sessions Court, Pathanamthitta for the offence under Section 3(i)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. The prosecution case is that the petitioners have called the caste name of CW1, in public view. CW1 is a member of a Scheduled Caste. Petitioners are not members of any Scheduled Caste or Scheduled Tribe. It seems that the petitioners had approached the court below with Crl.M.P.No.2359 of 2014 seeking a discharge under Section 227 of the Cr.P.C. The court below after hearing the parties, has found that there are grounds for a *prima facie* satisfaction

of having the offences committed. At the same time, the court below has mentioned the fact that it was not advisable to go into the probability or improbability of the case advanced, at the stage of consideration under section 227 Cr.P.C. Those matters are to be discussed and decided on merits during trial.

3. Without going further in the merits of the matter, on hearing the learned counsel for the petitioners and the learned Public Prosecutor, I am of the view that the impugned order does not call for any interference at all, at present. Let the matter be tried before the court below by giving a fair opportunity to the petitioners to participate in the trial and to take all possible defences. The court below shall dispose of the case, quite untrammelled by any of the observations made by the court below in the impugned order.

With the said observations, this Crl.R.P. is dismissed.

Sd/-
B.KEMAL PASHA
JUDGE

DSV/18/2/15

// True Copy //

P.A. To Judge