

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

FRIDAY, THE 12TH DAY OF JUNE 2015/22ND JYAISHTA, 1937

WP(C).No. 17210 of 2015 (A)

PETITIONER:

**RAJENDRAN PILLAI,
S/O.THANU PILLAI, AGED 61 YEARS,
MELEPOTTUR , MUDUR POST,
VATTAMKULAM, MALAPPURAM DISTRICT.**

BY ADV. SRI.RAJESH SIVARAMANKUTTY

RESPONDENTS:

- 1. DEPUTY SUPERINTENDENT OF POLICE,
OFFICE OF THE DEPUTY SUPERINTENDENT OF POLICE,
TIRUR, MALAPPURAM DISTRICT.**
- 2. APPU @ JAYAN,S/O.KUTTIAYYAPPAN,AGED ABOUT 35 YEARS,
CHAKKANCHATHU PARAMBIL, MELEPOTTUR,
MUDUR POST, VATTAMKULAM, MALAPPURAM DISTRICT.**
- 3. C.P MANOJ,S/O.C.P KOTHA,AGED ABOUT 36 YEARS,
MELEPOTTUR, MUDUR POST,
VATTAMKULAM, MALAPPURAM DISTRICT.**

R1 BY PUBLIC PROSECUTOR SMT. S.HYMA

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 12-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 17210 of 2015 (A)

APPENDIX

PETITIONER(S)' EXHIBITS

**P1:- TRUE COPY OF THE NOTICE UNDER SECTION 55 CR.P.C ISSUED BY THE IST
RESPONDENT TO THE PETITIONER**

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.S.TO JUDGE

sts

ALEXANDER THOMAS, J.

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W.P.(C).No. 17210 of 2015

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Dated this the 12th day of June, 2015

J U D G M E N T

The main prayers in this Writ Petition (Civil) are as follows:

- i. hold that Exhibit P-1 notice issued by 1st respondent to petitioner is bad in law and liable to be quashed by a writ of certiorari or any other writ order or like nature.
- ii. hold that the petitioner cannot be arrested by virtue of appearance before the 1st respondent consequent to Exhibit P-1."

2. This Court as per order dated 9.6.2015 had directed that the all coercive proceedings pursuant to Ext.P-1 will remain under suspension.

3. Sri.Rajesh Sivaramankutty, learned counsel for the petitioner submits that the petitioner confines his prayer to the limited request that on his appearing before the jurisdictional Magistrate concerned, direction may be issued to the learned Magistrate to consider the petitioner's bail application on the same day itself, in the light of the legal principles laid down by this Court in the case Shanu v. State of Kerala reported in 2000 (3) KLT 452 and that orders granting bail in that regard subject to any strict

conditions that may be imposed by this Court or by the jurisdictional Magistrate concerned.

4. The petitioner is the sole accused in Crime No.328/2015 of Ponnani Police Station, registered for offences under Secs.294, 506(1) of the I.P.C read with Secs.3(1)(X) of SC/ST (Prevention of Atrocities) Act, 1988. This Court in the case Shanu's case reported in 2000 (3) KLT 452 has held in paragraphs 9 to 11 thereof as follows:

"9. In the above decision this Court has held that even though offence punishable under S. 307 of I.P.C., exclusively triable by the Sessions Court was also alleged, the Magistrate's Court has got jurisdiction to grant bail under S. 437(1) of the Cr.P.C. since the offence is not punishable with death or imprisonment for life in the alternative.

10. As already noted, the 15 offences enumerated under sub-s. (1) of S. 3 of the S.C. and S.T. (Prevention of Atrocities) Act are punishable with maximum imprisonment of five years and with fine, though the offences are triable by the Special Court, which is the Sessions Court. Therefore, applying the principles enunciated in the decisions of this Court referred to above, it is clear that the J.F.C.M.'s Court has got jurisdiction to grant bail to the persons accused of the offence punishable under any of the sub-cls. (i) to (xv) of sub-s. (1) of S. 3 of the Act.

11. In this case, the offence alleged against the petitioners is punishable under S.324 of I.P.C. and S. 3(1)(x) of the S.C. and S.T. (Prevention of Atrocities) Act. Therefore, it follows that the J.F.C.M.'s Court has got jurisdiction to grant bail to the accused under S. 437 (1) of the Cr.P.C. irrespective of the fact that the case is triable by the Special Court, which is the Court of Session. Hence the learned Magistrate is directed to enlarge the petitioners on bail on appropriate conditions he deems necessary, in case the petitioners surrendered or arrested and produced before the court and moved for bail."

5. Heard Sri.Rajesh Sivaramankutty, learned counsel for the

petitioner and the learned Public Prosecutor appearing for the respondents.

6. On a consideration of the totality of the facts and circumstances of this case and taking into account the fact that the petitioner is a 61 year old and that the case projected in the Writ Petition there appears to be some civil disputes between the petitioner accused and the defacto complainant, it is ordered in the interest of justice that on the petitioner surrendering before the jurisdictional Magistrate concerned, without any further delay and making necessary application for grant of bail, the learned Magistrate shall consider such application on the same day itself in the light of the legal principles laid down by this Court in the case Shanu's case reported in 2000 (3) KLT 452 and pass necessary orders granting him bail after imposing such conditions, which are necessary, fair and just in the facts and circumstances of the case.

7. After grant of bail as aforestated, the petitioner shall, without any further delay, appear before the investigating officer concerned in the above said crime and make himself available for questioning in connection with the investigation of the crime on that day or any other day as may be intimated by the investigating officer to the petitioner on such date as he appears aforestated.

8. In the light of these directions, on the petitioner duly complying with the directions as stated above, it is ordered that Ext.P-1 proceedings will stand recalled. However, it is made clear that if the petitioner does not voluntarily appear and surrender before the jurisdictional Magistrate concerned within a period of three weeks from today, then the directions issued hereinabove will stand automatically vacated.

The Crl.M.C. stands accordingly finally disposed of.

sd/-
ALEXANDER THOMAS, JUDGE

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///True copy///

P.S. to Judge