

**John P.S. Vs. State of Kerala**

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**SooperKanoon Citation :** [sooperkanoon.com/1099567](http://sooperkanoon.com/1099567)

**Court :** Kerala

**Decided On :** Nov-29-2013

**Judge :** Honourable Mr.Justice P.Bhavadasan

**Appellant :** John P.S.

**Respondent :** State of Kerala

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.BHAVADASAN FRIDAY, THE 29<sup>H</sup> DAY OF NOVEMBER 2013 8<sup>TH</sup> AGRAHAYANA, 1935 CrI.MC.No. 5200 of 2013 ()  
----- CRIME NO. 1299/2013 OF PATHANAMTHITTA POLICE STATION, PATHANAMTITTA -----  
PETITIONER(S)/ACCUSED: ----- JOHN P.S., S/O.SKARIAH, AGED 59 YEARS, POOVANNUVILAYIL HOUSE, VAZHAMUTTOM, EAST P.O, VALLICODE VILLAGE, KOZHENCHERRY TALUK, PATHANAMTHITTA DISTRICT. BY ADVS.SRI.M.T.SURESHKUMAR SRI.V.V.RAJA  
RESPONDENT(S)/RESPONDENT: ----- STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, 682 031. BY PUBLIC PROSECUTOR SMT.P.MAYA THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 29-11-2013, ALONG WITH BA. 8034/2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: PJ CrI.MC.No. 5200 of 2013 ()  
----- APPENDIX PETITIONER(S)' ANNEXURES

----- ANNX.A1 - TRUE COPY OF THE COMPLAINT  
FILED BEFORE THE DISTRICT POLICE CHIEF BY THE COMPLAINANT  
ON178-2013, PENDING BEFORE CJM, PATHANAMTHITTA ANNX.A2 - RUE  
COPY OF THE CRIME NO.1299 OF 2013 OF PATHANAMTHITTA POLICE  
STATION DTD.26-8-13 RESPONDENT(S)' ANNEXURE  
----- NIL. / TRUE COPY / P.S.TO JUDGE PJ  
P.BHAVADASAN, J.

----- Crl.M.C. No. 5200 of 2013 & B.A. No. 8034 of  
2013 ----- Dated this the 29th day of November, 2013

## ORDER

These petitions arise from the same proceedings that is Crime No. 1299 of 2013 in which the petitioner is an accused who is alleged to have committed the offence punishable under Section 3(1)(x) of SC/ST (Prevention of Atrocities) Act, 1989.

2. In anticipatory bail application, it is contended that the allegations are totally false and the petitioner has not committed any offence as alleged.

3. In Crl.M.C.No. 5200/2013, it is pointed out that it is an abuse of process of the court that an innocent person is sought to be made liable for no act done by him.

4. The learned Public Prosecutor opposed both the petitions and pointed out that as far as the anticipatory bail application is concerned, the complaint makes mention of Crl.M.C. No. 5200 of 2013 & B.A. No. 8034 of 2013 -2- facts which attract the offence under the SC/ST (Prevention of Atrocities) Act and if that be so, as per Section 18 of SC/ST (Prevention of Atrocities) Act, this Court is precluded from exercising its extraordinary powers in favour of the petitioner. As far as the Crl.M.C. is concerned, it is pointed out that since a cognizable offence has been reported, necessarily, a crime will have to be registered and investigation carried on.

5. There seems to be much force in the contentions raised by the learned Public Prosecutor. On going through the First Information Statement, prima facie it would appear that there is an allegation which would attract the provisions of SC/ST

(Prevention of Atrocities) Act. If that be so, going by Section 18 of the said act, this Court is precluded from exercising its extraordinary jurisdiction under Section 438 of Cr.P.C. The anticipatory bail application is only to be dismissed. I do so. Crl.M.C. No. 5200 of 2013 & B.A. No. 8034 of 2013 -3- 6. As far as the Crl.M.C. is concerned, the learned Public Prosecutor is fully justified in her submission that a cognizable offence has been reported in which case the First Information Report has to be registered and investigation has to go on. That cannot be interfered with. There is no merits in this petition and that is also dismissed. However, if so advised, the petitioner may surrender before the Investigating Officer on or before 06.12.2013, who after interrogation, shall produce the petitioner before the JFCM Court concerned, which court on application for bail being moved by the petitioner may dispose of the same in accordance with law, preferably on the same day itself, in view of the decision reported in Shanu v. State of Kerala (2000(3) KLT452. P.BHAVADASAN JUDGE ds

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