

**Askar vs State of Kerala**

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**Court :** Kerala Orders

**Decided On :** Feb-29-2024

**Judge :** Honourable Mr. Justice Bechu Kurian Thomas

**Appeal No. :** Crl.MC/1156/2024

**Appellant :** ASKAR

**Respondent :** State of Kerala

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS THURSDAY, THE 29TH DAY OF FEBRUARY 2024 / 10TH PHALGUNA, 1945 SC 885/2003 OF ADDITIONAL DISTRICT COURT (SPECIAL COURT FOR TRIAL FOR MARAD CASES) KOZHIKODE PETITIONER/ PETITIONER NOS.9, 10, 13/ ACCUSED : 1 ASKAR, AGED 42 YEARS S/O. HAMZA, PALLITHODI VEED, JUMAYATH PALLIKADUTH, MARAD, KOZHIKODE DISTRICT, PIN - 673 018 2 SALIM P.P., AGED 48 YEARS, S/O.BEERANKOYA, PUTHIYAPURAYIL VEED, MARAD, 3 TAHA AGED 45 YEARS S/O. MOIDEENKOYA, NAINAMVALAPPU VEED, MARAD, BY ADVS. M.A.AHAMMAD SAHEER E.A.HARIS MUHAMMED YASIL RESPONDENT/ STATE AND

COMPLAINANT : STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682 031 SRI. NOUSHAD K.A., PUBLIC PROSECUTOR THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 29.02.2024, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**BECHU KURIAN THOMAS, J.**

Crl.M.C.No.1156 of 2024 Dated this the 29th day of February, 2024  
Petitioners are accused 9, 10 and 13 in S.C.No.885 of 2003 on the

files of the Sessions Court, Kozhikode (Marad Cases). The trial in the above case had concluded and petitioners were convicted. Their appeals before this Court was dismissed and a criminal appeal has been filed before the Supreme Court which is pending consideration as Crl.A.No.2540 of 2014.

2. While so, the Supreme Court directed the Sessions Court to release the petitioners on bail after imposing appropriate conditions. The learned Sessions Judge imposed a condition that petitioner shall not enter

into the limits of Kozhikode city police station. The said condition was modified by this Court to not enter into the limits of Marad Police Station. Aggrieved by the said condition, petitioners filed an application to lift the same. However by the impugned order dated 13.09.2023, the learned Sessions Judge dismissed the application.

3. I have heard Sri. Ahammad Saheer M.A., the learned counsel for the petitioner as well as Sri.Noushad K.A., the learned Public Prosecutor.

4. It is noticed from the impugned order that the report of the Station House Officer of Marad Police Station was relied upon by the

learned Sessions Judge to refuse to lift the said condition. The report stated that if the petitioner is permitted to enter the jurisdiction of Marad Police Station, it will create unrest and will adversely affect the peace and tranquility now prevailing in the said area.

5. The learned Public Prosecutor has made available a copy of the

present report submitted by the Detective Inspector of Crime Branch, Kozhikode. It is stated therein that if the accused are permitted to enter into the limits of Marad Police Station, it can spur the enmity between the Hindu and Muslim communities in Marad. It is also mentioned that the community of the victims in the above cases are keeping a close watch on the convicted accused to ensure that they do not enter within the limits of the police station and any provocation can lead to communal issues once again at Marad.

6. On a consideration of the report submitted by the Detective

Inspector and bearing in mind the circumstances that led to the registration of the crime and even constitution of a Special Court for trying cases relating to the incident that occurred at Marad, I am of the view that the limited condition of restraining entry into the limits of Marad Police Station is not too onerous a condition nor is it required to be lifted.

Therefore, the impugned order is not perverse and I find no reason to interfere with the same. The CrI.M.C.is dismissed. Sd/- BECHU KURIAN THOMAS, JUDGE  
RKM APPENDIX OF CRL.MC 1156/2024 PETITIONERS' ANNEXURES :  
Annexure A1 THE TRUE COPY OF THE ORDER DATED 27.02.2015 IN CRL.MC NO.837/2015 ON THE FILES OF THIS HON'BLE COURT Annexure A2 THE CERTIFIED COPY OF THE ORDER DATED 13.09.2023 IN CMP NO.30/2022 ON THE FILES OF COURT OF SESSIONS, KOZHICODE Annexure A2(a) TRUE TYPEWRITTEN COPY OF THE ANNEXURE A2

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