

**Surendran Vs. Ramachandran**

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**Court :** Kerala

**Decided On :** Feb-20-2004

**Reported in :** 2004CriLJ2999; 2004(2)KLT263

**Judge :** G. Sasidharan, J.

**Acts :** Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 - Sections 3 and 19

**Appeal No. :** Crl. M.C. No. 408 of 2004

**Appellant :** Surendran

**Respondent :** Ramachandran

**Advocate for Def. :** Noorji Noushad, Public Prosecutor

**Advocate for Pet/Ap. :** Sergi Joseph Thomas, Adv.

**Disposition :** Application dismissed

**Judgement :**

**G. Sasidharan, J.**

1. Petitioners are accused Nos. 1 and 2 in G.P. 183 of 2003 on the file of the Judicial Magistrate of the First Class, Payyannur. A complaint was filed in the Court of the Judicial Magistrate of the First Class, Payyannur, the copy of which is

Annexure-1 on the basis of which the above case was taken on file. This petition is filed for quashing the proceedings in the above case.

2. The submission made by the learned counsel for the petitioners is that in the complaint there is no allegation that the occurrence took place in a public place and hence Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is not attracted. Learned counsel points out the statements in paragraph 2 of Annexure-1 complaint which would go to show that the assault was made in a property near to the house of Kunjamina Umma. Section 3(1)(x) of the Act says that whoever, not being a member of a Scheduled Caste or a Scheduled Tribe intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view, commits the offence punishable under that clause of the section. In that sub section it is not stated that the intentional insult or intimidation has to be in public place. What is said in the sub section is that it has to be in any place within public view. In the decision in *Govinda Das v. State of Orissa* (2000 (1) KLJ (NOC) 43) the Supreme Court said that to attract the provisions of Section 3 of the Act it is necessary that it should be in a place where public could view the incident. Even though in that decision it was not stated that the incident has to take place in a public place, in the decision in *Binoy and Ors. v. State of Kerala* 2001 (1) KLT 125 = (2001 (1) KLJ 64), on referring to that decision, a learned Judge of this Court said that to attract the provisions of Section 3 of the Act it is necessary that it should be in a public place where public could view the incident. What the learned Judge of this Court said was that that was what was held by the Supreme Court in *Govinda Das's* case (supra). But it is seen that there is no such observation made by the Supreme Court in the above decision and on the other hand, what the Supreme Court said is that to attract the provisions of Section 3 of the Act, it should be in place where public could view the incident. On following the observation by the Supreme Court in the above decision it can be seen that to attract Section 3 of the Act it is only necessary that the occurrence would have been in a place where public could view the incident. So it is not possible to get the proceedings quashed by saying that the allegation is regarding an incident which took place in a private property.

3. Learned counsel for the petitioner submits that the defacto complainant is accused in a number of cases and that the allegation against the petitioner regarding the commissions of the offence is not correct. The fact that the defacto complainant is accused in a number of cases is not a reason for saying that the complaint filed against the petitioner is frivolous. There is no ground for quashing the proceedings. Application is dismissed.

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