



CRL.A NO. 321 OF 2026

2026:KER:35838

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

MONDAY, THE 18TH DAY OF MAY 2026 / 28TH VAISAKHA, 1948

CRL.A NO. 321 OF 2026

AGAINST THE ORDER DATED 21.02.2026 IN CRL.M.P. NO. 1/2026 IN SC
NO.807 OF 2025 OF SPECIAL COURT FOR SCHEDULED CASTE/SCHEDULED
TRIBE (POA) ACT CASES, KOTTARAKKARA

APPELLANT/ACCUSED:

SANTHOSH KUMAR
AGED 46 YEARS
S/O GOPALAKRISHNA PILLAI,
SANTHOSH BHAVAN KOONAYIL,
PARAVOOR PO KOLLAM (DIST),
PIN - 691301

BY ADV SRI.M.RAJESH

RESPONDENT/COMPLAINANT & STATE:

- 1 STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA,
ERNAKULAM, PIN - 682031
- 2 SOJA P R
AGED 47 YEARS
D/O RAMACHANDRAN
CHANDRA BHAVAN NEDUNGOLAM PO
MEENADU CHERRY, PARAVUR,
KOLLAM, PIN - 691301

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R1 BY SRI. VIPIN NARAYAN A, SENIOR PUBLIC
PROSECUTOR
R2 BY ADVS. SRI.V.S.THOSHIN
SHRI.ARHAM ANWAR

THIS CRIMINAL APPEAL HAVING COME UP FOR ADMISSION ON
18.05.2026, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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'C.R.'

JUDGMENT

Dated this the 18th day of May, 2026

This appeal has been filed at the instance of the sole accused in S.C. No. 807/2025 pending before the files of the Special Court under the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act [hereinafter referred as 'SC/ST (POA) Act' for short], 1989, Kottarakara challenging order in Crl.M.P. No. 1/2026 dated 21.02.2026.

2. Heard the learned counsel for the appellant/accused and the learned Public Prosecutor. Even though notice served upon the second respondent through the Station House Officer, she did not appear.



3. It is argued by the learned counsel for the appellant/accused that, in this matter, the ingredients for the offences punishable under Section 506 of the Indian Penal Code [hereinafter referred as 'IPC', for short], as well as under Sections 3(1)(s), 3(1)(w)(i) and 3(2)(va) of the SC/ST (POA) Act, are not made out prima facie and, in such circumstances, the police, after investigation, filed a refer report. However, when a protest complaint vide, Crl.M.P.No.9/2025 had been filed before the Special Judge, the court, on perusal of the prosecution records, including the statements of the witnesses recorded, found prima facie that offences under Section 506 of the IPC, as well as under Sections 3(1)(s), 3(1)(w)(i) and 3(2)(va) of the SC/ST (PoA) Act, were made out and accordingly,



cognizance for the said offences were taken.

4. Repelling his contention, it is argued by the learned Public Prosecutor that, on perusal of the order impugned and the statements of witnesses, the finding of the Special Court to the effect that the appellant/accused committed offences under Section 506 of the IPC, as well as under Sections 3(1)(s), 3(1)(w)(i) and 3(2)(va) of the SC/ST (POA) Act, prima facie is only to be justified, and in that view of the matter, the discharge petition would necessarily fail.

5. On perusal of the materials available on par with the observations made by the learned Special Judge in paragraph No. 4 of the impugned order, it could be seen that, even though a final report was filed by the police, in support of the



appellant/accused, the learned Special Judge, while considering Crl.M.P.No.9/2025, found from the statements of the witnesses, that the offences are made out, prima facie to proceed further. Accordingly, the learned Special Judge took cognizance for the said offences.

6. It is discernible from the argument advanced by the learned counsel for the appellant/accused that the main reason for contending that none of the offences are made out is based on the fact that the occurrence took place inside the residence of the complainant, which is not a public place within public view. However, in the order impugned, the learned Special Judge addressed this issue and found that, even though the place of



occurrence is the house of the appellant/accused, other persons, including, CW4 were present, at the time of the occurrence, to make the place of occurrence as a place within public view.

7. In this context, it is relevant to note that merely because a place is a private place or is a dwelling house of a person, that by itself is not sufficient to hold the said place is not a place within public view, for the purpose of the provisions of the SC/ST (POA) Act, when, at the time of occurrence or at the time of commission of the offence, public were available to see the occurrence even in a private place. So, the presence of the public to witness the occurrence or hear the abusive words, even in a private place, would make such a private place within



public view for the purposes of SC/ST (POA) Act.

8. In the instant case, the place of occurrence is a place within public view, as found by the Special Court and for the said reason, the finding of the Special Court that the offences were made out, prima facie, is only to be justified, in a case where the accused is not a member of Scheduled Caste/Scheduled Tribe community, whereas the complainant belongs to the Hindu Pulaya community, which is a Scheduled Caste. Therefore, the plea of discharge raised by the appellant/accused has been negatived by the learned Special Judge rightly and the said order does not require any interference.

9. In the result, this appeal fails and accordingly, the same is dismissed. There shall be a

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direction to the Special Court under the SC/ST (POA) Act, Kottarakara to expedite the trial in S.C. No. 807/2025 and dispose of the same, at the earliest.

**SD/-
A. BADHARUDEEN
JUDGE**

DCS