



Crl.Appeal No.660/2026 : 1 :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

FRIDAY, THE 12TH DAY OF JUNE 2026 / 22ND JYAISHTA, 1948

CRL.A NO. 660 OF 2026

CRIME NO.327/2026 OF Edathala Police Station, Ernakulam
AGAINST THE ORDER DATED 11.05.2026 IN CRL.MP NO.2 OF 2026 OF
SPECIAL COURT- OFFENCES UNDER SC/ST (POA) ACT,1989, ERNAKULAM

APPELLANT/ACCUSED:



BY ADVS.

SHRI.BHARATH R.

SHRI.JERRY MATHEW

SHRI.M.T.SAMEER

SHRI.REGHU SREEDHARAN

SHRI.RAMEEZ M. AZEEZ

SMT.DEVIKA K.R.

SHRI.ATHUL.P

SHRI.JUSTIN K.K.

RESPONDENTS/STATE AND DEFACTO COMPLAINANT:

1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - 682031.

2 XXXXXXXXXXXX
XXXXXXXXXXXX XXXXXXXXXXXX

BY ADVS.

SHRI.SYAM K.P.

SRI.T.G.SUNIL (PERUMBAVOOR)

SHRI.ASHISH GOPAL K G

SHRI.P.MUHAMMED SHIYAS

SMT.VINIMOL V.S.

SMT.NAMITHA PRASAD

SMT.LIJI ESAHAK

PUBLIC PROSECUTOR SRI SANAL P.RAJ

THIS CRIMINAL APPEAL HAVING COME UP FOR ADMISSION ON
05.06.2026, THE COURT ON 12.06.2026 DELIVERED THE FOLLOWING:

“C.R”

A.BADHARUDEEN, J.

Crl.Appeal No.660 of 2026

Dated, this the 12th day of June, 2026

J U D G M E N T

This appeal has been filed by the sole accused in Crime No.327 of 2026 of Edathala Police Station, Ernakulam, challenging the order dated 11.05.2026 in Crl.M.P No.2/2026 issued by the Special Court under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('SC/ST (POA) Act' for short hereafter).

2. Heard the learned counsel for the appellant and the learned Public Prosecutor. Also heard the learned counsel for the 2nd respondent/defacto complainant. Gone through the prosecution records as well as the objection filed by the 2nd respondent.

3. Here the prosecution alleges commission of offences punishable under Section 69 of Bharatiya Nyaya Sanhita, 2023 ('BNS' for short hereafter) and Sections 3(2)(va)) and 3(1)(s) of the SC/ST (POA) Act. The case of the prosecution is that the appellant/accused, who was



holding the post of Manager of a company by name 'Future Fly International Pvt. Ltd.' and who doesn't belong either to a Scheduled Caste or Scheduled Tribe community, made acquaintance with the defacto complainant, a staff of the above company and member of a Scheduled Caste community with promise of marriage and on the premise of the said promise, she was taken to Villa No.V4 of Rivery View Villa on 22.08.2005 and subjected her to sexual intercourse. Thereafter, on 15.11.2025, when the de facto complainant attended the birthday celebration of the son of the appellant/accused, the appellant/accused allegedly asked her to have sexual intercourse with him. When the defacto complainant refused the proposal, the accused alleged to have threatened her by stating that, she was not suitable for marriage though she was suitable for continuing an extramarital relationship with him.

4. When the appellant filed bail application before the Special Court under the SC/ST(POA) Act, the learned Special Judge dismissed the same holding that it could not be said that no *prima facie* case was made out or the case was *prima facie* malafide.

5. While attempting to upset the verdict, the learned



counsel for the appellant submitted that status of the appellant as Manager of Future Fly International Pvt. Ltd. and the fact that the defacto complainant worked there as a staff are not in dispute. According to him, earlier, Crime No.958/2025 of Thrikkakara Police Station was registered against the defacto complainant and other witnesses in this case as per Annexure 3 alleging commission of offences punishable under Section 309(4), 115(2), 351(2) and 126(2) r/w Section 3(5) of BNS and the defacto complainant later obtained bail. According to the learned counsel for the appellant, at the time when the defacto complainant filed bail application or at any stage of the said crime, prior registration of this crime on 23.04.2026 she did not disclose the sexual assault at the instance of the appellant. Thereafter as an afterthought she had lodged the present crime alleging the commission of the offences punishable under Section 69 of BNS and Sections 3(2)(va)) and 3(1)(s) of the SC/ST (POA) Act, which got registered at a much belated stage on 23.04.2026, as a counterblast to earlier crime No.958/2025. Therefore, the allegations are false and the same were raised with a view to detain the appellant in custody on the basis of false allegations, without any substance, as a retaliation measure.



6. The learned counsel for the 2nd respondent opposed this contention and supported the prosecution case and she has filed a written objection and the relevant paragraphs read as under:

“2. The respondent No. 2 is the Defacto Complainant/Victim in the above mentioned case. The crime was registered for threaten the life of Respondent No. 2 and being upon refusing to engaging in sexual acts after the Appellant engaged in sexual intercourse with her on the false promise of marriage without any intention of fulfilling the same and intentionally insulted by uttering casteist slurs with intent to humiliate, a member of the SC/ST community, abused her caste name in a place within public view, and intentionally using words, acts and gestures of sexual nature towards her knowing that she belongs to SC/ST community while the Appellant was working as the Manager at Future Fly Holidays, a subsidiary venture of the parent company Future Fly International, and the respondent No. 2, at the time was working as the Operations Executive of 'Future Fly Holidays.'

3. On 22nd August, 2025, there was a birthday party hosted for the birthday of Sajas, who is the head of "Future Fly Holidays" to which all the staffs of Future Fly Holidays were invited. The party was after the office hours which is typically from 9.30am to 5.30pm. The appellant reached the venue of the party, the River View villa along with Sajas after shopping for provisions for the party. The party commenced at around 9pm and went around till 2am. After most invitees reached, the cake



cutting took place and people were having food and drinks as they preferred around the villa. As the party progressed, some left as the next day was also a working day at the office. The respondent No. 2 was in the plans of staying back at the villa and going to the office from the villa in the morning along with a few other colleagues attending the party. The appellant was substantially drunk that at around 12.15am he took off his shirt, which she was told was a habit for Appellant as he gets more and more drunk. As the respondent was finishing up a call over the phone to a friend, the Appellant approached and asked as if in a very casual manner do you want to hook up, which she dismissed instantly as one, they never got along well, two, he asked it rather casually and she only gave it that importance at the time. But later she realized that the Appellant took her dismissal of his approach rather personally because, when the Appellant was standing aloof in the kitchen for a while, Mr.Prajeesh, who is the Manager at 'Future Fly International' and usually a sober person in such parties, and also sober that day enquired the Appellant why he looked rather disturbed, the Appellant narrated the above dismissal.

4. Following this, when she went to the kitchen to get some water, the Appellant approached her and initiated conversation again where he expressed himself much differently than usual. Instead of the usual snarky comments, the Appellant seemed to open the conversation rather vulnerably. He directly got into discussing his marriage issues which was almost a public secret of sorts. His voice started shivering, turned visibly emotional and seemed to be at the verge of tears, and he said he



did not want others to see and suggested that they continue their conversation in the room upstairs. There are two rooms on the bottom floor and one on the first floor. Due to the quick escalation of the Appellant turning vulnerable and believing his act to be genuine, she joined him in the room upstairs. On reaching there, she sat at one end of the bed near the head rest and the Appellant sat towards the middle of the edge of the bed and for a little longer he discussed his marital troubles and suddenly told her that the reason why the Appellant always pick fights with her is because he is interested in her to marry. She was shocked at this revelation and thought it was just an expression of sexual interest alone. But the Appellant went on to tell that he was intending to end marital ties with his wife, when she broke off his conversation saying that she couldn't imagine even considering his interest because he was still married and had a child from the same. On hearing this the Appellant went on describe elaborate plans of their life ahead together and that he had already started the divorce procedure. The Appellant out of his own promise to marry her and lead a life protecting and providing for her as she mentioned that she come from a rather humble background and status. While he made such promise, he seated himself closer to her and placed the palm of his hand on her knee, she squirmed under his touch and seeing the same he kept assuring her the depth of his feelings and his intent to marry her over and over again. Upon his re-assurance, she eased herself and they engaged in sexual intercourse due to the sole-reason that it was not a casual engagement and he was intending to marry her.



6. On 15th November, 2025, the Appellant son's birthday. There was a party hosted at the Appellant's residence at Pattimattom to which most of the employees of their division was invited. The co-workers have the habit of drinking even if it is not served upfront in the event or party itself, the Appellant had a couple too. It was a usual when the following day was a weekend and if a fair number of their co- workers were together in the evening for some event or the like, to have an after-party at the River View villa after whatever event it was. As per usual, after that day's birthday party too, most of them gathered at the River View villa by 10 PM for the after party. A while after they all reached, the Appellant came in at around 11.30pm and 12am in a Nissan Magnet bearing registration number KI 40 W 1097, which was one of his family member's. None of them were expecting the Appellant to join with them that day since there was an event at his own residence. However, upon reaching he had a few more drinks, he called her into one of the rooms not so discreetly, which might have been noted by a few in the villa then. As soon they got in the room and the Appellant locked, he pulled her closer and said he craved to have sex with her this instant, but as there were people outside and since the Appellant called her in rather indiscreetly, she was reluctant and said they should control and maintain their decent image. As soon as she showed the slightest he became resistance, furious and said "കുണ്ട കണകനുണ്ടാവളൊന്നും എന്ന് മരിയതാ പഠിപ്പിക്കാൻ വരണം". This statement made her lose the trust in the Appellant as it was the most discriminating way he



could address her identity. This made her feel extremely belittled and betrayed. In the sudden rush of emotions, she inadvertently told that his words just put their marriage promise into jeopardy, for which to her astonishment he replied "നിനെയൊക്കെ വെച്ചാടിരിക്കാൻ അല്ലാതെ ആർ കെട്ടും എന്നാടി പുലയാടി മോളേ". This made her realize the appellant had no intention of marrying her and was all a ruse to engage in sexual intercourse with her in the false promise of marriage. she shouted at the appellant saying there's nothing between them any more and don't ever talk or come to her ever again. To which he threatened that she would face consequences and he flung his arms to hit her. But there was a series of thud on the door, because of which the appellant hit did not reach her, if not he would have hit and inflicted injuries on her. This created fear for her life and was did not speak anything further. As soon as the appellant heard the thud and the demand to open the door by a few others on hearing the raised voices inside, he stormed out of the room. Roshni and Sajas to whom they had disclosed their relationship enquired with concern about the developments that transpired inside the room as they heard the statements made by the appellant."

7. The learned Public Prosecutor would submit that going by the statement of the defacto complainant, *prima facie*, the offences are made out and in such a case bar under Section 18 of the SC/ST (POA) Act



would apply.

8. In the instant case, the allegation of the prosecution is commission of the offence of sexual intercourse by employing deceitful means by the appellant against the 2nd respondent/defacto complainant and the first instance was on 22.08.2025. The further case of the prosecution is that on 15.11.2025 when the defacto complainant after attending the birthday celebration of the son of the appellant held at the house of the appellant, after the party, he demanded for sexual favour at the same Villa and when she denied she was threatened with dire consequences and also it was stated by the appellant that the defacto complainant was not suitable for marriage though an extra marital relationship with her could be maintained. It is relevant to note that the accused is not a member of a Scheduled Caste and the defacto complainant is a member of a Scheduled Caste community. According to her, the sexual intercourse was done on the promise of marriage. In this connection as pointed out by the learned counsel for the appellant, the FIS given by the defacto complainant would be relevant. In the said statement, it has been stated that the appellant is a person already married and he agreed to marry the defacto complainant



after divorcing his wife.

9. Section 69 of BNS is a new provision which provides imprisonment for performing sexual intercourse by employing deceitful means. This section mainly deals with two aspects, namely, (1) Performing sexual intercourse by deceitful means with a woman without intention of fulfilling the same and (2) Doing sexual intercourse by making promise to marry a woman without any intention of fulfilling the same. Coming to promise of marriage, it is the legal necessity that a party offering a promise must be qualified to give the promise. To put it otherwise, *prima facie*, there is a chance or probability to believe the promise by the other party to accept the promise. When a person who already married gives a promise to marry a woman and who knows that the person giving the promise is a married man, sexual intercourse on the said promise, if any, performed between them, in such cases it is not safe to hold that the same is by any deceitful means or on the promise of marriage since the woman is aware about the incompetence of the person making the promise to perform the marriage and that the promise is an impossibility as a married man cannot marry during subsistence of the



earlier marriage so as to commit the offence of bigamy. Therefore in such cases, allegation of sexual intercourse with consent believing the promise of marriage could not be held as one which would come within the purview of Section 69 of BNS.

10. Most importantly, it is discernible from Annexure 3 FIR and Annexure 4 bail application filed by the defacto complainant along with other accused in Crime No.958/2025, nothing stated regarding any sexual molestation by deceitful means or otherwise. Thus on the date of registration of the present crime as on 23.04.2026, the defacto complainant got arrayed as the 4th accused in Crime No.958/2025, along with accused Nos.1 to 3 and 5. Then accused Nos.1, 3 and 4 were granted anticipatory bail by this Court while denying anticipatory bail to accused Nos.2 and 5. Subsequently they were arrested and detained in judicial custody. This fact also would show that the contention raised by the appellant may have force in the matter of false implication. In such a case, it is not safe to hold that the offences alleged are made out, *prima facie*, for the time being, even though the same is a matter to be investigated fairly by the Investigating Officer to reach a logical conclusion, to attract the bar under



Section 18 of the SC/ST (POA) Act. Further, the present crime was registered only at a belated stage, after the registration of Annexure A3 crime against the defacto complainant herein. During the initial crime the defacto complainant never made any allegation of sexual molestation. The same also doubts the *prima facie* case to eschew the bar under Section 18 of the SC/ST (POA) Act and in such a case grant of anticipatory bail can be considered. In view of the above, the order impugned is set aside and the appellant/accused shall be released on pre arrest bail.

11. In the result, this appeal is allowed. The appellant/accused is granted pre arrest bail on the following conditions:

i. The accused/petitioner shall surrender before the Investigating Officer for 2 days, ie. on 15.06.2026 and 16.06.2026, in between 10 a.m and 1 p.m, for interrogation and medical potency test. The Investigating Officer can interrogate him and on completion of interrogation and conduct of medical test within the time specified, if he will be arrested, he shall be produced before the Special Court forthwith.

ii. On such production, the Special Court shall release him on bail on his executing bond for Rs.50,000/- (Rupees Fifty Thousand Only) with two solvent sureties each for the like amount to the satisfaction of the special court concerned.

iii. Accused/petitioner shall co-operate with the



investigation and shall be available for trial. He shall visit the Investigating Officer on every Monday in between 9 a.m and 12 noon for a period of one month and also appear before the Investigating Officer as and when directed.

iv. Accused/petitioner shall not leave India without prior permission of the jurisdictional court.

v. Accused/petitioner shall not involve in any other offence during the currency of bail and any such event, if reported or came to the notice of this Court, the same shall be a reason to cancel the bail hereby granted.

It is specifically ordered that the observations made in this judgment shall have no binding effect during the investigation, pre-trial period or trial of the case and the investigation shall go on untrammelled by any observations contained in this judgment.

Sd/-

A. BADHARUDEEN, JUDGE

rtr/



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APPENDIX OF CRL.A NO. 660 OF 2026

PETITIONER' s ANNEXURES

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| Annexure 1 | A TRUE COPY OF THE FIR AND FIS DATED 23.04.2026 IN CRIME NO. 327/2026 EDATHALA POLICE STATION. |
| Annexure 2 | A FREE COPY OF THE ORDER DATED 11/05/2026 IN CRL.MP. NO.2/2026 IN CRIME NO.327/2026 OF EDATHALA POLICE STATION IN THE SPECIAL COURT FOR SC/ST (POA) ACT CASES. |
| Annexure 3 | A TRUE COPY OF THE FIR DATED 31.12.2025 IN CRIME NO. 958/2025 THRIKKAKKARA POLICE STATION. |
| Annexure 4 | A TRUE COPY OF THE ORDER DATED 05.02.2026 IN BAIL APPLICATION NO.491/2026 OF THE HON'BLE HIGH COURT OF KERALA |