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IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE A. BADHARUDEEN
TUESDAY, THE 8TH DAY OF SEPTEMBER 2026 / 17TH BHADRA, 1948
CRL.A NO. 916 OF 2026

CRIME NO.177/2026 OF Panangad Police Station, Ernakulam
AGAINST THE ORDER DATED 17.06.2026 IN CRMP NO.2 OF 2026 OF SPECIAL COURT-
OFFENCES UNDER SC/ST (POA) ACT,1989, ERNAKULAM

APPELLANTS/2ND RESPONDENT/DE FACTO COMPLAINANT:

XXXXXXXXXX
XXXXXXXXXX XXXXXXXXXXXX
BY ADVS.
SHRI.SARATH K.P.
SMT.SRUTHY K.K
SMT.P.V.UTTARA

RESPONDENTS/STATE/PETITIONER/ACCUSED:

- 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM (CRIME
NO.177/2026 OF PANANGAD POLICE STATION, ERNAKULAM DISTRICT), PIN - 682031
- 2 TIBIN XAVIER
AGED 39 YEARS
S/O.XAVIER, KANNIKATTU HOUSE, CHEPPANAM, PANANGAD.P.O., ERNAKULAM, PIN -
682506
- 3 JOHNSON.K.B.
AGED 48 YEARS
S/O. VARKEY, KALLIRICKAL HOUSE, CHEPPANAM, PANANGAD.P.O., ERNAKULAM, PIN -
682506
- 4 JOSHY.K.J.
AGED 42 YEARS
S/O. JOSEPH, KALIRICKAL HOUSE, CHEPPANAM, PANANGAD.P.O., ERNAKULAM, PIN -
682506
- 5 NITHIN.P.L.
AGED 45 YEARS
S/O.LATE LONAN, POTTAMTHAZHATHU HOUSE, CHEPPANAM, PANANGAD.P.O., ERNAKULAM,
PIN - 682506
- 6 THOMAS.P.O.
AGED 51 YEARS
S/O.LATE OUSEPH, POTTAMTHAZHATHU HOUSE, CHEPPANAM, PANANGAD.P.O., ERNAKULAM,
PIN - 682506
R1 BY PUBLIC PROSECUTOR SRI.SAJEEV P.K
R2 TO R6 BY ADVS.
SRI.PHILIP T.VARGHESE
SRI.THOMAS T.VARGHESE
SMT.ACHU SUBHA ABRAHAM
SMT.V.T.LITHA
SMT.K.R.MONISHA
SMT.JINCY C.J.
SMT.ANJALI G.KRISHNAN
SMT. NITYA R.

THIS CRIMINAL APPEAL HAVING COME UP FOR ADMISSION ON 10.08.2026, THE COURT
ON 08.09.2026 DELIVERED THE FOLLOWING:



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CR

JUDGMENT

Dated this the 08th day of September, 2026

Order dated 17.06.2026 in Crl.M.P.No.02/2026 on the files of the Special Court for the Scheduled Castes/the Scheduled Tribes (Prevention of Atrocities) Act (for short, 'the SC/ST (POA) Act', hereinafter) Cases, Ernakulam, is under challenge in this appeal at the instance of the de facto complainant in the said case.

2. Heard the learned counsel for the appellant and the learned counsel appearing for the party respondents 2 to 6. Also heard the learned Public Prosecutor. Perused the report and the records submitted by the learned Public Prosecutor.

3. Tracing the genesis of this case, originally, Crime No.10/2026 of Panangad police station was registered alleging commission of offences punishable under Sections 329(4), 126(2), 296(b), 115(2) and 118(1) of the Bharatiya Nyaya Sanhita, 2023 (for

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short, 'the BNS' hereinafter), against the accused persons, viz., Amal Sukumaran, Athul Thomas, Sujith Bency, Amritha Thamby, Rinu Varghese, Arun Suresh and Sreeraj Venu. They moved anticipatory bail application before this Court vide B.A.Nos.564/2026, 577/2026, 608/2026 and 563/2026. The learned Single Judge of this Court granted anticipatory bail to accused Nos.4, 6 and 9 while rejecting the anticipatory bail plea of the other accused persons, as per Annexure VII order in the above bail application dated 11.02.2026. Challenging the dismissal of the anticipatory bail application filed by Athul Thomas, who is the 2nd accused in Annexure VII, he had approached the Hon'ble Supreme Court, as evident from Annexure R2(d) produced on the side of the party respondents and in paragraph Nos.3, 4 and 5, the Hon'ble Apex Court considered the allegations levelled by respondent No.1, the State of Kerala in the said proceedings and in paragraph Nos.5 and 6, it has been observed as under:

“5. This is the issue which has a larger implication as it relates to the faith of the general public



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in the police when they approach it with any complaint supported by some evidence to begin with and the police does not even bother to take the next obvious step of at least initiating/lodging a proceeding.

6. Thus, specific instructions be taken and the Court be informed accordingly by filing further counter affidavit. If it transpires that there has been dereliction of duty on the part of the prosecution/Authorities, the Court would take a strict view of the same.”

4. It was thereafter, the Hon'ble Apex Court disposed the S.L.P.(Crl.)No.3111/2026, as evident from Annexure R2(d) in paragraph Nos.3 to 6, the Hon'ble Apex Court found as per order dated 19.02.2026 while granting bail to Athul Thomas. Thus, the present FIR in Crime No.177/2026 of Panangad police station has been registered based on the observations of the Hon'ble Apex Court in Annexure R2(d) order.

5. The prosecution case in Crime No.177/2026 of Panangad police station is that the appellant/second respondent herein, who belonged to the

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Pulaya community in the Hindu religion, married one Mr.Sujith Bency, who was a Christian, on 09.11.2025, and they were residing in the house of Mr.Sujith Bency. Their marriage was not accepted by the members of the Christian community or the church authorities. While so, at about 1 a.m. on 05/01/2026, when she and her husband were returning home along with his friends after attending the festival of the Chathamma Nithyasahaya Matha Church and having dinner at the house of one Mr.Athul, a friend of the husband of the de facto complainant, accused No.1, who was found consuming alcohol by the roadside near the Government Homeo Hospital on Cheppanam-Chathamma Road, abused the de facto complainant using sexually coloured caste slurs and caught hold of her hand. When the husband of the de facto complainant tried to save her, accused No.1 pushed him down. On seeing this, accused No.2, who was also consuming alcohol, uttered obscene words and beat Mr.Athul with a beer bottle in his hand. Accused Nos.3 to 5 beat the husband of the de facto complainant

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and his friends with wooden sticks and a helmet. Accused No.1 beat the husband of the de facto complainant, accused No.5 touched the breast of the de facto complainant, and accused No.3 tore off the dress of the de facto complainant. On this premise, the prosecution alleges commission of offences punishable under Sections 115(2), 118(2), 74, 76, 351(2) and 3(5) of the BNS and under Sections 3(1)(r), 3(1)(s), 3(1)(w)(i) and 3(2)(va) of the SC/ST (POA) Act.

6. The learned Special Judge considered the bail plea along with the objection raised by the appellant herein and the objection raised by the prosecution and finally granted anticipatory bail to the petitioners therein, who are respondent Nos.2 to 6 herein, on finding that no offence under the SC/ST (POA) Act was made out in the facts of the case *prima facie*.

7. While assailing the verdict impugned, the learned counsel for the appellant argued that the Special Court failed to appreciate the materials available including the ingredients for the offences alleged

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by the prosecution. According to him, in the instant case, going through the allegations raised in Annexure II complaint filed by the appellant for the first time before the Assistant Commissioner of Police, Ernakulam at 17.26 hrs. on 05.01.2026 by post, no allegations regarding any insult, assault or intimidation on the basis of caste identity had been disclosed in the said complaint thereof, the assault alleged to have been committed by accused Nos.1 to 4 in this crime were disclosed to see the ingredients for the offences punishable under Sections 74 and 76 of the BNS. It was thereafter, Annexure IV complaint dated 26.01.2026 was lodged by the de facto complainant before the Panangad police station, where the allegation regarding calling of caste name of de facto complainant as a member of Pulaya community of Scheduled Caste and the other overt acts were stated. In this case, FIR was registered on 13.04.2026 at 15.59 hrs. According to the learned counsel for the appellant, apart from the lodging Annexures IV, II and VI, the de facto complainant lodged

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Annexure V complaint before the Commissioner of Police, Ernakulam, on 02.02.2026. Annexure VI complaint was filed before the Director of SC/ST Commission. The learned counsel for the appellant submitted that in the decision in **Xxxx v. State of Kerala and Another** reported in **[2022 (6) KHC 672]**, this Court considered *in extenso* a similar case where offence under Section 354 of the IPC *pari materia* to Section 74 of the BNS and Section 3(2)(va) of the SC/ST (POA) Act was alleged and as per the judgment, the anticipatory bail granted was cancelled by this Court. The relevant paragraphs in the above judgment viz., paragraph Nos.26 to 38 read as under:

“26. Reverting the discussions as to grant of anticipatory bail in this particular case, the law is settled in cases involving offences under Sections 3(2)(va) and 3(1)(w)(i) of the SC/ST Act that anticipatory bail cannot be granted in cases where prima facie case is made out. Therefore, it is necessary to venture as to whether a prima facie case is made out from the prosecution allegations in this case. In this connection, I am inclined to refer the F.I. statement given by the defacto

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complainant. The defacto complainant would say that she has been working as a teacher at Government Higher Secondary School. Further she is a member of Scheduled Caste community. There was a function on 16.04.2022 at about 6.30 p.m. at the house of one Noorudheen by name 'Kadavu Veedu' in Nandi, Ayyappankavu under the banner "Bavul Sangeetha Nisha' in which Smt. Santhipriya, a singer, also was participated among others. The book written by the defacto complainant was announced to the public at the said function. The participants were Civic Chandran (the accused), the Editor of 'Padabhedam' magazine and also the members of 'Nilanadatham', a poets' group. Her father and mother also participated at the function. After the function, she stayed at the house, where Civic Chandran and some other persons also were stayed. She laid in a sofa at the first floor. In the late morning at 6.30 a.m. on 17.04.2022 Civic Chandran (the accused) reached the room and gave a wake-up call to her and then he said "I have published your 2 books without the expense of at least Rupee one". Then the defacto complainant felt shocked. Then she found hunch of lust on the face of the accused. Soon he said that he would kiss on the back of her neck and



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immediately he forcefully kissed on the back of her neck. Soon she escaped therefrom and at the time of occurrence nobody was present at her room. Her further statement is that she became panic and she was mentally shocked after the occurrence. Then she informed the house owner Noorudhin regarding the occurrence and he assured that he would give more attention in future. According to her, earlier Civic Chandran introduced a publisher to publish her book and thereafter on 19.12.2021 when the camp of poets was organised, Civic Chandran proffered liking request to her and she refused the same. Then Civic Chandran replied that he had sweet hearts, aged 23, 25 years. Later the accused informed the defacto complainant that he had appointed her as the 'Readers Editor' in the 'Padabhedam' magazine and when she raised hesitation to accept the same, the accused compelled her to hold the post. Thereafter, the accused began to chat with the defacto complainant in Whats app, as a sweet heart and she had resisted the same through telephone. Later when the accused requested her to come with her sweet heart to the house of the accused and the defacto complainant informed that she had no sweet heart, the accused requested that she should not come to

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his house along with her husband. Precisely, the version of the defacto complainant is that the accused, who does not belong to Scheduled Caste and Scheduled Tribe, kissed on the rear side of her neck without the consent and with the knowledge that she is a member of Scheduled Caste community.

27. It is argued by the learned counsel for the accused that though the F.I. statement was lodged at a belated stage with allegations as herein above narrated, the same could not find a place in the ICC report. ICC report produced as document No. 13 before the Special Court has given emphasis in this regard. The opening words of the report would go to show that "the defacto complainant faced sexual harassment and mental trauma at the hands of Civic Chandran, the Editor 'Padabhedam' magazine and "Me too" also was published in the Whats app. Dr. Khadeeja Mumtaz, Mrudula Devi. S and P.U. Usha were the members of ICC. The reference in the ICC report could not be found as the actual Whats app message given by the defacto complainant since the same is written without reference that the same is the exact text in first person. The allegations are stated as the summary in the words of the ICC committee. According to the

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learned counsel for the accused, in the ICC report the words spoken by the accused before the alleged occurrence is written, as one, without any compulsion and in the ICC report, no overt act as to kissing on the backside of the neck is stated, despite a statement that the accused touched on the body of the defacto complainant with lust and in an unwelcoming manner. Therefore, the learned counsel for the accused would argue that there is no whisper as per the statement referred in the ICC report that the accused forcefully done the overt acts alleged in the FIS or there is no whisper that the accused kissed on the back of her neck. According to him, ICC report is prior to lodging of FIR and therefore the allegation regarding forceful kissing in the F.I.S. is an improved version of the defacto complainant in the F.I.S. and, therefore, the same cannot be given emphasis to find commission of offences alleged by the prosecution, prima facie.

28. Resisting this contention, the learned counsel for the defacto complainant would submit that the ICC report itself is without any authority and the so-called members of the ICC, by a Whats app group discussion addressed the grievance of the defacto complainant and the real

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occurrence as stated in the F.I.S. as such was stated by the defacto complainant before the committee. But the committee changed the version of the defacto complainant according to their whims and fancies and therefore, the ICC report as well as the version of the defacto complainant therein cannot be the verbatim version of the defacto complainant. It is submitted further that Annexure-VI appeal was filed by the defacto complainant against the ICC report before the Regional Joint Labour Commissioner, Kozhikode under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and the same is posted for hearing. Apart from this submission, it is specifically pointed out by Advocate Bhadra Kumari appearing for the defacto complainant that the improper behavior and the lust that have been continued by the accused against the defacto complainant could be read out from the Whats app messages already produced before the Special Court as well as from Ext. R2(h) produced along with the statement filed by the defacto complainant before this Court. As per which, when the accused knew about the seriousness of the occurrence and the grievance of the defacto complainant, he apologised



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to the defacto complainant and another lady, and he left out from the Whats app group itself.

29. On perusal of the counter affidavit along with Ext. R2(h), the submission appears to be convincing, prima facie. That apart, it is pointed out by the learned counsel for the defacto complainant that when the defacto complainant filed counter to Crl.M.C. No. 1221/2022 before the Special Court, she had produced Whats app chats between the defacto complainant and the accused and the same would reveal the nature and attitude of the accused towards the defacto complainant with thirst of lust on the premise of romance. The Whats app messages would go to show further that whenever the accused shared messages transpiring lust, the same was resisted by the defacto complainant.

30. Appraising the rival arguments regarding the ICC report, it has to be held that the formation of ICC, its authority and the finding of the ICC are under challenge before the appellate forum. In this context, it is not fair to act upon the same against the signed statement of the defacto complainant lodged before the police.

31. Before having discussion on the Whats app chats in between the accused and the defacto complainant, it is

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relevant in the context to be on ordinary messages and messages with erotic love and romantic sting. 'Sringara', (means romantic love, erotic love) is one of the nine 'Rasas' (flavour). The theory of 'Rasa' revolves around the relationship between a man and a woman. The romantic relationship between sweet heart and sweet heart, ie. lover and beloved, is a metaphor of the said relationship. One could notice that love with veritable caliber characterizes, romantic, emotional, mental and spiritual connection accompanied some times by sexual or physical connection and the same can be experienced without lust. But when libido is behind the pretext of erotic love, the same is always sexual and physically driven without trace of love with veritable caliber. In the former category, there may be consensus arose out of erotic love, but in the latter, particularly when the other side objects, then also, the propounder may go with his remarks with thirst of lust and libido without consent of the other. The Whats app messages relied on by the learned counsel for the defacto complainant would depict the latter form of approach on the part of the accused, prima facie. Further, on perusal of the Whats app messages in between the defacto complainant and the



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accused produced along with the counter, it is easy to gather that when the accused sent messages under the latter category, the same was timely opposed and resisted by the defacto complainant. That shows that the defacto complainant never intended to have any sort of relationship either of the above categories with the accused and she intended to maintain a decent relationship as both were litterateur.

32. It is submitted by the learned counsel for the accused that since in the ICC report there is no mention as to forceful kiss by the accused on the back side of the neck of the complainant, no offences under Section 354 of I.P.C. and under Section 3(1)(w)(i) of SC/ST Act are made out.

33. Whereas the learned counsel for the defacto complainant Smt. Bhadrakumari, Advocate Nandini and the learned Public Prosecutor vehemently opposed this contention on urging that the statement given by the defacto complainant in the FIS shall be given emphasis, since the same alone is her admitted statement and the report of the ICC does not contain either the Whats app post or any signed statement given by the defacto

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complainant. Therefore, the same cannot be given emphasis in any manner, that too, at this stage (the stage of investigation).

34. Coming to Section 354 of I.P.C., it is provided that Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine. Thus using criminal force to any woman intending to outrage or knowing to be likely that he will thereby outrage the modesty is an offence punishable upto 5 years and less than one year and liable to fine. Offence punishable under Section 354 of IPC is cognizable as well as non bailable.

35. Coming to offences under Section 3(1)(w)(i) of the SC/ST Act, it is provided that intentionally touches a woman belonging to a Scheduled Caste or a Scheduled Tribe, knowing that she belongs to a Scheduled Caste or a Scheduled Tribe, when such act of touching is of a sexual nature and is without the recipient's consent is an offence.

36. As per Section 3(2)(va), it is provided as under:

"3. Punishments for offences of atrocities:--(1) Whoever,

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not being a member of a Scheduled Caste or a Scheduled Tribe,--

xxxx xxxx xxxxx

(2) (va) commits any offence specified in the Schedule, against a person or property, knowing that such person is a member of a Scheduled Caste or Scheduled Tribe or such property belongs to such member, shall be punishable with such punishment as specified under the Indian Penal Code (45 of 1860) for such offences and shall also be liable to fine.

xxxx xxxx xxxxx"

37. Reading Section 3(2)(va) it is emphatically clear that commission of offences specified in the schedule would attract an offence under Section 3(2)(va) of the SC/ST Act. In order to attract the said offence, commission of the offences punishable under the I.P.C., shown in the schedule appended to the SC/ST Act to be committed by the accused against a member of the Scheduled Caste or Scheduled Tribe "knowing that such person is a member of a Scheduled Caste or Scheduled Tribe". In this case, offence alleged to be committed by the accused under Section 354 of I.P.C. is one in the schedule and therefore commission of offence under Section 354 of

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I.P.C. would attract offence under Section 3(2)(va) of the SC/ST Act, if the knowledge is foreseeable.

38. Therefore, it is clear that while considering the question as to whether an accused committed offence under Section 3(2)(va) of the SC/ST Act after trial, the word "knowing" or 'knowledge', has to be found on the basis of the evidence tendered. When considering the question of prima facie case for the purpose of considering plea of bail during investigation and the period before trial, the knowledge shall be understood and inferred from the prosecution records. In this matter, the accused and defacto complainant are very familiar to each other as could be discernible from the prosecution records and other materials. Therefore, the required knowledge of the accused that the defacto complainant is a member of Scheduled Caste is well discernible from the materials available as ascribed in Section 3(2)(va) of the SC/ST Act."

8. Similarly, another decision of this Court in **Biju Abraham v. State of Kerala** reported in **[2025 (1) KHC 721]** with reference

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to paragraph Nos.18 and 19 read as under:

“18. Indubitably Indian Society places great emphasis on modesty of women and any act that seems as an insult to modesty is a matter of serious concern. The offence of outraging the modesty of a woman is not limited to physical acts of violence but also includes any verbal or non-verbal conduct that is intended within the ambit of assault or use of criminal force. In recent years, the issue of the safety and security of women has come to the forefront in India, with large number of cases of sexual offences against women being reported. The legislature has taken steps to strengthen laws against sexual offences, with stricter deterrents for rape and sexual assault. However, sexual offences against women continue to be a major problem in India and efforts are still needed to ensure that laws are effectively implemented. It is important for individuals to be aware of their rights and for the society to take a zero-tolerance approach towards sexual offences to arrest the menace of sexual assault and molestation.

19. The act of outraging a female's modesty is increasing exponentially thereby taking a toll on the lives of women leading to mental and physical agony.

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The word 'modesty' has to be judged as a quality or state of being modest, which is characterised by humility, restraint, simplicity, and good taste. The act of outraging the modesty of a woman, refers to the virtue that attaches to a female owing to her gender and is an attribute associated with females in general. It is a sense of shame or bashfulness that a woman feels when faced with any act that is intended to outrage her modesty. To put it differently, modesty to a woman has evolved as altogether a different concept which has very little to do with the physique of the woman. The modesty of a woman is intimately connected with femininity including her sex. Modesty is not only limited to physical modesty but it also includes moral and psychological modesty. The moral modesty of a woman is said to be the sense of shame or bashfulness that a woman feels when faced with any act that is intended to outrage her modesty. The psychological modesty of a woman is said to be her innate sense of self-respect and dignity. Thus the modesty of a woman is sublime and any sort of intrusion or intercession is to be dealt with resolutely and soberly."

9. Similarly, the decision of the Hon'ble Apex Court in **Kiran**

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v. Rajkumar Jivraj Jain reported in **[2025 KHC Online 6765]** also pointed out with reference to paragraph No.9 to contend that anticipatory bail granted by overlooking and disregarding the bar under Section 18 of the SC/ST (POA) Act was a clear illegality and jurisdictional error committed by the High Court and the same would not sustain in the eye of law. Section 18 of the SC/ST (POA) Act was clear and the same would not sustain in the eye of law.

10. A detailed objection has been raised by the party respondents 2 to 6. Paragraph Nos.6 to 13 are very relevant and the same are extracted as under:

6. The appellant, her husband and the other 4 named accused persons in Crime No. 10/2026 of Panangad Police Station absconded after this incident and they filed application for anticipatory bail before this Hon'ble Sessions Court, Ernakulam as B.A No. 38/2026. True copy of the said application for anticipatory bail dated 06.01.2026 is produced herewith and marked as Annexure R2. This application was dismissed by the Hon'ble Court by Order dated 21.01.2026 taking note of the nature of

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allegations coupled with the criminal antecedents and the stage of investigation and true copy of the said Order is produced herewith and marked as Annexure R2(a).

7. The accused in Crime No. 10/2026 of Panangad Police Station thereafter filed 4 different applications for anticipatory bail before this Hon'ble Court. B.A No. 577/2026 was filed by the appellant and her husband. By order dated 27.01.2026 this Hon'ble Court directed that the appellant and her husband should not be arrested pending disposal of their application. True copy of the said order is produced herewith and marked as Annexure R2(b). The other accused persons also obtained orders preventing their arrest during the pendency of their anticipatory bail applications before this Hon'ble Court. Thereafter by Annexure VII Common Order dated 11.02.2026 the applications for anticipatory bail filed as B.A Nos. 563/2026, 564/2026, 577/2026 and 608/2026 were disposed granting anticipatory bail to accused Nos. 4, 6 and 9 (the appellant, Arun Suresh and Sreeraj Venu). The husband of the appellant Sujith, Amal Sukumaran, Athul Thomas and Rinoy Varghese were found ineligible for anticipatory bail and they offered to surrender before the Investigating Officer. Hence the Hon'ble High Court

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granted them one weeks' time to surrender and further directed that if they are arrested, the bail application, if any, moved by them, should be disposed by the learned Magistrate as far as possible on the same day itself.

8. It is submitted that Athul Thomas, who has public employment, back tracked from his submission recorded in Annexure VII order that he would surrender before the Investigating Officer and he filed Special Leave to Appeal (Criminal) No. 3111/2026 before the Hon'ble Supreme Court of India seeking anticipatory bail. The Hon'ble Supreme Court of India by Order dated 19.02.2026 granted protection to Athul Thomas from coercive steps and true copy of the said order is produced herewith and marked as Annexure R2(c). The proceedings of Special Leave to Appeal (Criminal) No. 3111/2026 reveals that the counsel for Athul Thomas submitted during the hearing of that case on 02.04.2026 that even prior to the registration of Annexure III FIR the appellant had filed a police complaint alleging outraging her modesty and of belonging to SC/ST category, which was supported by a medical report showing injury to the appellant, but that the Police had not instituted any proceedings, much less an FIR. It was noted by the Court that in the counter filed by the State of Kerala there is no

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answer to the same. In such circumstances the Hon'ble Supreme Court observed that Police not even bothering to take obvious step of at least initiating/ lodging a proceeding on the complaint results in general public losing their faith in police and directed the listing of the case on 08.05.2026 for filing further counter affidavit by the State of Kerala. The order of the Hon'ble Supreme Court dated 02.04.2026 is produced herewith and marked as Annexure R2(d). The said order states that if it transpires that there has been dereliction of duty on the part of the prosecution / authorities, the court would take a strict view of the same. It is submitted that the claim of lodging police complaint by the appellant prior to the registration of Annexure III FIR was Incorrect and misleading. The claim that her medical report showed injury is also incorrect as her treatment record produced along with Annexure R2 showed no injuries. True copy of the registration card of the appellant dated 05.01.2026 issued from the General Hospital, Ernakulam is produced herewith and marked as Annexure R2(e). The complaint noted in Annexure R2(e) is 'alleged history of assault by 3 known persons today at 3 am' and no injuries are noted.

9. It is submitted that it was only due to the



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observations contained in Annexure R2(d) Order of the Hon'ble Supreme Court dated 02.04.2026 that FIR in Crime No. 177/2026 was registered on 13.04.2026, though Annexure I FIR and FIS do not even refer to such proceedings.

10. It Is submitted that the allegations raised in Annexure I FIS of the appellant, based on which Crime No. 177/2026 is registered, are false and concocted allegations raised only as a counter blast to registration of Crime No. 10/2026 of Panangad Police Station. The Police Officers of Panangad Police Station were well aware of the falsity of the allegations concocted by the appellant and her gang and it is for that reason they did not consider it necessary to file a separate FIR regarding the same. However, as the Hon'ble Supreme Court of India sought for clarification regarding the non-registration of FIR and observed that if it transpires that there has been dereliction of duty on the part of the authorities strict view would be taken, FIR in Crime No. 177/2026 was registered. It is to be noted that the appellant and her husband and even the other accused in Crime No. 10/2026 of Panagad Police Station were protected from in the ball applications filed by them and inspite of that they had not arrest by the interim orders of

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this Hon'ble Court from 27.01.2026 resorted to the remedies available to them under law for having criminal proceedings initiated against respondents 2 to 6 herein. Their failure to do so demonstrates that they had raised the allegation of non-registration of criminal case based on their complaint only after Annexure R2(a) order refusing bail to all the accused and Annexure VII order affirming the denial of anticipatory bail to some of them.

11. The claim raised by incident occurred at 1.00 am on 05.01.2026 when she and her husband were returning from the Church Festival. It is respectfully submitted that there was no event connected with the Church Festival at such a late time that night and her claim of returning from Church Festival at 1.00 am is false. The Notice published by MPS Church, Chathamamma with the program schedule of the festival is produced herewith and marked as Annexure R2(f). It can be seen from the said notice that after the Holy Mass at 5.30 pm there was no further program in the Church on 04.01.2026. It is the further claim of the appellant in Annexure I FIS that she, her husband Sujith and Athul Thomas had gone to the District Hospital for treatment on 05.01.2026, that they then got Information that Police had come to the house of Athul in search of him,

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that they contacted their lawyer and, on his instructions, switched off their phone and went away. Her FIS further reveals that she made complaint through post to the Assistant Commissioner of Police, which is very strange as a lady who claims to have been physically assaulted would not normally resort to sending a letter by post when she could directly approach higher Police Officers with her grievance. It is submitted that the mere sending of letter by post, admittedly after consultation with lawyer, and switching off the phones, clearly establishes that the Intention of the appellant was only to create a record of a false complaint to make out a narrative for the defence of the accused in Crime No. 10/2026 of Panangad Police Station. It is submitted that the allegations In Annexure II complaint, even in its entirety, do not make out any offence under the Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act. It is submitted that in the medical records and the complaint sent by post, the 2nd respondent had given the time of alleged incident as 3 am and not 1 am. Even in Annexure R2(g) the time was mentioned as 3 am. She has deliberately changed the time in Annexure I FIS to make up an incident in tune with the facts stated in Crime No. 10/2026. It is submitted that the allegations contained



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in Annexure I FIS of the appellant is a narrative falsely drafted with legal help as a defence in Crime No. 10/2026 of Panangad Police Station and to falsely implicated defacto complainant in that case and those associated with him. The allegations raised by the appellant are patently false and motivated. The accusation made by her is false and fabricated.

12. The claim of the appellant that she submitted complaint before the authorities on 05.01.2026 is false. Annexure II complaint is the first complaint which the appellant claims was submitted by her and this complaint is addressed to the Assistant Commissioner of Police, Ernakulam and she herself has claimed it was sent by post. It is submitted that as per the information received by these respondents a complaint from the appellant was received in the office of the Assistant Commissioner of Police, Ernakulam only on 08.01.2026. The allegations in Annexure II complaint is contradictory to the allegations in Annexure IV complaint and Annexure III FIS registered later. These contradictory and Inconsistent allegations reveal the falsity of the claims made by the appellant.

13. The claims of the appellant regarding events alleged to have occurred on 28.01.2026 are false and made

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by her only to give false explanation for raising allegations against these respondents belatedly. To the best of the knowledge of these respondents such allegations were not raised before this Hon'ble Court though B.A No. 577/2023 filed by the appellant was pending. Such allegations do not find a place in Annexure VIII order of this Hon'ble Court passed on 11.02.2026. These respondents deny the allegations raised by the appellant in Annexure V and VI complaints. As to whether such complaints were actually submitted by her is doubtful. Further as to whether any action was taken pursuant to those complaints, and if so the results thereof are all factors that the appellant has not disclosed even in this appeal. The finding in the impugned order that there is no prima facie case to prove commission of offence punishable under the Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act is correct and justified. There is no merit in the grounds raised in the memorandum of appeal.”

11. The learned Public Prosecutor placed case diary including the statement recorded so far along with a report dated 16.07.2026 by Suresh K.G., Assistant Commissioner of Police as under:

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I, Suresh. K. G, Asst. Commissioner of Police, Ernakulam, is aware of the fact and circumstances of the Cri. 177/2026 U/s 115(2), 118(2), 74, 76, 351(2) and 3 (5) of BNS and Sections 3(1)(r), 3(1)(s), 3(1)(w)(i) and 3(2)(va) of SC/ST (POLA) Act 1989 of Panangad Police Station, Kochi City and humbly submitting the following statement of fact.

The prosecution case is that the de facto complainant belongs to Hindu Pulaya Community married one Mr. Sujith Bency who is Christian. Their marriage was not accepted by the members of the Christian community and the church authorities. While so at about 01.00 AM on 05/01/2026 when she and her husband were returning to their home along with his friends after attending the festival of the Chathamma Nithyasahaya Matha Church, Panangad and having dinner from the house of one Mr. Athul, friend of the husband of the complainant, accused No. 1 and others who was found consuming alcohol from the road side near Government Homeo Hospital at Cheppanam - Chathamma Road abused the de facto complainant with sexually colored caste slur and caught hold of her hand. When the husband of the de-facto complainant tried to save the de-



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facto complainant accused No. 1 pushed him down. On seeing this Accused No. 2 uttered obscene words and beat Mr. Athul with the beer bottle in his hand. Accused No. 3 to 5 beat complainant's husband and his friends with wooden stick and helmet, Accused No. 1 beat husband of the de-facto complainant and accused No. 5, touched the breast of the de-facto complainant and accused No. 3 torn off the dress of the de-facto complainant.

Based on the investigations conducted in this case, the following facts have been revealed:

- 1. The complainant belongs to the Hindu Pulaya community (Scheduled Caste).*
- 2. The marriage between the complainant (belonging to the SC category) and her husband (belonging to the Christian community) was solemnized on 09.11.2025 at Chathamma Church Hall. Panangadu*
- 3. All the accused belong to the Christian community, and accused numbers 1, 2, and 5 are office-bearers of various family units (Kudumba Units).*
- 4. The festival of Panangad Chathamma Church, which is connected to the incident, was held on 04.01.2026*
- 5. In the First Information (FI) statement of the complainant, as well as in the statements given by her*



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husband and other witnesses under Section 180(1) of the BNSS, it is stated that after the Chathamma Church festival on 04.01.2026, the complainant, her husband, and his friends went to the house of her husband's friend, Athul, for dinner. While they were returning at around 01:00 AM on 05.01.2026, six persons physically assaulted them and hurled casteist abuses.

6. However, in the statement given to the doctor when the complainant and her husband sought medical treatment at the Ernakulam General Hospital on 05/01/2026 at 12.00 Noon for injuries sustained during the incident, they stated that three identifiable persons physically assaulted them at around 03:00 AM on the day of the incident (05.01.2026).

7. Furthermore, while the statements of the complainant, her husband, and their friends (who are witnesses) claim that the accused assaulted and injured them using sticks, helmets, and beer bottles, an examination of their Wound Certificates reveals that they sustained only minor/simple injuries. 8. The Complainant sent a complaint through post on 05/01/2026 to the Assistant Commissioner of Police, Ernakulam, regarding the incident, she stated that around 03:00 AM on

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05.01.2026, the accused outraged her modesty and physically assaulted her husband and friends. However, there is no mention of any offence under the SC/ST (Prevention of Atrocities) Act in the said complaint.

9. Although the complainant in her FI statement, as well as her husband and his friends in their statements, cited the front of the Government Homeo Dispensary as the place of occurrence, the investigation revealed that the incident actually took place at Shappu Road Junction on Cheppanam- Chathamma Road, approximately 100 meters south of the said location. Furthermore, statements recorded from witnesses residing near the Homeo Dispensary indicate that no dispute or altercation occurred at that spot on the night of the incident.

10. Based on the statement of Accused No. 1 in this case that the complainant, her husband, and his friends trespassed into his house at 02:30 AM on 05.01.2026 and physically assaulted him and his parents, a case was registered at the Panangad Police Station on 05.01.2026 as Crime No. 10/2026 U/s 329(4), 126(2), 296(b), 115(2), and 118(1) of the BNS. In this case, the complainant is arrayed as Accused No. 4, her husband as Accused No. 3,

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and his friends as the other accused. A final report in this matter was submitted before the Hon'ble Judicial First Class Magistrate Court-VIII, Ernakulam, on 30.06.2026.

11. In the anticipatory bail application filed before the Hon'ble Supreme Court by Atul Thomas (Accused No. 2 in Crime No. 10/2026 registered against the complainant, her husband, and friends), it was brought to the attention of the Hon'ble Court that an FIR had not been registered and investigated based on the complainant's petition. Following observations by the Hon'ble Court that the Station House Officer (SHO) acted contrary to the statutory law requiring the registration of an FIR and investigation upon receiving information about a cognizable offence, departmental action was initiated against the Panangad SHO and Sub-Inspector.

12. Subsequently, based on the FI statement given by the complainant on 13/04/2026, Panangad Police Station Crime No. 177/2026 was registered U/s 115(2), 118(2), 74, 76, 351(2), and 3(5) of the BNS and Sections 3(1)(r), 3(1)(s), 3(1)(w)(i), and 3(2)(va) of the SC/ST (Prevention of Atrocities) Act, 1989.

13. The accused, numbered 1 to 5, were granted anticipatory bail by the Hon'ble SC/ST Court Ernakulam



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vide Crl. MP No. 02/2026 dated 17/06/2026.

14. In the investigations conducted so far in this case, no evidence has been obtained to substantiate the incident as described in the FI statement of the complainant.

15. Notice issued to the Respondents (R2 to R6)

All the facts state above are true to be best my knowledge and belief.”

12. In the investigation conducted so far in this case, no evidence has been obtained to substantiate the incident, as described in the First Information Statement of the complainant. It is well-settled law that, when an offence under the SC/ST Act is made out *prima facie* from the prosecution case, the bar under Section 18 would operate. Similarly, when an offence under Section 74 of the BNS is made out, Section 3(2)(va) of the SC/ST Act would automatically be attracted.

13. Here, in view of the report filed by the Investigating Officer, as stated in paragraph No.14 that “*in the investigations conducted so*



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far in this case, no evidence has been obtained to substantiate the incident as described in the FI statement of the complainant”, grant of anticipatory bail which is put under challenge need no interference.

Hence, this appeal fails and is dismissed.

Sd/-
A. BADHARUDEEN
JUDGE

Bb



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APPENDIX OF CRL.A NO. 916 OF 2026

PETITIONER'S ANNEXURES

- Annexure-I** A TRUE COPY OF THE FIR AND FIS IN CRIME NO.177/2026 OF PANANGAD POLICE STATION, ERNAKULAM
- Annexure-II** A TRUE COPY OF THE COMPLAINT DATED 05.01.2026 FILED BY APPELLANT AND ITS POSTAL RECEIPT
- Annexure-III** TRUE COPY OF THE FIR AND FIS IN CRIME NO.10/2026 OF PANANGAD POLICE STATION
- Annexure-IV** A TRUE COPY OF THE COMPLAINT DATED 26.01.2026 SUBMITTED BY THE 2ND RESPONDENT THROUGH THE THUNA PORTAL
- Annexure-V** TRUE COPY OF THE COMPLAINT DATED 02.02.2026 SUBMITTED BEFORE THE COMMISSIONER OF POLICE, ERNAKULAM
- Annexure-VI** TRUE COPY OF THE COMPLAINT DATED 03.02.2026 SUBMITTED BEFORE THE SC/ST COMMISSION, ALONG WITH THE POSTAL RECEIPT
- Annexure-VII** A TRUE COPY OF THE ORDER IN BA NO.563 OF 2026 PASSED BY THE HON'BLE HIGH COURT OF KERALA
- Annexure-VIII** A TRUE COPY OF THE ORDER DATED 19.05.2026 PASSED BY THE HON'BLE SUPREME COURT IN SLP (CRL.) NO. 3111/2026
- Annexure-IX** CERTIFIED COPY OF THE ORDER DATED 17.06.2026 IN CRL MP NO.2/2026 PASSED BY THE COURT OF SPECIAL JUDGE FOR THE TRIAL OF OFFENCES UNDER THE SC/ST (POA) ACT, 1989, ERNAKULAM

RESPONDENTS' ANNEXURES

- Annexure R2** True copy of the application for anticipatory bail before the Hon'ble Sessions Court, Ernakulam as



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- B.A.No.38/2026 dated 06.01.2026
- Annexure R2 (a) True copy of the Order in BA No.38/2026 dated 21.01.2026
- Annexure R2 (b) True copy of the order in BA No.577/2026 dated 27.01.2026
- Annexure R2 (c) True copy of the Order in Special Leave to Appeal (Criminal) No. 3111/2026 before the Hon'ble Supreme Court of India dated 19.02.2026
- Annexure R2 (d) True copy of the order of the Hon'ble Supreme Court in Special Leave to Appeal (Criminal) No.3111/2026 02.04.2026
- Annexure R2 (e) True copy of the registration card of the appellant dated 05.01.2026 issued from the General Hospital,Ernakulam
- Annexure R2 (f) True copy of the Notice published by MPS Church, Chathamma with the program schedule of the festival
- Annexure R2 (g) True copy of the medical records and the complaint