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CRL.A NO. 2285 OF 2025

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

WEDNESDAY, THE 4TH DAY OF FEBRUARY 2026/15TH MAGHA, 1947

CRL.A NO. 2285 OF 2025

CRIME NO.251/2022 OF KATTAKADA POLICE STATION,

THIRUVANANTHAPURAM

AGAINST THE ORDER/JUDGMENT DATED IN CRMP NO.2196

OF 2022 OF SPECIAL COURT-TRIAL OF OFFENCE UNDER

SC/ST(POA)ACT1989, NEDUMANGAD

APPELLANT/ACCUSED:

NISHA V. NAIR
AGED 46 YEARS
W/O PRADEEP KUMAR,
JUNIOR PUBLIC HEALTH NURSE GRADE - I,
COMMUNITY HEALTH CENTRE, KATTAKADA,
THIRUVANANTHAPURAM AND IS
NOW RESIDING AT PRATHEEKSHA,
KANJIYOORKONAM, KRA-126D, KATTAKADA P.O.,
THIRUVANANTHAPURAM, PIN - 695572

BY ADVS.

SRI.ARUN CHAND
SHRI.PRAMOD S.K.
SHRI.VINAYAK G MENON
SHRI.THAREEQ ANVER
SHRI.BHARAT VIJAY P.
SMT.MINU VITTORRIA PAULSON
SMT.ARCHANA P.P.
SMT.SHEHROON PATEL A.K.

RESPONDENT/STATE/DE-FACTO COMPLAINANT:

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



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- 2 THE STATION HOUSE OFFICER
KATTAKADA POLICE STATION,
KULATHUMMAL, KATTAKADA P.O.,
THIRUVANANTHAPURAM, PIN - 695572
- 3 SASIDHARAN D.K.,
AGED 56 YEARS
S/O DAMODHARAN, HEALTH INSPECTOR,
FAMILY HEALTH CENTRE, VEERANAKAVU,
KATTAKADA, THIRUVANANTHAPURAM AND RESIDING AT
MANUVILAS, KAKKAMoola, KALLIYOOR P.O.,
THIRUVANANTHAPURAM, PIN - 695042

BY ADVS.
SRI.K.K.DHEERENDRAKRISHNAN - R3
SMT.N.P.ASHA, PUBLIC PROSECUTOR

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON
04.02.2026, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



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CR**JUDGMENT**Dated this the 4th day of February, 2026

Annexure A16 order dated 18.11.2024 in Crl.M.P.No.2196/2022 on the files of the Special Judge for the trial of offences under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, as amended in 2018 (hereinafter referred to as 'SC/ST (PoA) Act, 2018' for short) cases, Nedumangad, is put under challenge by filing this criminal appeal under Section 14A of the SC/ST (PoA) Act, 2018. The sole accused in the above case is the appellant.

2. Heard the learned counsel for the appellant and the learned counsel appearing for the 3rd respondent. Also heard the learned Public Prosecutor.

3. Even though many grounds are urged in the appeal memorandum to unsustain the order impugned, at the time of argument, the learned counsel for the appellant



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canvassed the insufficiency of the order passed without any reasons for taking cognizance against the appellant, on finding that the appellant committed offences punishable under Sections 3(1)(r) and 3(1)(s) of the SC/ST(PoA) Act, 2018. It is argued further that the impugned order was passed taking cognizance even without discussing or taking a decision on the final report filed in the form of '*Further Action Dropped*' (FAD). Therefore, the order would require interference.

4. The learned counsel appearing for the 3rd respondent, who is the defacto complainant at present in this case, argued that, even though the order impugned is not in the form of an exhaustive one, *prima facie* satisfaction of the court in commission of the offences under Sections 3(1)(r) and 3(1)(s) of the SC/ST (PoA) Act, 2018 by the appellant could be seen therefrom and therefore, the order need not be interfered. Accordingly, the learned counsel for the 3rd respondent opposed interference in the order impugned.



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According to him, the impugned order was passed after recording statements of 5 witnesses, produced by the respondent, to substantiate, *prima facie*, the commission of offences under Sections 3(1)(r) and 3(1)(s) of the SC/ST (POA) Act, 2018 by the accused.

5. It is also submitted by the learned counsel for the 3rd respondent that one of the prayers in the petition is to declare the 2nd proviso to Section 14A(3) of the SC/ST (PoA) Act, 2018, as amended by Amendment Act of 2018, as unconstitutional. In fact, the said prayer has become infructuous, since in the decision in ***Noushad V.T.K. V. State of Kerala***, reported in **2023 (6) KHC 172**, a learned Single Judge of this Court, after referring the Full Bench decision of the Allahabad High Court ***in Re: Provision of S.14(a) of SC/ST(Prevention of Atrocities) Amendment Act, 2015 (2018 KHC 5250)*** held that, once a statutory provision is struck down by a High Court which has the effect throughout the territory of India, Section 14A(3) of the SC/ST



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(PoA) Act, 2018, now declared as unconstitutional. Therefore, the said prayer need not be considered. It is further argued by the learned counsel for the 3rd respondent that, in this matter, protest complaint was filed by the de facto complainant in the year 2022 prior to the introduction of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as 'BNSS' for short) and in the decision in ***Central Bureau of Investigation v. Ramesh Chander Diwan***, reported in **2025 KHC 6370**, the Apex Court interpreted Section 531 of the BNSS and held in paragraph 30 as under:

"30. In view of the provisions of S.531 of the BNSS, the Cr.PC stands repealed; yet, pending proceedings are to be continued under the repealed law. We, therefore, decline Mr.Raju's prayer. However, liberty to seek sanction under the CrPC, if so advised, is reserved."

Therefore, insofar as the present proceedings before the Special Court pertaining to this case are concerned, the Special Court is bound to follow the provisions of Cr.P.C.



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6. Looking at the facts involved, in fact, the case emanated when a private complaint, dated 17.03.2022, filed by the 3rd respondent, was forwarded to the police for investigation. Pursuant to that, FIR in crime No.251/2022 of Kattakkada police station was registered. After investigation, the Investigating Officer filed Annexure A14 final report on 30.06.2022. As per Annexure A14 refer report, the Investigating Officer requested the Special Court to drop the proceedings. On getting notice of refer charge, the 3rd respondent/complainant, filed Annexure A15 protest complaint and the same was acted upon by the Special Judge which led to the impugned order. On perusal of the impugned order, the same reads as under:

"Heard. Perused records and evidence. Prima facie case made out to proceed against the accused (No.1) for the offences punishable U/ss.3(1)(r) and 3(1)(s) of the SC/ST (POA) Act 1989. No offence made out against A2 and complaint A2 is dismissed. Adress Sessions



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*Judge for assign Sessions Case number. Call on
18. 12..2024.”*

7. In this connection, it is relevant to note that the order does not contain what are the materials referred by the learned Special Judge to find *prima facie* that the appellant herein committed offences punishable under Section 3(1)(r) and (s) of the SC/ST (PoA) Act, 2018 so as to take cognizance against him. Apart from that, as far as Annexure A14 refer report is concerned, whether it was accepted or rejected by the Special Judge also could not be seen from Annexure A16 order. It is well settled law that when a final report with request to drop the proceedings would be filed by the Investigating Officer after investigation, despite issuance of notice to the complainant or the aggrieved person concerned, the court has a duty to verify the report with a view to either accept or reject the same, or to order further investigation, as the case may be. In the instant case, no such procedure is seen to have been



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adopted, as the same could not be discernible from Annexure 16 order. That apart, Annexure A16 order is also a blanket and cryptic order without reasons. When serious offences under the SC/ST (PoA) Act, viz., 3(1)(r) and 3(1)(s), are alleged, the Special Court should pass a reasonable order justifying the cognizance and a cryptic order simply taking cognizance would not suffice the said purpose. That apart, the stand taken by the Special Judge on the refer report is also could not be discernible from the order. Thus, this Court is of the view that Annexure A16 order suffers from illegality and for the said reason, the same would require interference. Accordingly, the order is liable to be set aside.

8. As pointed out by the learned Public Prosecutor, in ***Noushad V.T.K.'s*** case (*supra*), this Court held that 14A(3) of the SC/ST (PoA) Act, which curtails filing of appeal beyond the period of 180 days, is unconstitutional and the same would violate Articles 14 and 21 of the Constitution of India, following a Full Bench decision of the



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Allahabad High Court. Indubitably, curtailing the right of appeal beyond the period of limitation and making non-application of the Limitation Act even without specifically providing a period by which the delay in filing the appeal can be condoned, on showing sufficient reasons, within an extended time is not justifiable. Therefore, the law as held in **Noushad V.T.K.'s** case (*supra*) is to be followed and at present, Section 14A(3) of the SC/ST (PoA) Act, 2018 continues as unconstitutional.

9. Another vital point argued by the learned counsel for the 3rd respondent, based on the decision in **Central Bureau of Investigation v. Ramesh Chander Diwan**, also assumes significance in the instant case. In the said case, as extracted hereinabove, in paragraph No.30, the Apex Court categorically held that in view of the operation of Section 531 of BNSS, pending proceedings are to be continued under the repelled law, i.e, Cr.P.C. Here, the proceedings before the Special Court, in fact, are pending at



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the time of introduction of the BNSS, therefore, the proceedings are to be dealt as provided under the Cr.P.C.

10. In the result, this appeal is allowed. Annexure A16 order is set aside and CrI.M.P.No.2192/2025 is remanded back to the Special Court to consider the same afresh and to pass a speaking order justifying the cognizance, or otherwise, in the interest of justice, following the procedure laid down in Cr.P.C.

11. The 3rd respondent is directed to appear before the Special Court either in person or through a counsel on 27.02.2026.

Registry is directed to forward a copy of this judgment to the Special Court forthwith.

**Sd/-
A. BADHARUDEEN
JUDGE**

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APPENDIX OF CRL.A NO. 2285 OF 2025

PETITIONER ANNEXURES

- ANNEXURE A1 THE TRUE COPY OF THE JOINING REPORT OF THE APPELLANT DATED 12/03/2021 ISSUED BY THE MEDICAL OFFICER IN CHARGE, CHC, KATTAKADA TO SUPERINTENDENT, TALUK HOSPITAL, KANNUR
- ANNEXURE A2 THE TRUE COPY OF THE COMPLAINT DATED 15/11/2021 SUBMITTED BY THE APPELLANT BEFORE THE MEDICAL OFFICER, FAMILY HEALTH CENTRE, VEERANAKAVU OBTAINED UNDER THE RIGHT TO INFORMATION ACT, 2005
- ANNEXURE A3 THE TRUE COPY OF THE WRITTEN REPRESENTATION DATED 27/11/2021 SUBMITTED BY BASIL SABU, JUNIOR HEALTH INSPECTOR BEFORE THE MEDICAL OFFICER, VEERANAKAVU
- ANNEXURE A4 THE TRUE COPY OF THE WRITTEN COMPLAINT DATED 17/01/2022 SUBMITTED BY THE APPELLANT AGAINST THE 3RD RESPONDENT BEFORE THE BLOCK MEDICAL OFFICER, CHC, VELLANADU
- ANNEXURE A5 THE TRUE COPY OF THE MINUTES DATED 17/01/2022 OF THE ICC CONSTITUTED UNDER THE POSH ACT HEADED BY MEDICAL OFFICER IN CHARGE, CHC KATTAKADA OBTAINED BY THE APPELLANT UNDER THE RIGHT TO INFORMATION ACT, 2005
- ANNEXURE A6 THE TRUE COPY OF THE LETTER DATED 18/01/2022 SUBMITTED BY THE PUBLIC HEALTH NURSING SUPERVISOR (PHNS) CHC, VELLANAD BEFORE THE MEDICAL OFFICER IN CHARGE, CHC, VELLANADU
- ANNEXURE A7 THE TRUE COPY OF THE MINUTES DATED 04/02/2022 OF THE ICC CONSTITUTED UNDER THE POSH ACT HEADED BY MEDICAL OFFICER IN CHARGE, CHC KATTAKADA OBTAINED BY THE APPELLANT UNDER THE RIGHT TO INFORMATION ACT, 2005
- ANNEXURE A8 THE TRUE COPY OF THE DISCIPLINARY PROCEEDINGS DATED 22/06/2022, CONDUCTED BY THE LOCAL COMMITTEE, DISTRICT WOMEN AND CHILD DEVELOPMENT OFFICE



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- ANNEXURE A9 THE TRUE COPY OF THE WRITTEN COMPLAINT DATED 05/02/2022 SUBMITTED BY THE APPELLANT BEFORE THE DIRECTOR OF HEALTH SERVICES, THIRUVANANTHAPURAM
- ANNEXURE A10 THE TRUE COPY OF THE FIR DATED 08/04/2022 IN CRIME NO.250/2022 OF KATTAKADA POLICE STATION, THIRUVANANTHAPURAM (RURAL)
- ANNEXURE A11 THE TRUE COPY OF THE C.M.P. NO.605/2022 DATED 17/03/2022 SUBMITTED BY THE 3RD RESPONDENT BEFORE THE DISTRICT AND SESSIONS COURT, THIRUVANANTHAPURAM
- ANNEXURE A12 THE TRUE COPY OF THE ORDER DATED 25/03/2022 IN C.M.P. NO.605/2022 PASSED BY THE DISTRICT AND SESSIONS COURT, THIRUVANANTHAPURAM
- ANNEXURE A13 THE TRUE COPY OF THE FIR DATED 08/04/2022 IN CRIME NO.251/2022 OF KATTAKADA POLICE STATION, THIRUVANANTHAPURAM (RURAL)
- ANNEXURE A14 THE TRUE COPY OF THE REFER CHARGE DATED 30/06/2022 IN CRIME NO.251 OF 2022 SUBMITTED BY THE INVESTIGATING OFFICER BEFORE THE PRINCIPAL SESSIONS COURT, THIRUVANANTHAPURAM
- ANNEXURE A15 THE TRUE COPY OF THE PROTEST COMPLAINT DATED 25/08/2022 VIDE C.M.P. NO.2196/2022 (OLD CMP NO.605/2022) BEFORE THE DISTRICT AND SESSIONS COURT, THIRUVANANTHAPURAM
- ANNEXURE A16 THE TRUE COPY OF THE ORDER DATED 18/11/2024 IN CRIMINAL M.P. NO.2196/2022 PASSED BY THE SPECIAL COURT FOR SC/ST (POA) ACT NEDUMANGAD, THIRUVANANTHAPURAM
- ANNEXURE A17 THE TRUE COPY OF THE JUDGMENT DATED 25/11/2025 IN CRL. REV. PET. NO.1026/2025 PASSED BY THIS HON'BLE COURT