



Crl.A. No. 1723 of 2025

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

THURSDAY, THE 29TH DAY OF JANUARY 2026 / 9TH MAGHA, 1947

CRL.A NO. 1723 OF 2025

CRIME NO.1360/2011 OF KAYAMKULAM POLICE STATION, ALAPPUZHA

AGAINST THE ORDER DATED 25.10.2024 IN CRMP NO.

3430/2024 IN SC NO.575 OF 2014 OF DISTRICT & SESSIONS

COURT/RENT CONTROL APPELLATE AUTHORITY, ALAPPUZHA

APPELLANTS/PETITIONERS 1 & 3/ACCUSED 2 & 4:

- 1 RAKESH
AGED 44 YEARS
S/O LATE RAVEENDRAN PILLAI, MANGALATHU HOUSE,
KOIPPALLY KARAZHMA MURI, PERINGALA, KAYAMKULAM,
PIN - 683565
- 2 REKHA
AGED 45 YEARS
D/O LATE RAVEENDRAN PILLAI, MANGALATHU HOUSE,
KOIPPALLY KARAZHMA MURI, PERINGALA, KAYAMKULAM,
PIN - 683565

BY ADVS.

SHRI.GEORGE VARGHESE (PERUMPALLIKUTTIYIL)

SRI.MANU SRINATH

SHRI.LIJO JOHN THAMPY

SMT.NIVEDITA MUCHILOTE

SHRI.RIYAS M.B.

SHRI.JINSU M. JAIS



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RESPONDENTS/RESPONDENT/STATE AND DEFACTO COMPLAINANTS:

- 1 STATE OF KERALA
 REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT
 OF KERALA, ERNAKULAM, PIN - 682031
- 2 MADHAVAN
 AGED 69 YEARS
 S/O KOCHUCHERUKKAN, MANGALATHU KIZHAKKATHIL
 VEEDU, KOIPALLIKARAZHMA MURI, PERINGALA VILLAGE,
 KAYAMKULAM, ALAPPUZHA DISTRICT, PIN - 683565
- 3 KAMALAMMA
 W/O MADHAVAN, S/O KOCHUCHERUKKAN, MANGALATHU
 KIZHAKKATHIL VEEDU, KOIPALLIKARAZHMA MURI,
 PERINGALA VILLAGE, KAYAMKULAM, ALAPPUZHA
 DISTRICT, PIN - 683565

R1 BY ADV.ANIMA.M, PUBLIC PROSECUTOR
R2 & R3 BY ADVS. SHRI.SANIL KUNJACHAN
 SMT.PRIYANKA M.D.
 SHRI.RISHI CHANDRAN

THIS CRIMINAL APPEAL HAVING COME UP FOR ADMISSION ON
29.01.2026, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

**'C.R.'****JUDGMENT**

Dated, this the 29th day of January, 2026

The order dated 25.10.2024 in Crl.M.P. No. 3430 of 2024 in S.C.No. 575 of 2014 on the files of the Special Court under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, Alappuzha, is under challenge in this appeal filed under Section 14A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'SC/ST (PoA) Act' hereinafter).

2. Heard the learned counsel for the appellants, the learned Public Prosecutor as well as the learned counsel appearing for the party respondents 2 and 3, who are the aggrieved persons.

3. In this case, at present, the prosecution alleges commission of offences punishable under Sections 447, 323, 324, 354, 294(b), 506(ii) and 427 read with Section



34 of the Indian Penal Code as well as under Section 3(1) (x) of the SC/ST (PoA) Act, by the accused persons.

4. The prosecution case is that, on the premise of a prior boundary dispute with CW1, who belongs to the Hindu-Tandan Community (a Scheduled Caste), and his wife, a member of the Hindu-Ezhava Community, the accused, who is a member of the Hindu-Nair Community, (not either Scheduled Caste or Scheduled Tribe) criminally trespassed at the courtyard of their residence, Mangalathu Kizhakkathil House (House No. 267 of Chettikulangara Panchayat in Koippalli Karazhma Muri, Peringala Village) at 8:45 p.m., on 21.11.2011, with intent to cause bodily injury to him. The prosecution asserts that the first accused uttered abusive language towards CW1 and repeatedly struck him on the back and leg with a Gliricidia stick. Concomitantly, the second accused verbally abused CW1 by calling his caste name in a derogatory way and threatened to kill both CW1 and



CW2, by swinging a chopper towards, CW1 and caused injury on the left side of his head. The second accused then struck CW2, kicked her in the back, placed the chopper against her neck, and repeated utterance to kill her. The third as well as the fourth accused forcibly grabbed on the hair of CW2 and dragged her across the ground. Subsequently, all accused took stones from the road, thrown on the windows of the residence of CW1 and CW2, which resulted in breakage of the glass and caused financial loss to them. Thus the prosecution case.

5. The learned counsel for the appellants would submit that there are reasons to interfere with the order dismissing the discharge petition filed by the appellants/accused Nos. 2 and 4 herein and it is submitted that, as per Annexure A5 report, the appellants/accused Nos. 2 and 4 were removed by the then investigating officer, though he reported before the Special Court that further investigation would go on. According to the learned



counsel for the appellants/accused Nos. 2 and 4, when Annexure A6 report was filed by the Investigating Officer, who conducted further investigation, again appellants/accused Nos. 2 and 4 were incorporated as accused and the Special Court ought to have considered both the reports together, while considering the discharge petition. Apart from that, the learned counsel for the appellants/accused Nos. 2 and 4 reiterated the grounds stated, in Annexure A8 discharge petition filed before the Special Court to upset the order impugned. Grounds A, B, C and D raised in the discharge petition are extracted hereunder:-

"(A). The allegations in the final report are false, frivolous and vexatious. The allegations do not constitute any criminal offence. It is apparent from the record that the allegations are fabricated and concocted. The fact that the allegations are concocted is clear from the nature in which statements have been improved and embellished at each stage. In the FIS, there was no allegation that the 2nd respondent was insulted in the name of caste. The allegation in the FIS was that the CW2 was called her



caste name. Late, when it was found out that the CW2 was not a member of scheduled caste, the allegation in FIS was changed and improved upon subsequently. In the statement given to DySP, the CW1 states that that caste name was called. Such an allegation was conspicuously absent in the FIS. The embellishment in the subsequent statement has been done as an after thought to deliberately rope in the provisions of SC/ST (prevention of atrocities) Act in order to harass the petitioner.

(B). There are several contractions and inconsistencies in the statements of Cws 1 and 2. CW1 and 2 state that neighbours witnessed the incident. However the neighbours have given statement to the effect that they were not aware of such an incident. While the CW1 states that they were taken to hospital by his son, the CW2 states that they were taken to hospital by CW4 and 5. These glaring inconsistencies totally weaken the case, and it is not possible to sustain a successful prosecution on the basis of material on record. If going by the entire records, it can be gathered that the possibility of conviction appears to be so remote from the materials available on record and the continuance of proceedings will result in harassment to the accused.

(C). The allegations in the charge sheet are so improbable and absurd that no prudent person will believe that it actually occurred. It is totally



inconceivable that the petitioners, who otherwise do not have any criminal antecedents, will suddenly come to the property of defacto complainants without any provocation and will launch attack on the defacto complainants. The allegation is that the 1st petitioner attacked CW1 with a machete and delivered a cut on his scalp. But there is no corresponding grave injuries noted in the wound certificate. The allegations that 2nd and 3rd petitioners, who are ladies, launched physical attack on CWs 1 and 2 are totally inconceivable in the usual course of human conduct.

(D).The allegations are made out of pure personal vendetta and grouse against the petitioners. The case is an offshoot of pending civil disputes. CW2 and 3 by using their political clout, have caused the complaint to be registered with the intention of pressurizing the petitioners to give up their civil claims. CW1 and 2 are not interested in securing a conviction against the petitioners, but want to ensure that the petitioners are put to harassment and agony by forcing them to undergo process of law. This is a case where the process itself becomes punishment."

6. The learned Public Prosecutor strongly opposed interfere in the order impugned and according to her, the learned Special Judge specifically referred both the



reports in paragraph No. 12 of the order and found that, *prima facie*, the allegations are made out and the credibility of the statements of the witnesses could not be considered during the trial.

7. On perusal of the history of the case and as discernible from the discharge petition filed as Annexure A8, the appellants, who are accused Nos. 2 and 4 in this case, along with accused No. 3, had earlier filed Crl.M.C.No.6957/2017, to quash the entire proceedings in the present case and this Court was not inclined to allow the Crl.M.C., and thereafter, the same was disposed of directing the petitioners therein to file discharge petition and to raise contentions raised in the Crl.M.C. No. 6957/2017, at the time of discharge. It was thereafter, Annexure A8 discharge petition had been filed and the same was dismissed by the Special Judge specifically finding that *prima facie*, the allegations are made out warranting trial of the case.



8. On perusal of the grounds raised in the discharge petition, it could be seen that the prime contention raised by the appellants is that the entire case is fabricated and concocted, and there is no allegation in the FIS that the second respondent was insulted, by calling the caste name, but the allegation was that CW2 called the caste name. Later, it was found that, CW2 was not a member of the Scheduled Caste.

9. The further contention is that there are contradictions and inconsistencies in the statements of CW1 and CW2 and the neighbours not given statements supporting the occurrence. According to the learned counsel for the appellants/accused Nos. 2 and 4, the entire allegations are the result of personal vendetta arising from a pending civil dispute.

10. On perusal of the records along with the order passed, on par with the grounds urged for granting discharge, one of the contentions is an omission to give



statements as to calling caste name by the accused Nos. 2 and 4 in the First Information Statement, though such allegations were disclosed in the additional statements. Secondly, contradictions and inconsistencies in the statements of CW1 and CW2 are pointed out to grant discharge. Thirdly, it is contented that the neighbours not given statements supporting the occurrence. Fourthly, according to the appellants, the entire case has been foisted on the back of a pending civil dispute.

11. On perusal of the grounds urged for discharge, it has to be observed that mere omission in the FIS, to state calling of caste name itself is not a ground for granting discharge, especially when the additional statements recorded as that of the victims would reveal such allegations. If at all there are inconsistencies or contradictions in the evidence of witnesses, the same are also not grounds for granting discharge, since those aspects should be brought out during the evidence, to



make their evidence dis-believable on the basis of the contradictions to be extracted during cross examination of the witnesses. Coming to the contentions raised by the learned counsel for the appellants that the entire case is false, frivolous and foisted and the same is the outcome of a civil dispute, this contention is not a ground for granting discharge, when the prosecution records do not justify the said contention *prima facie*.

12. It is relevant to note that, it is a case of the year 2014 pending before the Special Court for last 12 years and in the year 2017, the appellants/accused Nos. 2 and 4 along with accused No. 3 had approached this Court and sought quashment of the case and the same was negated by this Court.

13. When considering the plea of discharge, the court is expected to read the prosecution records in toto and find out whether, *prima facie*, the allegations are made out to go for trial or atleast a strong suspicion to be



discerned from the records, to go for trial. Even though a mere suspicion would not suffice, a strong suspicion would suffice the the purpose. Then a strong suspicion alone is sufficient to proceed with the trial and in such cases, the plea of discharge would necessarily fail. In this case, even the appellants/accused Nos. 2 and 4 do not have a case that no statements were given by the witnesses incorporating ingredients, *prima facie*, to see commission of offences, and their case is the calling the caste name was not stated in the FIS. But the prosecution records would show that in the additional statements, the said allegations also specifically stated. Thus, the contentions at the instance of the appellants/accused Nos. 2 and 4 to substantiate the plea of discharge would not succeed in the instant case where the prosecution records would show *prima facie* commission of the offences alleged to be committed by them. It is true that when two contra reports are filed by the Investigating Officer, the



court has to consider both reports to proceed further. Hence, the learned Special Judge referred both the reports in paragraph No. 12, though not in so many words and finally dismissed the discharge petition. Therefore, this contention at the instance of the appellants also would not yield. In fact, in the instant case, the grounds argued for seeking discharge, that too after the dismissal of the petition for quashing the entire proceedings are not acceptable. Thus, it is held that the learned Special Judge is right in holding that the discharge petition could not succeed.

14. In view of the matter, the order dated 25.10.2024 in Crl.M.P. No. 3430 of 2024 in S.C.No. 575 of 2014 of the learned Special Judge, Alappuzha is liable to be confirmed.

In the result, this appeal fails and the same is dismissed with a direction to the learned Special Judge, Alappuzha to expedite the trial in S.C.No.575 of 2014,



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arising from Crime No.1360/2011 of Kayamkulam Police Station and complete the same, within a period of four months from the date of receipt of a copy of this judgment.

Sd/-

**A. BADHARUDEEN
JUDGE**

DCS



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APPENDIX OF CRL.A NO. 1723 OF 2025

PETITIONER ANNEXURES

ANNEXURE 1	A TRUE COPY OF FIR IN CRIME NO. 1360/11 DATED 23.11.2011 OF KAYAMKULAM POLICE STATION
ANNEXURE 2	A TRUE COPY OF FIS DATED 23.11.2011 IN CRIME NO. 1360/11 OF KAYAMKULAM POLICE STATION
ANNEXURE 3	A TRUE COPY OF THE WOUND CERTIFICATE
ANNEXURE 4	A TRUE COPY OF THE MAHAZAR DATED 23.11.2011 IN CRIME NO. 1360/11 OF KAYAMKULAM POLICE STATION
ANNEXURE 5	A TRUE COPY OF FINAL REPORT DATED 10.05.2012 UNDER SECTION 173(2) IN CRIME 1360/11 OF JUDICIAL FIRST-CLASS MAGISTRATE COURT, KAYAMKULAM
ANNEXURE 6	A TRUE COPY OF FINAL REPORT DATED 25.10.2013 UNDER SECTION 173(8) IN CRIME 1360/11 OF JUDICIAL FIRST-CLASS MAGISTRATE COURT KAYAMKULAM
ANNEXURE 7	A TRUE COPY OF ORDER DATED 26.03.2013 IN PROCEEDINGS NO.C3-2873/13 OF ASST.ENGINEER PWD ROADS MAVELIKARA
ANNEXURE 8	A TRUE COPY OF THE PETITION DATED 08.10.2024 SEEKING DISCHARGE UNDER SECTION 227 CR.P.C./SECTION 250 OF BHARATIYA NAGARIK SURAKSHA SANHITA, 2023 FILED BY THE APPELLANTS
ANNEXURE 9	A TRUE COPY OF THE ORDER DATED 06.02.2025 IN CRL. R.P NO.1373/2024 OF THE HONOURABLE HIGH COURT
ANNEXURE 10	A TRUE COPY OF THE INTERIM ORDER DATED 25.06.2025 IN CRL. R.P NO. 1373/2024 OF THE HONOURABLE COURT
ANNEXURE 11	A TRUE COPY OF THE JUDGMENT DATED 20.08.2025 IN CRL. R.P. NO. 1373/2024 OF THE HONOURABLE COURT