



2024/KER/5489

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

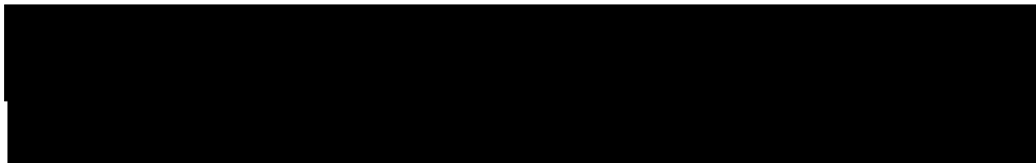
THE HONOURABLE MR.JUSTICE K. BABU

THURSDAY, THE 25TH DAY OF JANUARY 2024 / 5TH MAGHA, 1945

CRL.A NO. 138 OF 2024

CRIME NO.986/2023 OF Pulikeezhu Police Station, Pathanamthitta
AGAINST THE ORDER/JUDGMENT CRMP 94/2024 OF DISTRICT COURT &
SESSIONS COURT, PATHANAMTHITTA

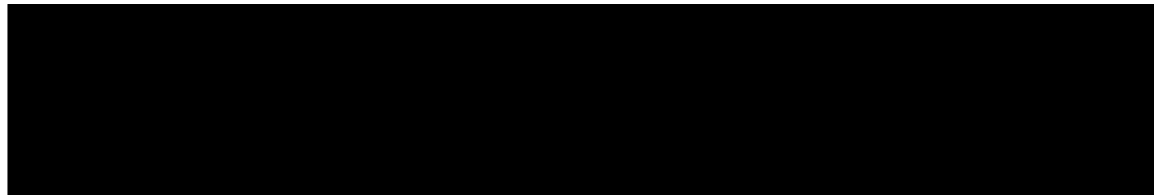
APPELLANT:



BY ADVS.
K.SHAJ
BEENA N.KARTHA
C.IJLAL
POORNIMA RAJAN
ARUN CHAND
BHARAT VIJAY P.
MAJID MUHAMMED K.
MINU VITTORRIA PAULSON
GOPIKA GOPAL
ARCHANA SURESH
ARCHANA P.P.

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM., PIN - 682031
- 2 THE STATION HOUSE OFFICER
PULIKKEEZHU POLICE STATION, PULIKKEEZHU P.O,
VALANJAVATTAM, KADAPRA, PATHANAMTHITTA DISTRICT,
PIN - 689104
- 3



OTHER PRESENT:

G SUDHEER, PP



2024/KER/5489

CRL.A NO. 138 OF 2024

2

THIS CRIMINAL APPEAL HAVING COME UP FOR ADMISSION ON 25.01.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



K.BABU, J.

Crl.A. No.138 of 2024

Dated this the 25th day of January, 2024

J U D G M E N T

The challenge in this appeal is to the order in Crl.M.P. No.94/2024 dated 18.01.2024 passed by the Sessions Court, Pathanamthitta. Notice has been served on the victim through the Public Prosecutor.

2. Heard the learned counsel for the appellant and the learned public prosecutor.

3. The prosecution case is that on 27.12.2023 with the intention to insult and defame the Hon'ble Minister for Devaswom Sri. K Radhakrishnan in connection with his visit at Sabarimala Ayyappa Temple, the appellant posted a comment in a Facebook group named "FFC FAN FIGHT CLUB" along with the photograph of the Minister. The comment contains abusive words using the caste name of the Hon'ble Minister. The post was uploaded with intend to defame the Minister and to create enmity among different



groups based on caste and community with an ulterior motive to disturb the public tranquility.

4. The appellant is alleged to have committed offences punishable under Section 153A of the Indian Penal Code, Section 120(o) of K.P. Act and Section 3(1)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

5. The learned counsel for the appellant submitted that the appellant has not intentionally committed the above acts. He never had the intention to defame the Hon'ble Minister or to create enmity among different groups based on caste and community.

6. The learned counsel for the appellant submits that the appellant was only accidentally sharing a Facebook post from another group. The learned counsel further submitted that the appellant has made a public apology as per Annexure A3. The learned counsel submitted that the mens rea of the appellant for the commission of the offence is doubtful.

7. The learned public prosecutor appearing on behalf



of the State and the victim submitted that the ingredients of the offences alleged are there in the prosecution materials.

8. The appellant surrendered before the Investigating Officer on 04.01.2024. The appellant was arrested and produced before the jurisdictional Court. He was remanded to judicial custody. He has been in custody since the date of surrender.

9. I have gone through the case diary. The investigation is almost in the final stage. On a perusal of the materials placed before the court, I am of the view that further detention of the appellant is not required.

The Criminal Appeal is allowed. The order dated 18.01.2024 dismissing Crl.M.P No.94/2024 stands set aside. The appellant/petitioner is ordered to be released on bail on the following conditions:

- (i) The appellant/petitioner shall execute a bond for Rs.2,00,000/- (Rupees Two Lakhs Only) with two solvent sureties each for the like sum to the satisfaction of the Jurisdictional Court.



(ii) The appellant/petitioner shall appear before the Investigating Officer on the last Saturday of every month till the final report is filed.

(iii) He shall not involve in any other offence while on bail.

Sd/-
K.BABU,
JUDGE

saap



APPENDIX OF CRL.A 138/2024

PETITIONER ANNEXURES

- Annexure A1 THE TRUE COPY OF THE FIR IN CRIME NO.986/2023 OF PULIKKEEZHU POLICE STATION, PATHANAMTHITTA DISTRICT.
- Annexure A2 THE TRUE COPY OF THE POST AND THE PHOTOGRAPH THEREIN ARE ORIGINALLY PUBLISHED IN THE FACEBOOK PAGE NAMED 'അന്തകൻ കമ്മീസ്' ON 27/12/2023 AT 02:08 PM.
- Annexure A3 A TRUE COPY OF THE UNCONDITIONAL APOLOGY THOROUGH THE FACEBOOK PAGE ON 02/01/2024 AT 07:19 PM
- Annexure A4 THE FREE COPY OF THE ORDER DATED 18/01/2024 IN CRL. M.P. NO.94/2024 PASSED BY THE SESSIONS COURT, PATHANAMTHITTA .
- Annexure A5 ALL RELEVANT MEDICAL RECORDS PERTAINING TO THE APPELLANT'S TREATMENT .