

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 18TH DAY OF MARCH 2015/27TH PHALGUNA, 1936

Crl.MC.No. 35 of 2015 ()

**M.P.NO.576/2014 IN ST. NO.341/2012 OF JUDICIAL FIRST CLASS MAGISTRATE
COURT - III, ALUVA**

PETITIONER :

**REENA DENSON, AGED 45 YEARS,
D/O.CHACKO, BATHLAHAM, MALABAR CANCER CENTRE,
MOOZHIKKARA, P.O.KODIYERI, THALASSERY-670103.**

**BY ADVS.SRI.B.KRISHNAN
SRI.R.PARTHASARATHY
SRI.RAJESH V.NAIR**

RESPONDENTS :

**1. JAMES JOSEPH, AGED 49 YEARS, S/O.JOSEPH,
THOTTASKATH HOUSE, NEAR SEMINARIPPADY,
ALUVA WEST VILLAGE, ALUVA-682101.**

**2. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, COCHIN-31.**

**R1 BY ADV. SRI.M.A.ABDUL HAKHIM
R2 BY PUBLIC PROSECUTOR SMT.PMAYA**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 18-03-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:'**

bp

Crl.MC.No. 35 of 2015 ()

APPENDIX

PETITIONER'S ANNEXURES :

ANNEXURE A1: COPY OF M.P.NO.576/2014 FILED BEFORE THE FIRST CLASS JUDICIAL MAGISTRATE COURT, ALUVA.

ANNEXURE A2: COPY OF ORDER PASSED BY JUDICIAL MAGISTRATE COURT ALUVA IN MP NO. 576/2014 IN ST 341/2012 DT 22/11/2014.

RESPONDENT'S ANNEXURES : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

P. UBAID, J.

Crl.M.C.No.35 of 2015

Dated this the 18th day of March, 2015

O R D E R

The petitioner herein is the accused in S.T.No.341/2012 of the Judicial First Class Magistrate Court-III, Aluva. It is a prosecution under Section 138 of the Negotiable Instruments Act. Pending trial the petitioner made an application before the learned Magistrate as M.P.No.576/2014 to return the complaint to the complainant for presentation before the Judicial First Class Magistrate, Thalassery on the ground of territorial jurisdiction, in view of the legal position recently settled by the Honourable Supreme Court. The learned Magistrate dismissed the said application on the ground that the trial has already crossed the stage under Section 145(2) of the Negotiable Instruments Act. The said order is under challenge. On a perusal of the impugned order and the Crl.M.C. itself, I find that this proceeding is really meritless, and does not deserve any consideration. Even the petitioner's Crl.M.C. shows that his counsel had already cross examined the complainant, when he made application to return

the complaint. Nothing more is required to find that he made such an application after the proceeding crossed the stage under Section 145(2) of the Negotiable Instruments Act. It appears that this is an experimental proceeding. I find that the petitioners' request to return the complaint was rightly and legally rejected by the learned Magistrate. The said order does not require any interference by this Court.

In the result, this Crl.M.C. is dismissed in limine, without being admitted to files.

Sd/-

P. UBAID, JUDGE

sd