

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 12TH DAY OF JANUARY 2015/22ND POUSHA, 1936

Crl.MC.No. 165 of 2015 ()

AGAINST CC 127/2009 of JUDL. MAGISTRATE OF FIRST CLASS,
KOTHAMANGALAM
CRIME NO. 1365/2008 OF KOTHAMANGALAM POLICE STATION , ERNAKULAM

PETITIONERS/ACCUSED NO.12 & 13:

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1. BENSILAL, S/O.PYARILAL,
AGED 20 YEARS, MAVEENCHUVAD VEETIL,
KARUKUDAM KARAYIL, KOTHAMANGALAM.
 2. ANOOP,S/O.KUNJUMON,
AGED 20 YEARS, KALLUPARAMBIL,
KARUKUDAM KARAYIL,
MAVINCHUVAD,
KOTHAMANGALAM VILLAGE.

BY ADV. SRI.P.M.HABEEB

RESPONDENT(S):

STATE OF KERALA, THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM – 682 031.

BY PUBLIC PROSECUTOR SMT.P.MAYA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
12-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.UBAID, J.
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**Crl.M.C No.165 of 2015**  
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Dated this the 12th January, 2015

ORDER

The petitioners herein are the accused Nos.12 and 13 in C.C No.127 of 2009 before the Judicial First Class Magistrate Court, Kothamangalam. When they failed to appear in court consistently, the learned Magistrate issued warrant of arrest against them. It is submitted that the petitioners are in fact on bail. On the apprehension of remand to judicial custody on surrender, the petitioners seek orders under Section 482 of the Code of Criminal Procedure directing the court below to recall the warrant of arrest on surrender. Of course, the learned Magistrate, who has issued warrant of arrest for proper reasons, will have to consider the request for recalling the warrant. I do not think that the learned Magistrate will mechanically remand the petitioners to judicial custody when they surrender and make application for bail, if their bail stands cancelled. The trial court will have to consider the grievance of the petitioners regarding their absence on the

day.

In the result, this petition is closed with direction to the court below that in case application for bail is filed by the petitioners on surrender in C.C No.127 of 2009, the same shall be judiciously considered, and appropriate decision regarding bail shall be taken by the learned Magistrate on the date of surrender itself.

**Sd/-
P.UBAID
JUDGE**

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/True copy/

P.S to Judge