

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN**

**MONDAY, THE 19TH DAY OF JANUARY 2015/29TH POUSHA, 1936**

**Crl.MC.No. 322 of 2015 ()**  
-----

**PETITIONER/ACCUSED :**  
-----

**CHANDRIKA SHAJI, AGED 53 YEARS,  
W/O SHAJI, SINDHOORAM NIVAS, KELAMANGALAM THUDIYIL  
ERATTUKULANGARA ROAD, PACHALAM, KOCHI-12`**

**BY ADV. SRI.K.V.SABU**

**RESPONDENT/COMPLAINANT :**  
-----

**STATE OF KERALA  
REPRESENTED BY PUBLIC PROSECUTOR,  
HIGH COURT OF ERNAKULAM - 682031.**

**BY PUBLIC PROSECUTOR SMT. S. HYMA**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION  
ON 19-01-2015, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:**

**bp**

**K. Ramakrishnan, J.**

=====

**Crl.M.C.No.322 of 2015**

=====

**Dated this, the 19<sup>th</sup> day of January, 2015.**

**ORDER**

Accused in C.C.No.178/2011 before the Judicial First Class Magistrate Court-I, Vaikom has filed this application seeking certain directions under Sections 482 read with Section 70(2) of Code of Criminal Procedure.

2. It is alleged in the petition that the petitioner is arrayed as accused in C.C.No.178/2011 before the Judicial First Class Magistrate Court-I, Vaikom alleging offence under Section 138 of the Negotiable Instruments Act. Since the petitioner was laid up due to high range of diabetics and she underwent two major operations for uterus problems, she was not able to appear before the concerned court properly and the learned magistrate has issued Non Bailable Warrant against the petitioner. Subsequently, the learned magistrate has transferred the above said case to register of long pending cases and it is now pending as L.P.No.10/2012 before the Judicial First Class Magistrate Court-I, Vaikom. She is prepared to surrender, but, she apprehends that she will be remanded to custody and her bail application will not be considered. So, she has no other option except to approach

this court seeking the following relief:

*"To recall the warrant issued against the petitioner and further be pleased to direct the learned Magistrate to release the petitioner on bail in the event of surrender before the learned JFCM Court-I, Vaikom, Kottayam District."*

3. Considering the nature of relief claimed, this court felt that the petition can be disposed of today itself after hearing the Counsel for the petitioner and the learned Public Prosecutor.

4. The Counsel for the petitioner submitted that if she surrenders, she will be remanded to custody without considering her bail application unless a direction is given by this court in this regard.

5. The application was opposed by the Public Prosecutor on the ground that she is an absconding accused.

6. It is an admitted fact in the petition itself that she was arrayed as accused in C.C.No.178/2011 before the Judicial First Class Magistrate Court-I, Vaikom alleging offence under Section 138 of the Negotiable Instruments Act. Since she did not appear, non bailable warrant has been issued against her and the same is pending as L.P.No.10/2012. The apprehension of the petition that if she surrenders, she will be

remanded without considering her bail application is without any basis as this court has, in several cases of this nature, consistently observed that there is a duty cast on the judicial officers of the criminal courts to consider and dispose of the bail applications if any filed on the date of the surrender itself as far as possible. So, there is no necessity to issue any direction as such as claimed in the petition. However, considering the apprehension mentioned in the petition, this court felt that the petition can be disposed of as follows:

If the petitioner surrenders before the Judicial First Class Magistrate Court-I, Vaikom in L.P.No.10/2012 (C.C.No.178/2011), then, the learned magistrate is directed to consider and dispose of the bail application on the date of filing of the application itself as far as possible after hearing the Counsel for the complainant as well in accordance with law.

With the above direction and observation, the petition is disposed of.

Office is directed to communicate this order to the concerned court immediately.

Sd/-  
**K.Ramakrishnan, Judge.**

Bb

*[True copy]*

*P.A to Judge*