

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 9TH DAY OF JUNE 2015/19TH JYAISHTA, 1937

Crl.MC.No. 800 of 2015

**SC 908/2014 OF PRINCIPAL SUB COURT, KOZHIKODE
CRIME NO. 13/2014 OF KODUVALLY POLICE STATION, KOZHIKODE**
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PETITIONER(S)/ACCUSED:

**ABDUL BASHEER, AGED 42 YEARS,
S/O.HASSANKUTTY, KAPPALAMKUZHIYIL HOUSE, VAVADU,
KODUVALLY, KOZHIKODE DISTRICT.**

BY ADV. SRI.SUNNY MATHEW

RESPONDENT(S)/COMPLAINANT & STATE:

- 1. JEMSHAD, AGED 22 YEARS,
S/O.MOHAMMED, ANTHANAMKUNNU HOUSE,
THAMARASSERY P.O.,KOZHIKODE DISTRICT - 673 001.**
- 2. THE SUB INSPECTOR OF POLICE,
KODUVALLY POLICE STATION,
KOZHIKODE DISTRICT - 673 001.**
- 3. STATE OF KERALA,
(RESPONDENT 2 AND 3 REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM, COCHIN - 682 031.**

R1 BY ADV. SRI.C.C.ANOOP

R2 & R3 BY SRI.T.I.ABDUL RASHEED, ADDL. DIRECTOR OF PROSECUTION

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
09-06-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

Crl.MC.No. 800 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES:

ANNEXURE A1:-TRUE COPY OF THE FINAL REPORT IN SC 908/2014.

ANNEXURE A2:-TRUE COPY OF AFFIDAVIT SWORN TO BY THE IST RESPONDENT

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

ALEXANDER THOMAS, J.
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Crl.M.C No.800 of 2015
&
Crl.M.C No.805 of 2015
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Dated this the 9th day of June, 2015

ORDER

Sri. Sunny Mathew, learned counsel appearing for the petitioners in these Crl.MCs submits that the petitioners are not pressing this Crl.MCs for pursuing appropriate remedies in accordance with law in respect of all the grievances and except the limited one.

2. After hearing both sides, this Court tentatively expressed the opinion that the plea made in both these Crl.MCs for quashment of the impugned criminal proceedings solely on the basis of settlement may not be entertained on merits, especially in view of the legal principles laid down by the Apex Court in the case Narinder Singh & others v State of Punjab & Another (JT 2014(4) SC 573).

3. In the light of these aspects, the learned counsel Sri. Sunny Mathew would further allege before this Court that the aforementioned limited prayer made on behalf of the petitioner herein in Crl.M.C No.805/2015 is that this Court may issue necessary directions to the learned jurisdictional Magistrate concerned to consider the application for recall of warrant and

application for bail in the case of that petitioner immediately on the same day as he appears and surrenders before the said Magistrate. In this view of the matter, it is ordered in the interest of justice that in case the petitioner in Crl.M.C 805 of 2015 (Sri. M.K Basheer), appears and voluntarily surrenders before the Judicial First Class Magistrate Court-I, Thamarassery (dealing with CP No.26/2014), and submit necessary application for recall of the warrant and application for grant of bail, then the learned Magistrate shall consider those application on the same day itself, in accordance with law. The learned Magistrate will also specifically take into account that the petitioner has produced before this Court Annexure A2 affidavit sworn to by the de facto complainant stating that the issues between the de facto complainant and the petitioner has been settled etc. In this regard, a photocopy of the said affidavit as attested by the learned counsel for the petitioner may also be made available to the immediate perusal of the learned Magistrate. It is further ordered that the petitioner shall give advance notice to the learned Prosecutor concerned attached to the learned Magistrate at least 24 hours prior to such proposed surrender. It is further

ordered in the interest of justice that until orders are passed by the learned Magistrate on those applications as above stated, further coercive steps against the petitioner may be kept in abeyance for the time being. It is made clear that in case the petitioner does not surrender as above stated, within a period of three weeks from today, then the directions issued as above shall stand automatically vacated. It is made clear that since the case has not so far been actually committed to the Sessions Court concerned, the jurisdictional Magistrate concerned has got power to take a decision in the matter of grant of bail as held by this Court in the case Chellappan v State of Kerala (1987 (1) KLT 435). It is made clear that the aforementioned directions in the matter of consideration of bail is confined only to the petitioner in Crl.M.C No.805 of 2015.

Accordingly, both the Crl.M.C stand disposed of with the above said liberty to the petitioner.

sd/-

ALEXANDER THOMAS, JUDGE

sab