

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 23RD DAY OF FEBRUARY 2015/4TH PHALGUNA, 1936

Cr1.MC.No. 937 of 2015  
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AGAINST THE ORDER IN C.M.P 5416/2014 OF THE JUDICIAL FIRST CLASS  
MAGISTRATE COURT, PAYYANNUR  
CRIME NO. 350/2013 OF PAYYANNUR POLICE STATION, KANNUR

PETITIONER/3RD ACCUSED:  
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BIJU C.R, AGED 34 YEARS,  
S/O.RAVEENDRAN, CHOOTHATH HOUSE, 43/1249,  
PACHALAM P.O., ERNAKULAM.

BY ADVS.SRI.E.RAMACHANDRAN  
SRI.R.UMASANKAR  
SRI.K.SUDHINKUMAR

RESPONDENT/COMPLAINANT AND STATE:  
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STATE OF KERALA  
REPRESENTED BY THE INSPECTOR OF POLICE,  
CBCID KANNUR SUB UNIT, KOZHIKODE  
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 23-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 937 of 2015

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APPENDIX

PETITIONER'S ANNEXURES:

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ANNEXURE-1: COPY OF THE ORDER IN C.M.P NO.7334/2014 DATED  
18.11.2014

RESPONDENT'S ANNEXURES:

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NIL

//TRUE COPY//

P.A TO JUDGE

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**P.UBAID, J.**

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**Crl.M.C No.937 of 2015**  
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Dated this the 23<sup>rd</sup> day of February, 2015

**O R D E R**

The petitioner herein is the 3<sup>rd</sup> accused in Crime No.350/CR/EOW III/13 of the CBCID Kannur Unit. He was granted bail on certain conditions. One of the conditions is that he shall appear before the investigating officer between 10 am and 11 am on all Mondays till the final report is submitted. He approached the learned Magistrate having jurisdiction to lift the condition. His application filed as C.M.P No.7334/2014 was dismissed by the learned Magistrate on 18.11.2014. The said order is under challenge in this proceeding. Instead of bringing appropriate application under Section 439(1)(b) of the Code of Criminal Procedure the petitioner applied under Section 482 of the Code of Criminal Procedure. Of course it is true that the petitioner cannot find any excuse. Still in the interest of justice this being treated as an application under 439(1)(b) of the Code of Criminal Procedure.

2. On hearing both sides, I find that the condition imposed by the court below can be appropriately modified. This

is a crime of 2013. It is not known why investigation lags and final report is delayed. The alleged condition was imposed on 23.8.2014. Now we are in February 2015. In such a situation the condition can be modified, though it cannot be lifted as such.

In the result, the Criminal Miscellaneous Case is allowed. The condition imposed by the court below directing the petitioner to report before the investigating officer between 10 am and 11 am on all Mondays will stand modified to the effect that the petitioner shall report before the investigating officer on the first and the 16<sup>th</sup> working day of every English month between 10 am and 11 am until further orders.

**P.UBAID  
JUDGE**

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