

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 25TH DAY OF FEBRUARY 2015/6TH PHALGUNA, 1936

Crl.MC.No. 1011 of 2015 ()

CRL.MP. NO.6070/2014 IN SC. NO.442/2014 OF SESSIONS COURT, THALASSERY.

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PETITIONER/ACCUSED:

**JOY JOSEPH K.J., AGED 59 YEARS,
S/O. K.K.JOSEPH, RESIDENT OF KAROTTUKUNNEL HOUSE,
P.O. KAITHAPRAM, SREEKANDAPURAM AMSOM,
THRIKKADAMBA DESOM, KANNUR.**

**BY SRI.P.VIJAYA BHANU, SENIOR ADVOCATE.
ADVS. SRI.DINNY THOMAS,
SRI.JAISHANKAR V.NAIR,
SMT.ROSHNI MANUEL.**

RESPONDENT/COMPLAINANT:

**STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.**

BY PUBLIC PROSECUTOR SRI.JIBU P.THOMAS.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 25-02-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S ANNEXURES:-

- ANNEXURE A - TRUE COPY OF THE CERTIFICATE DATED 24.09.2014 ISSUED BY THE CONSULTING DOCTOR OF THE PETITIONER ABROAD EVIDENCING HIS MENTAL CONDITION.**
- ANNEXURE B - TRUE COPY OF THE CERTIFICATE ISSUED BY THE CONSULTING DOCTOR OF THE PETITIONER ABROAD DATED 28.01.2015 EVIDENCING HIS MENTAL CONDITION AND THE DOCTOR'S ADVICE THAT IT IS NOT SAFE FOR THE PETITIONER TO TRAVEL AT LEAST FOR SIX MONTHS.**
- ANNEXURE C - TRUE COPY OF THE APPLICATION PREFERRED BY THE PETITIONER THROUGH HIS COUNSEL UNDER SECTION 317 CR.P.C.**
- ANNEXURE D - TRUE COPY OF THE ORDER DATED 17.12.2014 IN CRL.M.P NO. 6070/2014 IN SC NO. 442/2014 PASSED BY THE COURT OF SESSIONS, THALASSERY.**
- ANNEXURE E- COPY OF THE OUTPATIENT CLINICAL ASSESSMENT FORM DATED 10/03/2014.**

RESPONDENT'S ANNEXURES:- NIL.

//TRUE COPY//

P.A TO JUDGE

rs.

B.KEMAL PASHA, J.

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Crl.M.C. No. 1011 of 2015

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Dated this the 25th day of February, 2015

O R D E R

Heard the learned senior counsel for the petitioner and the learned Public Prosecutor.

2. The learned senior counsel for the petitioner has pointed out that the petitioner was originally enlarged on bail in the case and he was co-operating with the proceedings before the court below. On 03.12.2014, the learned counsel for the petitioner could not represent the matter before the court below and consequently, non-bailable warrant was issued. On the next posting date, ie., on 17.12.2014, the learned counsel for the petitioner filed an application before the court below with a medical certificate seeking exemption from personal appearance of the petitioner for a period of six months on the ground that the petitioner was suffering from some psychiatric problems. Presently, he is in United States and has been undergoing treatment there. The court

below through Annexure-D order dated 17.12.2014 in Crl.M.P.No.6070/2014, dismissed the said application.

3. The learned senior counsel has pointed out that still the petitioner is suffering from psychiatric complaints and he has been undergoing treatment in United States. Copies of certificates have been produced before this Court. The out-patient clinical assessment from the concerned hospital and the Psychiatrist attending on the petitioner have been produced. The medical reports show that the petitioner is suffering from mental illness. It further seems that he is a mentally ill person who is in need of treatment. In such a case, the court below ought to have granted a period of six months for the appearance of the petitioner before the court below. On hearing either side, it has come out that due to the absence of the petitioner, no hindrance was caused to the proceedings before the court below so far. It is a case of the year 2014, and that has not yet been taken up for trial. Matters being

so, this Court is of the view that Annexure-D order passed by the court below can be set aside and a period of six months' time can be granted to the petitioner to appear before the court below. The non-bailable warrant issued against the petitioner is also quashed.

In the result, this Crl.M.C is allowed and Annexure-D order passed by the court below is set aside and six months' time is granted to the petitioner to appear before the court below in order to participate in the proceedings. In the meantime, non-bailable warrant issued against the petitioner is quashed.

Sd/-
B.KEMAL PASHA, JUDGE

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//True copy//

P.A to Judge