

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

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

Cr1.MC.No. 1020 of 2015

AGAINST CC 368/2012 OF THE JUDICIAL FIRST CLASS MAGISTRATE
COURT -I, MAVELIKKARA

CRIME NO. 353/2011 OF KURATHIKADU POLICE STATION, ALAPPUZHA

PETITIONER/4TH ACCUSED:

SAJU VARGHESE, AGED 34 YEARS,
S/O.JOHNKUTTY, PEEDIKAVADAKKETHIL PUTHENVEEDU,
EDAPPON MURI, NOORANADU VILLAGE,
MAVELIKKARA TALUK.

BY ADVS.SRI.R.PADMAKUMAR
SRI.P.ARAVIND

RESPONDENT/COMPLAINANT:

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

BY PUBLIC PROSECUTOR SMT.S.HYMA

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

Cr1.MC.No. 1020 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

A1: CERTIFIED COPY OF THE FIR & FIS IN CRIME NO.353/2011 OF
KURATHIKADU POLICE STATION

A2: CERTIFIED COPY OF THE FINAL REPORT FILED BEFORE THE JFCM
COURT-I, MAVELIKARA.

A3: COPY OF THE PASSPORT OF THE PETITIONER

A4: COPY OF THE DEPOSITION OF DEFACTO COMPLAINANT PONAMMA
VARGHESE

A5: COPY OF THE DEPOSITION OF PW2 SHAJI.

A6: COPY OF THE DEPOSITION OF PW3 GRACY

A7: COPY OF THE DEPOSITION OF PW4 D.ASOKKUMAR

RESPONDENT'S ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

ab

P.UBAID, J.

Crl.M.C No.1020 of 2015

Dated this the 25th day of February, 2015

O R D E R

The petitioner herein is the 4th accused in C.C No.368/2012 of the Judicial First Class Magistrate Court I, Mavelikkara. Trial in the said case is going on. When the petitioner herein failed to appear during the trial process, the learned Magistrate ordered warrant of arrest against him. The petitioner seeks orders quashing the prosecution as against him on the ground that the witnesses so far examined by the prosecution have not stated anything to incriminate him, and that the complaint against him is baseless. It would be inappropriate for this Court to interfere at this stage when trial is going on. Whether the petitioner is guilty or innocent, or whether there are materials to implicate him in the evidence of the witnesses, or whether the evidence given by the witnesses is acceptable or not, are all matters to be decided by the trial court. When trial is going on, and the trial court has also examined some material witnesses, this Court cannot intrude into the process under Section 482 of the Code of Criminal Procedure.

He will have to surrender before the learned Magistrate, obtain regular bail and take part in the trial process. I do not think that the learned Magistrate will mechanically remand him to judicial custody when the offences are bailable.

In the result, this Criminal Miscellaneous Case is closed with a direction to the court below that in case application for bail is filed by the petitioner, on surrender, in C.C No.368/2012 the same shall be judiciously considered and decided, on the date of surrender itself. Enforcement of the warrant of arrest against the petitioner will stand suspended for a period of seven days, during which the petitioner can surrender and make application before the learned Magistrate.

**P.UBAID
JUDGE**

ab