

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

Crl.MC.No. 1100 of 2015 ()

AGAINST LP 3/2014 of J.M.F.C., THIRUVALLA
CRIME NO. 103/2004 OF THIRUVALLA POLICE STATION , PATHANAMTITTA

PETITIONER(S)/ACCUSED:

AMBIKA K.N. @ PRIYANKA,
W/O.ANU P.K., 139 C2, SAI KRIPA
SANJEEVANI APARTMENTS, ELAMAKKARA, EDAPPALLY
ERNAKULAM, PIN-682026.

BY ADVS.SRI.S.SREEKUMAR (SR.)
SRI.P.MARTIN JOSE
SRI.P.PRIJITH
SRI.THOMAS P.KURUVILLA

RESPONDENT(S):

THE STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM, PIN-682031.

BY SMT.SAREENA GEORGE.P

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
23-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 1100 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A : TRUE COPY OF THE PROCEEDINGS SHEET IN CC.NO.1090/04 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, THIRUVALLA FROM 01-02-2005 TO 04-06-2007.

ANNEXURE B : TRUE COPY OF ORDER SHEET IN LP 3/14 (CC 1090/14) OF JUDICIAL FIRST CLASS MAGISTRATE COURT, THIRUVALLA

RESPONDENT(S)' EXHIBITS

/TRUE COPY/

P.S TO JUDGE

P.UBAID, J.
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**Crl.M.C No.1100 of 2015**  
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Dated this the 23rd February, 2015

ORDER

The petitioner herein is the sole accused in C.C No.1090 of 2014 of the Judicial First Class Magistrate's Court, Thiruvalla. At the initial stage, the petitioner entered appearance before the learned Magistrate and obtained bail. Pending the proceedings, an application came for further investigation under Section 173 (8) of the Code of Criminal Procedure. On 8.5.2008, the learned Magistrate allowed the said request and directed the accused to appear on getting fresh summons. Report of further investigation was filed in Court in September 2012, and on 17.9.2012, the learned Magistrate issued summons to the accused, and notice to the counsel. After repeated summons, the learned Magistrate ordered warrant of arrest against the accused on 7.3.2013. Later, notice was also ordered to the sureties of the accused. The case now stands transferred to the register of long pending cases as L.P.No.3 of 2014. The petitioner's grievance is that she

had not in fact received any summons after the report of further investigation was submitted by the Police in court. She now apprehends that on surrender she will be remanded to judicial custody.

2. On a perusal of Annexure -B Diary Extract issued from the court below, I find that the petitioner herein cannot in fact be blamed. Till 8.5.2008, she made prompt appearance either personally or through counsel, and later she was directed to appear on getting summons. The Diary Extract will show that the accused had not in fact received summons from the court. Anyway, in some special circumstance warrant of arrest happened to be issued. I do not think that the learned Magistrate will mechanically remand the petitioner to judicial custody. On a perusal of the Diary Extract, I find that the absence of the accused after 17.9.2012 was not in fact deliberate. There is reason to believe that she had no notice of the report of further investigation filed by the police in court. It appears that the Police in fact failed to serve summons properly. For this failure on the part of the Police, the accused cannot be

blamed. Anyway, let the petitioner surrender before the learned Magistrate and make application for bail.

In the result, this petition is closed with direction to the court below that in case the petitioner makes application for bail, on surrender in L.P. No.3 of 2014, the same shall be judiciously considered and decided, on the date of filing itself.

**Sd/-
P.UBAID
JUDGE**

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/True copy/

P.S to Judge