

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

Crl.MC.No. 1161 of 2015

**L.P.NO.145/2006 IN C.C.NO.447/2001 OF THE JUDICIAL FIRST CLASS MAGISTRATE'S
COURT, KOTTAYAM**

PETITIONER(S) :

- 1. ASWATHY FUELS, A PARTNERSHIP FIRM,
REPRESENTED BY MANAGING PARTNER GEORGE P.JOHN,
S/O.YOHANNAN, AGED 54 YEARS, PUTHENPARAMBIL HOUSE,
ATHNIKATHARAYIL, URUKKUNNU P.O, PUNALLOOR, KOLLAM DISTRICT.**
- 2. GEORGE P.JOHN,
MANAGING PARTNER, ASWATHY FUELS, PUTHENPARAMBIL HOUSE,
ATHNIKATHARAYIL, URUKKUNNU P.O, PUNALLOOR, KOLLAM DISTRICT.**
- 3. ASWATHY GEORGE, PARTNER,
ASWATHY FUELS, PUTHENPARAMBIL HOUSE, ATHNIKATHARAYIL,
URUKKUNNU P.O, PUNALLOOR, KOLLAM DISTRICT.**

**BY ADVS.SRI.BECHU KURIAN THOMAS
SRI.S.SREEDEV
SRI.RONY JOSE**

RESPONDENT(S) :

- 1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM- 31.**
- 2. INDIAN OIL CORPORATION LIMITED,
A COMPANY INCORPORATED UNDER THE INDIAN COMPANIES ACT,
HAVING ITS REGISTERED OFFICE AT G-9, ALI YAVAR JUNG MARG,
BANDRA (EAST), MUMBAI-5,
REPRESENTED BY ITS DEPUTY MANAGER (SALES) AND
POWER OF ATTORNEY HOLDER MR.SHAJI XAVIER.**

R1 BY SR.PUBLIC PROSECUTOR SMT.SAREENA GEORGE

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

Msd.

APPENDIX

PETITIONER(S)' ANNEXURES :

ANNX.A1: CERTIFIED COPY OF THE COMPLAINT C.C.NO.447/2001 ON THE FILES OF JUDICIAL FIRST CLASS MAGISTRATES COURT, NO.III KOTTAYAM.

ANNX.A2: CERTIFIED COPY OF THE ORDER SHEET IN C.C.NO.447/2001 ON THE FILES OF JUDICIAL FIRST CLASS MAGISTRATES COURT, NO.III KOTTAYAM.

RESPONDENT(S)' ANNEXURES :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

P. UBAID, J.

Crl.M.C.No.1161 of 2015

Dated this the 25th day of February, 2015

O R D E R

The petitioners herein are the accused in L.P.No.145/2005 in C.C.No.447/2001 of the Judicial First Class Magistrate Court-III, Kottayam. On the apprehension of arrest and remand to judicial custody in execution of a warrant of arrest issued from the trial court they seek orders from this Court under Section 482 of the Code of Criminal Procedure directing the court below to recall the warrant and to release him on bail. Of course, the relief as sought by the petitioners cannot be granted by this Court under Section 482 of the Code of Criminal Procedure. The learned Magistrate, who has issued warrant of arrest for proper reasons, will have to consider the request for bail. It is for the trial court to decide whether bail could be granted to the petitioners. The petitioners will have to surrender before the trial court and make application for bail. Anyway, let appropriate decision regarding bail be taken by the learned Magistrate. I do not think that the learned Magistrate will mechanically remand the petitioners to judicial custody, when the offence is bailable under the law. Of

course, the petitioners will have to explain their absence on the previous posting dates. However, a direction can be made to consider and dispose of the application for bail on the date of surrender itself.

In the result, this petition is closed, with direction to the court below that in case the petitioners make application for bail on surrender in L.P.No.145/2005 in C.C.No.447/2001, the same shall be judiciously considered and decided, on the date of surrender itself.

Sd/-

P. UBAID, JUDGE

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