

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

Crl.MC.No. 1413 of 2015

**AGAINST THE ORDER IN CC 727/2014 of JUDICIAL FIRST CLASS MAGISTRATE
COURT, PIRAVOM, DATED 20-12-2014
CRIME NO. 181/2013 OF PIRAVAM POLICE STATION , ERNAKULAM**

PETITIONER/5TH ACCUSED:

**BABU ALEX @ BABU, AGED 51 YEARS
S/O. CHANDY, THUMBAYIL HOUSE, PIRAVOM P.O
ERNAKULAM DISTRICT.**

BY ADV. SRI.ALIAS M.CHERIAN

RESPONDENT/COMPLAINANT:

**STATE OF KERALA
REPRESENTED BY THE 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 17-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

Crl.MC.No. 1413 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES

ANNEXURE A1 COPY OF ORDER DTD 20-12-2014 IN C.C NO 727/14

RESPONDENT(S)' ANNEXURES

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P.UBAID, J.

Crl.M.C No.1413 of 2015

Dated this the 17th March, 2015

O R D E R

The petitioner herein is the 5th accused in C.C.No.727/2014 of the Judicial First Class Magistrate Court, Piravam. On 20.12.2014 he surrendered before the learned Magistrate on the apprehension of arrest in execution of a warrant of arrest against him. On the said date he was granted bail by the learned Magistrate on certain conditions. One of the conditions is that he shall surrender his passport in court, and the other is that he shall be present on all posting dates. The petitioner is aggrieved by the conditions. He is permanently employed abroad, and he wants to go abroad to join his employment. He now wants his passport, and seeks exemption from personal appearance. The order passed by the learned Magistrate on 20.12.2014 shows that summons has already been issued to the material witnesses to appear for examination. The petitioner now seeks orders from this Court under Section 482 Cr.P.C. quashing the objectionable conditions, and directing the court below to release his passport. In the circumstance of the case, I find that the

petitioner will have to make application before the learned Magistrate. If he is a person permanently employed abroad, and if his grievance is genuine, the learned Magistrate can very well relax the conditions and release the passport to the petitioner. The crime does not involve any serious offence. It is submitted that the petitioner will not raise any dispute regarding identity of the accused during trial. If possibility of such dispute is not there, and if absence of the accused will not actually obstruct the trial, the trial court can allow personal exemption. However, the petitioner will have to file affidavit in the trial court that he will not raise the question of identity. The trial court can even allow the petitioner to go abroad for a reasonable period, if there is no possibility of trial being concluded within a short period. Thus, I find that orders from this Court under Section 482 Cr.P.C. are not required in this case. The petitioner can very well approach the learned Magistrate, and make necessary application. His request will judiciously be considered, and appropriate orders will be passed by the learned Magistrate.

With the above observations, this Crl.M.C. is closed.

Sd/-

P.UBAID, JUDGE

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