

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 11TH DAY OF MARCH 2015/20TH PHALGUNA, 1936

Cr1.MC.No. 1553 of 2015 ()

IN L.P.C. NO.144/2004 IN CC NO. 782/1999 OF JUDICIAL FIRST CLASS
MAGISTRATE COURT-I, KASARAGODE

PETITIONER(S) /ACCUSED:

V. SASIDHARAN,
AGED 60 YEARS, S/O.NARAYANAN VAIDYAR,
MADHAVI SADAN, CHALA P.O.,
THOTTADA, KANNUR 670 007.

BY ADV. SRI.P.P.RAMACHANDRAN

RESPONDENT(S) /COMPLAINANT:

1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
2. M/S. RAMNATH ENTERPRISES,
REPRESENTED BY ITS MANAGING PARTNER - MANJUNATHA PRABHU,
S/O.VISHNU PRABHU, MAIN BAZAR, P.O. NILESHWAR,
KANNUR - 671 314.

BY SENIOR PUBLIC PROSECUTOR SMT. SAREENA GEORGE P.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 11-03-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' ANNEXURES :

ANNEXURE A:- TRUE COPY OF THE COMPLAINT IN C.C.782/1999 PRESENTLY
PENDING AS LPC 144/2004 DATED NIL

RESPONDENT(S) ' ANNEXURES :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

P. UBAID, J.

Crl.M.C.No.1553 of 2015

Dated this the 11th day of March, 2015

JUDGMENT

The petitioner herein is the accused in a prosecution brought under Section 138 of the Negotiable Instruments Act, before the Judicial First Class Magistrate Court-I, Hosdurg. The case now stands transferred to the register of long pending cases as L.P.No.144/2004. Non-bailable warrant and other coercive steps are now pending against him. He now seeks orders under Section 482 Cr.P.C. directing the trial court to return the complaint on the ground that the said court has no territorial jurisdiction in view of the position settled by the Honourable Supreme Court. Whether that court has territorial jurisdiction or not, will have to be looked into, and appropriate orders will have to be passed by the trial court. In such a situation, the proper remedy is to make an application to the learned Magistrate to return the complaint. The trial court cannot be directed to return the complaint, because the direction from the Honourable Supreme Court is to the trial courts to consider the question of jurisdiction and return the complaint for prosecution before the appropriate court, if such a course is found necessary. This Court cannot assume that role and pass orders in this proceeding. The petitioner will have to surrender before the learned Magistrate, and make application to return the complaint. If the learned

Magistrate finds that he has no jurisdiction to entertain the complaint in view of the decision of the Honourable Supreme Court, the complaint will definitely be returned. It appears that the petitioner's apprehension is that if he surrenders, he will be remanded to judicial custody. I do not think that the learned Magistrate will mechanically remand him to judicial custody, when the offence is bailable under the law. He can very well explain his absence throughout, and make application for bail afresh.

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

Sd/-

P. UBAID, JUDGE

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