

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

CrI.MC.No. 1876 of 2015 ()

L.P.C.NO.59/2010 of CHIEF JUDICIAL MAGISTRATE COURT, KASARAGOD

PETITIONER(S)/ACCUSED:

**JAYASRI, AGED 43 YEARS,
W/O.LATE SHIVADAS, RESIDING AT KALYANAPURAM MADAM,
ALAMPADI, KASARAGOD.**

**BY ADVS.SMT.K.DEEPA (PAYYANUR)
SRI.V.R.NASAR**

RESPONDENT(S)/RESPONDENTS:

**STATE OF KERALA
REP BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM**

BY PUBLIC PROSECUTOR SMT.SAREENA.P.GEORGE.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23-03-
2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER'S ANNEXURES

ANNEXURE I	TRUE COPY OF THE COMPLAINT IN L.P.C.NO.59/2010.
ANNEXURE II	TRUE COPY OF THE FIR REGISTERED BASED ON THE COMPLAINT, AS CRIME 993/2008.
ANNEXURE III	TRUE COPY OF THE FINAL REPORT OF CRIME 993/2008.
ANNEXURE IV	TRUE COPY OF THE COMPLAINT OF L.P.C.NO.22/2010.

RESPONDENT'S ANNEXURES

NIL

//True Copy//

P.A. To Judge

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K. Ramakrishnan, J.

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Crl.M.C.No.1876 of 2015

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Dated this, the 23rd day of March, 2015.

ORDER

This is an application filed by the accused in L.P.C.No.59/2010 of Chief Judicial Magistrate Court, Kasaragod seeking certain directions under Section 482 of Code of Criminal Procedure (hereinafter called 'the Code').

2. It is alleged in the petition that petitioner has been arrayed as an accused in the above case which was originated on the basis of a private complaint filed by the complainant by name C.A.Mohammed alleging offence under Section 417 and 420 of Indian Penal Code and Counsel for the petitioner submitted that the complaint was forwarded to the police for investigation under Section 156(3) of the Code and after investigation, final report was filed and it was taken on file. But, the petitioner has not received any summons in the case. So, she could not appear. But, court below had transferred the case to register of long pending cases and now pending as L.P.C.No.59/2010 before Chief Judicial Magistrate Court, Kasaragod. Further, the same complainant had filed another complaint under Section 138 of the

Negotiable Instruments Act before the same court and that was also now pending as L.P.C.No.22/2010 before the same court. Though she is prepared to surrender, she apprehends that, if she surrenders, she will be remanded to custody and her application for bail will not be considered without a direction from this court in this regard. So, the petitioner has no other remedy except to approach this court seeking the following relief:

"To issue direction to the learned Chief Judicial Magistrate, Kasaragod to release the petitioner on bail on the same day of her surrender in L.P.C.No.59/2010 of the Court of Chief Judicial Magistrate, Kasaragod."

3. Considering the nature of relief claimed, this court felt that the petition can be disposed of at the admission stage itself after hearing the Counsel for the petitioner and the Public Prosecutor.

4. The Counsel for the petitioner submitted that she is a widow with two children and she did not receive any summons in the case. Her apprehension was that if she surrenders, she will be remanded to custody and her bail application will not be considered on the date of filing of application itself unless a

direction is given from this court.

5. The application was opposed by the Public Prosecutor.

6. It is seen from the allegations in the complaint itself that the complaint filed by the de facto complainant was forwarded to the police for investigation and after investigation, final report was filed and it was taken on file for the offences under Sections 417 and 420 of Indian Penal Code against the petitioner and since she did not appear, the case is now transferred to register of long pending cases and pending as L.P.C.No.59/2010 before the Chief Judicial Magistrate Court, Kasaragod and warrant is pending against her. The apprehension of the petitioner that if she surrenders, she will be remanded to custody and her application for bail will not be considered is without any basis as this court has observed in several petitions of this nature that the presiding officers of the criminal courts are bound to consider and dispose of the bail application if any filed by the accused persons on the date of their surrender itself as far as possible on the date of filing itself. The petitioner can appraise the court below the reason for her non appearance and the court can also consider the fact that she

is a lady and a widow while considering the bail application. Though there is no necessity to issue any direction as sought four, considering the apprehension raised by the petitioner, this court feels that the petition can be disposed of as follows:

If the petitioner surrenders before the Chief Judicial Magistrate Court, Kasaragod and moves for recalling the warrant and release her on bail in L.P.C.No.59/2010 (Crime No.993/2008 of Kasaragod police station) pending before that court, the learned magistrate is directed to consider and dispose of the bail application on the date of filing of the application itself after hearing the Deputy Director of Prosecution in the case as well and dispose of the application in accordance with law.

With the above direction and observation, the petition is disposed of.

Office is directed to communicate this order to the concerned court immediately.

Sd/-
K.Ramakrishnan, Judge.

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[True copy]

P.A to Judge