

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 26TH DAY OF MARCH 2015/5TH CHAITHRA, 1937

Crl.MC.No. 1991 of 2015 ()

CC. NO.852/2009 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, MALAPPURAM.

PETITIONER/COMPLAINANT:

**M/S. TAJ AGRO EQUIPMENTS,
ROOM NO.KP VIII/430, NEAR TELEPHONE EXCHANGE,
CALICUT ROAD, PANDIKKAD, KONDOTTY,
ERNAD TALUK, MALAPPURAM DISTRICT,
REPRESENTED BY ITS AUTHORISED AGENT,
RAVEENDRAN. K., AGED 59 YEARS, S/O.APPUKUTTAN.**

**BY ADVS.SRI.BABU S. NAIR,
SRI.K.RAKESH.**

RESPONDENTS/STATE & ACCUSED:

- 1. THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI -31.**
- 2. SALEEM. P., AGED 38 YEARS,
S/O.KUNHAVARAKUTTY, ROOBI, NEDUVA P.O.,
PARAPPANANGADI, CHIRAMANGALAM,
TIRURANGADI TALUK, MALAPPURAM DISTRICT-676 303.**

R1 BY SR. PUBLIC PROSECUTOR SMT.SAREENA GEORGE. P.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 26-03-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S ANNEXURES:-

**ANNEXURE A. COPY OF THE COMPLAINT FILED BY THE PETITIONER
HEREIN BEFORE THE J.F.C.M., MALAPPURAM DISTRICT
DATED 06.05.2008.**

**ANNEXURE B. COPY OF THE ORDER IN CRLMP NO.1329/2014
DATED 25.11.2014 OF THE SESSIONS COURT, MANJERI.**

RESPONDENT'S ANNEXURES:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

P.UBAID, J.
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**Crl.M.C No.1991 of 2015**  
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Dated this the 26th March, 2015

ORDER

The petitioner herein is the complainant in C.C No.852 of 2009 of the Judicial First Class Magistrate's Court, Malappuram. After the examination of the complainant, a transfer application was filed before the Court of Session by the complainant saying that the right court to try the offence is the Judicial First Class Magistrate's, Parappanangadi. The learned Sessions Judge disallowed the request on the ground that such a transfer cannot be allowed by applying the latest decision of the Hon'ble Supreme Court regarding territorial jurisdiction. The said order of the court of Session dated 25.11.2014 in C.M.P. No.1329 of 2014 is under challenge under Section 482 of the Code of Criminal Procedure. What the petitioner requires is not a transfer under Section 407 Cr.P.C. What he requires is a direction to the learned Magistrate at Malappuram to return the complaint to the complainant for presentation before the proper court.

In fact , the petitioner does not seek relief on the basis of the latest Supreme Court decision regarding territorial jurisdiction. He seeks orders even otherwise and he wants to prosecute the matter before the Judicial First Class Magistrate's Court, Parappanangadi. Once transfer application is dismissed by the Court of Session, the right remedy must be a transfer application before this Court under Section 407 Cr.P.C. There is no reason why the petitioner did not pursue such a remedy. If at all he relies on the Supreme Court decision, the proper course is to make an application before the learned Magistrate to return the complaint. If the learned Magistrate finds that the right court to try the case is the Judicial First Class Magistrate's Court, Parappanangadi and that the case has not crossed the stage of Section 145 (2) of the Negotiable Instruments Act, the complaint will be returned. This Court cannot direct the learned Magistrate to return the complaint in this proceeding. I do not know what prejudice is going to be caused to the complainant or what hardship or injury he will suffer, if the trial continues in the present court. Anyway let

him think of the proper remedy available to him.

In the result, this Crl.M.C is dismissed *inlimine* without being admitted to files, of course without prejudice to the right of the petitioner to seek appropriate relief under the law.

**Sd/-
P.UBAID
JUDGE**

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/True copy/

P.S to judge