

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 1ST DAY OF APRIL 2015/11TH CHAITHRA, 1937

Crl.MC.No. 2148 of 2015 ()

IN ST 11/2014 of SPL. ADDL. CHIEF JUDICIAL MAGISTRATE'S COURT, THRISSUR

PETITIONER(S)/PETITIONER/ACCUSED:

**ASOKAN AGED 50 YEARS
VAMBILIKUNNAN HOUSE, P.O. PERAMANGALAM, MUNDOOR
THRISSUR.**

**BY ADVS.SRI.N.M.MADHU
SMT.C.S.RAJANI**

RESPONDENT(S)/RESPONDENTS/COMPLAINANT:

**1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.**

**2. MOIDEEN, AGED 56 YEARS
S/O HYDRASS, IRINGALTHODI HOUSE, P.O. ALIPARAMBU
PERINTHALMANNA-679357.**

R1 BY PUBLIC PROSECUTOR SMT. SAREENA GEORGE. P.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 01-04-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A: PHOTOCOPY OF THE ABSENT APPLICATION FILED BY THE COUNSEL FOR THE PETITIONER.

ANNEXURE B: CERTIFIED COPY OF THE PROCEEDINGS DATED 18.3.2015 IN S.T.NO.11/2015 IN S.T.11/2014 ON THE FILE OF THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE COURT, THRISSUR.

ANNEXURE C: PHOTOCOPY OF THE APPLICATION DATED 18.3.2015 FILED BY THE COUNSEL FOR THE PETITIONER.

ANNEXURE D: PHOTOCOPY OF THE DISCHARGE CERTIFICATE DATED 19.3.2015 ISSUED BY DAYA GENERAL HOSPITAL SPECIALTY SURGICAL CENTRE, THRISSUR.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

PA TO JUDGE
sab

P.UBAID, J.

Crl. M.C No.2148 of 2015

&

Crl. M.C No.2153 of 2015

Dated this the 1st day of April, 2015.

O R D E R

The petitioner herein is the accused in two cases brought under Section 138 of the Negotiable Instruments Act before the Additional Chief Judicial Magistrate Court, Thrissur. One is S.T No.9 of 2014, and the other is S.T No.11 of 2014. The trial court has already recorded the examination in chief of the complainant by way of affidavit. When the cases came up for cross examination of the complainant on 18.3.2015, the accused was absent, and the learned counsel for the accused could not cross examine the complainant in the absence of the accused. The learned Magistrate closed the evidence of the complainant on 18.3.2015, and posted the case for examination of the accused under Section 313 Cr.P.C, to 6.4.2015. The petitioner's grievance is that he is denied the right to cross examine the complainant. Of course, his grievance is really genuine. It is the right of the accused in every case to cross examine any witness examined on the side of the complainant. In such a circumstance, a reasonable

opportunity can be granted to the accused to cross examine the complainant. I find that the accused has a genuine grievance. He is accordingly, permitted to make an application to the court below to recall the complainant for cross examination.

With these observations, these Crl.M.Cs are disposed of.

Sd/-

P.UBAID,
JUDGE

sab