

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 29TH DAY OF JULY 2015/7TH SRAVANA, 1937

Crl.MC.No. 2305 of 2015

CC NO. 138/2015 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, VATAKARA

CRIME NO. 357/2014 OF EDACHERRY POLICE STATION, KOZHIKODE

PETITIONER/ACCUSED :-

**ANEESH KUMAR K.L.,
S/O.KUTTAN PILLAI, 'ASHA BHAVAN', KOOVATHOOL,
VELAMANNOOR, PARIPPALLY, KOLLAM DISTRICT.**

**BY ADVS.SRI.K.RAKESH ROSHAN
SMT.THUSHARA.V**

RESPONDENT/COMPLAINANT :-

**THE STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA. (IN CRIME NO.357/2014 OF EDACHERY
POLICE STATION NOW PENDING AS CC NO.138/2015 ON THE
FILE OF THE JFCM, VATAKARA) ERNAKULAM - 31.**

R BY SMT.V.H.JASMINE, PUBLIC PROSECUTOR

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 29-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

rkj

Crl.MC.No. 2305 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES :-

**ANNEXURE-1 : CERTIFIED COPY OF THE FIR WITH FIS IN EDACHERY POLICE
CRIME NO.357/2014.**

**ANNEXURE-2 : CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.357/2014 OF
EDACHERY POLICE NOW PENDING AS CC NO.138/2015 BEFORE THE
LEARNED JFCM COURT, VATAKARA.**

RESPONDENT(S)' ANNEXURES :- NIL

//TRUE COPY//

P.A. TO JUDGE

rkj

P.UBAID, J.

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Crl.M.C.No.2305 of 2015

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Dated this the 29th day of July, 2015

ORDER

The petitioner herein seeks orders quashing the prosecution against him under Sections 354(A), 354(B), 383, 506(1) and 509 of the Indian Penal Code in C.C.No.138 of 2015 of the Judicial First Class Magistrate Court, Vatakara. His case is that the allegations in the complaint made by the victim will not constitute any of such offences, and his grievance is that without issuing summons, the trial court issued warrant of arrest against him. The petitioner has also made an alternative prayer to direct the Court below to consider his application for bail appropriately. Now it is submitted that the first prayer to quash the prosecution as such is not pressed. The petitioner's request is for a direction to the learned Magistrate to consider his application for bail on the date of surrender itself. The petitioner now wants to surrender before the learned Magistrate on the apprehension of arrest in execution of the warrant of arrest.

2. On hearing both sides, and on a perusal of the materials, I find that the petitioner has a case to be argued as regards the essentials of the offence under Sections 354(A) and 354(B) of the Indian Penal Code. It appears that the main allegation is that without the knowledge and consent of the victim, the petitioner took her photographs, and later

received huge amount by blackmailing her on the threat that he will spread her photographs through mobile phones and internet. No doubt, the allegations will come under Section 119(b) of the Kerala Police Act. Anyway, let those aspects be considered by the learned Magistrate. The petitioner's request for bail will have to be judiciously and appropriately considered by the learned Magistrate. It is not known why warrant of arrest was straight away issued against the petitioner without and before issuing summons. Though a positive direction to grant bail cannot be granted under Section 482 Cr.P.C., the Court below can be directed to decide the application for bail on the date of surrender itself.

In the result, this Crl.M.C. is disposed of with a direction to the Court below that in case application for bail is filed by the petitioner on surrender in C.C.No.138 of 2015, the same shall be judiciously considered, and appropriate decision shall be taken, on the date of surrender itself, however, notice to the other side.

Sd/-
P.UBAID
JUDGE

rkj

//TRUE COPY//

P.A. TO JUDGE