

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

FRIDAY, THE 29TH DAY OF MAY 2015/8TH JYAISHTA, 1937

Crl.MC.No. 3120 of 2015 ()

ST.NO. 2399/2014 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-I, KANNUR

PETITIONER/ACCUSED:

**KHADEEJA PADAPPIL, AGED 62 YEARS,
W/O. P.P.ABDUL HAMEED, (RETD. PROFESSION),
PADAPPIL HOUSE, P.O.IRINAVE, KANNUR DIST - 670 301.**

BY ADV. SRI.C.K.SREEJITH

RESPONDENT(S)/DE-FACTO COMPLAINANT & STATE:

- 1. AJITH KUMAR P.P.,
AJITH NIVAS, NEAR RAJAS HIGH SCHOOL, CHIRAKKAL,
KANNUR - 670 011.**
- 2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.**

R2 BY PUBLIC PROSECUTOR SMT. S.HYMA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 29-05-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

sts

Crl.MC.No. 3120 of 2015 ()

APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEX A1 - THE TRUE COPY OF THE MEDICAL CERTIFICATE ISSUED BY THE
DR.SUJITHRA P.**

**ANNEX A2 - THE TRUE COPY OF THE REGISTERED NOTICE ISSUED TO THE
PETITIONER THROUGH ADVOCATE M.KISHOREKUMAR.**

RESPONDENT(S)' ANNEXURES: **NIL**

/TRUE COPY/

P.A.TO JUDGE

sts

ALEXANDER THOMAS, J.

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Crl.M.C.No. 3120 of 2015

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Dated this the 29th day of May, 2015

O R D E R

The petitioner herein is arrayed as accused in Summary Trial Case, S.T.C.No.2399/2014 on the file of the Judicial First Class Magistrate's Court-1, Kannur, alleging offence punishable under Sec.138 of the Negotiable Instruments Act. The petitioner alleges that there was no financial transaction in between her and the 1st respondent defacto complainant in the aforementioned case and that no summons has been received from the court below even now and it is understood that a non-bailable warrant has been issued against her and that the Police came to her residence and that the complainant has also filed a petition for handover of the non-bailable warrant on hand. It is averred that the petitioner is a lady aged 62 years and that she is under treatment and that she requires at least two more months for her appearance from the next posting date, viz., 8.7.2015. The petitioner has produced Anx.A-1 medical certificate dated 4.5.2015, wherein it is stated that she is suffering from lower back pain and that the doctor considers that she requires absence from duty for six months from 5.5.2015 for

restoration of her health, etc. It is in the light of these averments, that the petitioner has filed the above said Crl.M.C. with the following prayers:

- “(i) Issue direction directing the learned Judicial 1st Class Magistrate No.1, Kannur to keep in abeyance the non-bailable warrant issued against the petitioner for a period of 2 months enabling the petitioner to appear before the court below and to seek regular bail.
- (ii) Issue any other relief that this Hon'ble Court may deem fit to grant in the facts and circumstances of the case.”

2. Heard Sri.C.K.Sreejith, learned counsel appearing for the petitioner and the learned Public Prosecutor appearing for the official respondent.

3. Taking into account the totality of the facts and circumstances of this case and taking into account the fact that the petitioner is a lady aged 62 years and the offence involved is only under Sec.138 of the Negotiable Instruments Act, it is ordered in the interest of justice that in case the petitioner voluntarily surrenders before the Judicial First Class Magistrate's Court-I, Kannur, dealing with S.T.C.No.2399/2014 within a period of 30 days from today and submits necessary application for grant of bail, then the said learned Magistrate shall consider the said application and application for recall of warrant, if any, on the same day itself and grant bail to her subject to any conditions that may be imposed by

the learned Magistrate as deemed fit and proper in the facts and circumstances of the case. Consequently, it is ordered that all further coercive proceedings pending against the petitioner in pursuance of the warrant also be kept in abeyance till orders as directed above are passed by the learned Magistrate. It is further ordered that in case the petitioner does not voluntarily surrender before the jurisdictional Magistrate concerned as directed above within the aforementioned period of 30 days from today, then the aforementioned directions issued herein above by this Court in this case, will stand automatically vacated. After orders are passed by the learned Magistrate as aforestated, then it will be open to the petitioner to move appropriate application before the learned Magistrate concerned seeking that her further personal appearance may be exempted for any specified period on medical ground or such other relevant grounds, then it is for the learned Magistrate to consider such application on merits without any further delay after giving reasonable opportunity to both sides.

The Crl.M.C. is disposed of as above.

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///True copy///

Sd/-
ALEXANDER THOMAS, JUDGE

P.S. to Judge

