

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.ABRAHAM MATHEW

WEDNESDAY, THE 8TH DAY OF JULY 2015/17TH ASHADHA, 1937

Crl.MC.No.3276 of 2015

CC NO.173/2013 of JUDICIAL FIRST CLASS MAGISTRATE COURT,AMBALAPUZHA.

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PETITIONER/ACCUSED:

**BIJU,S/O.CHELLAPPAN,AGED 41 YEARS,
KOPPANATHU VEEDU,KANJIPPADAM MURI,
AMBALAPPUZHA,ALAPPUZHA - 688 561.**

**BY ADVS.SRI.DIPU.R
SMT.P.APRIYA
SRI.K.A.SIYAD
SRI.S.SUJESH**

RESPONDENT'S/STATE & COMPLAINANT:

- 1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,ERNAKULAM,PIN:682 031.**
- 2. STATION HOUSE OFFICER,
AMBALAPPUZHA POLICE STATION,
AMBALAPPUZHA - 688 561.**

BY PUBLIC PROSECUTOR SRI.DHANESH MATHEW MANJOORAN.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 08-07-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

pk

Crl.MC.No.3276 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

**ANNEXURE 1: COPY OF FINAL REPORT IN C.C.NO.173/2013 ON THE FILES OF
JFM COURT, AMBALAPPUZHA.**

**ANNEXURE 2: COPY OF COMPLAINT DATED 2/6/2015 FILED BEFORE REGISTRAR
OF HIGH COURT.**

RESPONDENT'S ANNEXURES:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

K. ABRAHAM MATHEW, J.

Crl.M.C. No.3276 of 2015

Dated this the 8th day of July 2015

ORDER

Petition filed under Sec.482 Cr.P.C.

2. Petitioner is accused in C.C. No.173 of 2013 on the file of the Judicial First Class Magistrate Court, Ambalappuzha. On the date when the case was taken up for trial his counsel was absent. It is alleged that on instructions from the counsel concerned, another counsel was ready to examine the witnesses. The learned Magistrate took up the case in the afternoon. It is the case of the petitioner that in the course of cross examination of the witnesses, the learned Magistrate unnecessarily interfered, which was objected to by the counsel. It is further alleged that “suddenly the Magistrate by saying that the counsel was not the concerned counsel to represent and cancelled the bail bond of the petitioner and issued nonailable warrant against the petitioner. Further, show cause notice also issued to the counsel”.

3. Heard.

4. Under Sec.165 of the Indian Evidence Act, the Magistrate has every right to put question. No advocate is supposed to object to it. It appears that there was an attempt on the part of the accused to delay the trial of the case. I cannot accept the allegations against the Magistrate.

5. As the petitioner was absent, the learned Magistrate recorded forfeiture of the bond and issued non bailable arrest warrant against him.

6. Having regard to the facts of the case, I am inclined to direct the petitioner to surrender before the learned Magistrate on 15.07.2015. On such surrender, the learned Magistrate shall release the petitioner on bail.

7. It is submitted that the show cause notice issued to the counsel has already been recalled.

8. In the result, this Crl.M.C. is disposed of with a direction to the petitioner to surrender before the learned Magistrate on 15.07.2015, upon which, the

learned Magistrate shall release him on bail. The petitioner shall not seek an adjournment for the trial of the case. If he is not ready to proceed with the case, the learned Magistrate is at liberty to take recourse to the 4th provision to Sec.309(2) of the Code of Criminal Procedure.

Sd/-
K. ABRAHAM MATHEW
JUDGE
/ True Copy /

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P.A. To Judge