

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

MONDAY, THE 29TH DAY OF JUNE 2015/8TH ASHADHA, 1937

Crl.MC.No. 3491 of 2015

C.C.NO. 75/2011 of CHIEF JUDICIAL MAGISTRATE COURT, ERNAKULAM
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PETITIONER(S)/ACCUSED:

**DR.UNNIKRISHNAN, AGED 49 YEARS,
S/O.KUNJAPPAN, RESIDING AT THACHIRAKKAL HOUSE,
NIRAMARATHOOR P.O., THIRUR TALUK, MALAPPURAM.**

BY ADV. SRI.MANU RAMACHANDRAN

RESPONDENT(S)/COMPLAINANT:

**STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.**

BY PUBLIC PROSECUTOR SRI. C.K.SURESH

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
29-06-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' ANNEXURES :

**ANNEXURE-A1. TRUE PHOTOCOPY OF THE JUDGMENT IN THE KERALA HIGH COURT
IN OP(FC) NO.1096/2010 DATED 23/12/2010.**

**ANNEXURE-A2. TRUE PHOTOCOPY OF THE JUDGMENT IN THE KERALA HIGH COURT
IN WP(CRL) 39/2011 AND CONTEMPT CASE NO.9/2011 DATED 4/4/2011.**

**ANNEXURE-A3. TRUE PHOTOCOPY OF THE PROCLAMATION NOTICE DATED 9/4/2015
OF CJM COURT, ERNAKULAM IN CC 75/2011.**

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msv/

ALEXANDER THOMAS, J.

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Crl.M.C.No.3491 of 2015

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Dated this the 29th day of June, 2015

ORDER

The prayers in the Crl.M.C is are as follows:

- “A) Directing the learned Chief Judicial Magistrate, Ernakulam to grant two moths time for the Petitioner/Accused to appear in C.C.75/2011 pursuant to Annexure A3 proclamation notice and to keep in abeyance the further proceedings as per the Annexure A3 proclamation notice for such period;
- B) Directing the learned Chief Judicial Magistrate Court, Ernakulam to consider and dispose the bail application filed by the Petitioner on the same day of his appearance and to grant bail.
- C) To issue any other appropriate order or direction as this Honourable Court may deem fit and proper in the facts and circumstances of the case.”

2. It is stated that the petitioner is a Aurvedic Doctor by profession now based in Russia. It is pointed out that this Court as per order dated 27/1/2011 in COC No.9/2011 (paragraph 14 therein) had directed that appropriate criminal proceedings initiated against the petitioner herein for the offence of perjury under the IPC

for having sworn to a false affidavit before this Court in family dispute litigation between the petitioner herein and his first wife. Later this Court as per Annexure A2 judgment dated 04/04/2011 in W.P(Crl.) No.39 of 2011 and Cont.Case (C)No.9/2011 had noted that the petitioner had later obeyed the directions of this Court and produced the children before this Court and it is also observed in the order that the petitioner herein had appeared before this Court along with children without much delay having coming to know of the contempt proceedings and also having regard to the fact that the entire problem is a consequence of human emotions, this Court is of the opinion that the execution of the punishment of imprisonment be deferred for a period of two years, during which period, if any further act of disobedience to the lawful orders of the court is committed, the sentence shall be executed forthwith thereafter. The petitioner herein was ordered to face two years imprisonment in the above said contempt of court proceedings for not having earlier produced the children pursuant to the directions issued by this Court in the family litigation matters. In the light of the above said directions issued in Annexure A2 judgment

regarding the aspect of punishment, this Court as per the order dated 27/05/2013 in Cont.Case No.9/2011 had found that the petitioner herein has not committed disobedience to the lawful orders of this Hon'ble Court as indicated in the order dated 04/04/2011 (Annexure A2 herein), and recording this, closed the contempt proceedings. Accordingly the petitioner did not have to face any prison term for the contempt of court proceedings and accordingly the contempt of court proceedings has closed as per the aforementioned order dated 27/05/2013. Later in the criminal complaint initiated against the petitioner for having sworn to false affidavit, the impugned warrant proceedings and proceedings under Sections 82 and 83 were taken against the petitioner as he did not turn up before the court below. It is in these aspects of the matter the petitioner has sought for the aforementioned prayer in this Crl.M.C. It is stated that the petitioner is now in Russia. According to Sri.Manu Ramachandran, learned counsel for the petitioner, the petitioner had never received any summons from the court below, in relation to the aforementioned criminal complaint for perjury and that he has been in Russia for quite some time in connection with

his professional duties and obligations therein and that it is due to some unavoidable reasons that he could not appear before the court below. Therefore it is prayed that this Court may grant at least two months' time to appear before the court below and until then the impugned proceedings initiated against him by Annexure A3 proceedings dated 09/04/2015 in CC No.75/2011 on the file of the Chief Judicial Magistrate's Court, Ernakulam may be kept in abeyance so as to enable the petitioner to appear before the court below without any further delay, at any rate, within a period of two months.

3. Heard learned counsel appearing for the petitioner and learned Public Prosecutor appearing for the respondent State of Kerala.

4. It is to be noted that the Division Bench of this Court observed at Annexure A2, more particularly paragraphs 7 and 10 thereof that the petitioner at that point of time obeyed the directions of this Court by producing the children without any further delay and that the Court was also of the opinion that having regard the fact that the entire problem in consequence of the

human emotions, even the execution of the punishment of the imprisonment of contempt proceedings was also deferred for two years and was ordered not to be executed later. Later this court as per Judgment dated 27/05/2013 in Cont.Case (C) No.9/2011 had found that the petitioner had not committed any further disobedience to this Court's order as indicated in this Court's Annexure A2 judgment dated 04/04/2011 and that accordingly contempt of court proceedings were closed by this Court's judgment dated 27/05/2013, thereby even the initially imposed punishment of imprisonment of two years in contempt proceedings was effaced. It is now pointed out that both the petitioner and his wife are divorced and both are re-married and the petitioner is now abroad and that he would definitely appear before the court below within two months. Having regard to the totality of the facts and circumstances of the case, it is ordered in the interest of justice that the impugned proceedings at Annexure A3 herein will be kept in abeyance for a period of two months from today and the petitioner shall appear before the court below before the expiry of aforementioned time limit of two months from today. Until then, it

is ordered in the interest of justice that the impugned proceedings at Annexure A3 will be kept in abeyance to effectuate his appearance before the court below and consideration of application for recall of the impugned proceedings and application for grant of bail.

With these observations and directions the Crl.M.C.stands disposed of.

Sd/- ALEXANDER THOMAS, JUDGE

MJL

