

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 23RD DAY OF JULY 2015/1ST SRAVANA, 1937

Crl.MC.No. 4226 of 2015 ()

C.C.866 OF 2012 OF JUDICIAL FIRST MAGISTRATE COURT, VARKALA

PETITIONER(S):

SAJITHA
W/O.ALTHAF, VILAYIL HOUSE, EDAVA VILLAGE
VARKALA TALUK, THIRUVANANTHAPURAM DISTRICT
PIN 695311.

BY ADV. SRI.O.D.SIVADAS

RESPONDENT(S)/COMPLAINANT AND STATE:

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1. THE SUB INSPECTOR OF POLICE
AYIROOR, THIRUVANANTHAPURAM-695001.
 2. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.
 3. ALTHAF
S/O.SALAHUDEEN, AL-DHEENSHA, PARAYIL
EDAVA, THIRUVANANTHAPURAM DISTRICT, 695001.

R3 BY ADV. SRI.LATHEESH SEBASTIAN
R1 & R2 BY PUBLIC PROSECUTOR SMT.S.HYMA

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
23-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 4226 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS :

ANNEXURE-A1: COPY OF THE LETTER DATED 20.1.2015 ISSUED BY THE SECRETARY OF THE JAMA-ET.

ANNEXURE-A2: COPY OF THE INTERIM ORDER DATED 18.4.2015 IN I.A.623/2015 IN O.P.396/2015 ON THE FILE OF THE FAMILY COURT, ATTINGAL.

ANNEXURE-A3: COPY OF THE RELEVANT PAGES OF THE PASSPORT OF THE 3RD RESPONDENT.

RESPONDENT(S)' EXHIBITS

/TRUE COPY/

P.A TO JUDGE

P.UBAID, J.

Crl.M.C No.4226 of 2015

Dated this the 23rd day of July, 2015

O R D E R

The petitioner herein is the defacto complainant in C.C No.866/2012 of the Judicial First Class Magistrate Court, Varkala, involving the offence under Section 498A of the Indian Penal Code. The 3rd respondent herein is the accused in the said case. The petitioner's grievance is that the police has not taken any action against the accused inspite of repeated warrant issued from the court. She seeks a direction under Section 482 of the Code of Criminal Procedure to the police to execute the warrant of arrest, and also to the court to expedite the trial of C.C No.866/2012. The 3rd respondent is represented by counsel. But there is no representation for the petitioner.

2. On a perusal of the materials, I find that the petitioner's prayer cannot be granted by this Court under Section 482 of the Code of Criminal Procedure. When the accused has not made appearance in the case, this Court cannot direct the trial court to expedite the trial. The question of trial or expeditious trial comes only after appearance of the accused. If the police has failed to execute the warrant of arrest, it will be

taken care of by the trial court, and it must be the concern of the trial court to see that the warrant of arrest is properly enforced or executed. The petitioner will have to present her grievance before the Magistrate. In the present circumstances no orders can be passed by this Court under Section 482 of the Code of Criminal Procedure. This Criminal Miscellaneous Case does not merit consideration. However, on a consideration of the genuine grievance of the petitioner the trial court is hereby directed to see that warrant of arrest issued against the accused, is promptly executed, and if the court finds culpable failure on the part of the police officers in executing the process, appropriate action against the police also shall be taken. The learned Public Prosecutor will instruct the District Superintendent of Police to direct the concerned Station House Officer to execute the warrant of arrest issued from the court below.

In the result, this Criminal Miscellaneous Case is dismissed in limine without being admitted to files.

**P.UBAID
JUDGE**

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