

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

THURSDAY, THE 16TH DAY OF JULY 2015/25TH ASHADHA, 1937

Crl.MC.No. 4443 of 2015 ()

**LPC.NO. 60/2015 OF CHIEF JUDICIAL MAGISTRATE COURT, KASARAGOD
CRIME NO. 836/2011 OF KASARAGOD POLICE STATION , KASARGOD DISTRICT**

PETITIONER/6TH ACCUSED:

**IRFAN ABDUL KHADER,
S/O. ABDUL KHADER, AGED 25 YEARS,
RESIDING AT CHOORI, KUDLU VILLAGE,
KASARAGOD TALUK, KASARAGOD DISTRICT.**

**BY ADVS.SRI.T.MADHU
SMT.C.R.SARADAMANI**

RESPONDENT/STATE:

**THE STATE OF KERALA
THROUGH THE STATION HOUSE OFFICER,
KASARAGOD POLICE STATION,
KASARAGOD DISTRICT,
REPRESENTED BY THE PUBLIC PROSEUCTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.**

BY PUBLIC PROSECUTOR SRI.N.SURESH

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 16-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

sts

Crl.MC.No. 4443 of 2015 ()

APPENDIX

PETITIONER(S)' ANNEXURES:

ANNEX A1 - THE TRUE COPY OF THE FINAL REPORT IN CRIME NO. 836/2011 OF KASARAGOD POLICE STATION.

ANNEX A2 - THE TRUE COPY OF THE JUDGMENT DT. 30.12.14 IN CC NO. 658/2011 ON THE FILES OF THE LEARNED CHIEF JUDICIAL MAGISTRATE'S COURT, KASARAGOD.

RESPONDENT(S)' ANNEXURES:

NIL

/TRUE COPY/

P.A.TO JUDGE

sts

ALEXANDER THOMAS, J.

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Crl.M.C No.4443 of 2015

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Dated this the 16th day of July, 2015

O R D E R

The above captioned Crl.M.C. has been filed under Sec.482 of the Code of Criminal Procedure with the following prayers:

“.. to direct the learned Chief Judicial Magistrate's Court, Kasaragod to consider the bail application being filed by the petitioner in Crime No.836/2011 of Kasaragod Police Station, Kasaragod District which is now pending as L.P.C No.60/2015 on the files of the learned Chief Judicial Magistrate's Court, Kasaragod keeping in view the decision of this Hon'ble Court in Biju S. Praveen Vs. State of Kerala reported in 2007 (2) KLT 280 and enlarge the petitioner on bail in the above case on the date of his surrender itself, on such conditions as deems fit and proper in the circumstance of the case, so as to secure the ends of justice.”

2. Heard Sri.T. Madhu, learned counsel for the petitioner and the learned Public Prosecutor appearing for the respondent-State of Kerala. It is submitted that 5 out of the 6 accused persons in the instant crime had already faced trial and they were acquitted by Anx.A2 judgment.

3. Having regard to the totality of the facts and circumstances of this case, it is ordered in the interest of justice that in case the petitioner voluntarily surrenders before the Chief Judicial Magistrate's Court, Kasaragod (dealing with L.P.C 60/2015),

within two weeks from today, and submits necessary application for recall of the warrant and application for grant of bail, then the court below concerned shall consider those applications on the same day itself, in accordance with law and taking into consideration the facts and circumstances of this case. While considering the application for bail by the petitioner the court below will also take into account Anx.A2 judgment of the Chief Judicial Magistrate's Court, Kasaragod in C.C No.658/2011 whereby the other remaining co-accused had been acquitted by that court. It is further ordered that the petitioner shall give advance notice to the Prosecutor concerned attached to the court below concerned intimating the date and time of surrender before the court below, at least 24 hours prior to such proposed surrender. It is further ordered in the interest of justice that until orders are passed by the court below concerned as directed above, further coercive steps against the petitioner may be kept in abeyance for the time being. It is made clear that in case the petitioner does not surrender before the court below concerned within a period of two weeks as directed above, then the directions issued herein above shall automatically stand vacated. It is made clear that it is entirely within the province of the court below

concerned to decide on the application for bail, in accordance with law.

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

sd/-

sab

ALEXANDER THOMAS, JUDGE