

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

FRIDAY, THE 17TH DAY OF JULY 2015/26TH ASHADHA, 1937

Crl.MC.No. 4507 of 2015

S.T.NO.88/2013 (L.P. 4/2014) OF CHIEF JUDICIAL MAGISTRATE COURT, THODUPUZHA

PETITIONER(S)/ACCUSED:

**SAJEEV, AGED 37 YEARS,
S/O. GOPALAN, CHERAPURATHU HOUSE, KOOVAKANDOM P.O.,
POOMALA KARA, VELLIYAMATTOM VILLAGE, THODUPUZHA TALUK,
IDUKKI DISTRICT.**

**BY ADVS.SRI.A.C.DEVASIA
SRI.A.M.THOMAS (AYKAN)**

RESPONDENT(S)/COMPLAINANT:

- 1. SUNIL, AGED 35 YEARS,
S/O. RAGHAVAN, KOCHEDATH HOUSE, POOMALA KARA,
VELLIYAMATTOM VILLAGE, THODUPUZHA TALUK,
IDUKKI DISTRICT - 689 908.**
- 2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KRALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI.N.SURESH

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
17-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' ANNEXURES:

**A1 - CERTIFIED COPY OF THE COMPLAINT IN ST. 88/13 BFORE C.J.M COURT,
THODUPUZHA.**

A2 - FAX COPY OF THE NOTICE ISSUED BY THE RESPONDENT TO THE PETITIONER.

**A3 - TRUE COPY OF THE CHEQUE ISSUED BY THE PETITIONER
BEARING NO. 475142 OF SBT, THODUPUZHA TO THE RESPONDENTS.**

**A4 - TRUE COPY OF THE PROCEEDINGS IN S.T NO. 88/13 IN THE CHIEF
JUDICIAL MAGISTRATE COURT, THODUPUZHA.**

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

ALEXANDER THOMAS, J.

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Crl.M.C No.4507 of 2015

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Dated this the 17th day of July, 2015

ORDER

Sri. A.M Thomas Aykan, learned counsel for the petitioner submits that the petitioner is not pressing the main prayer in this Crl.M.C for quashment of the impugned criminal proceedings in S.T No.88/2013 on the file of the Chief Judicial Magistrate Court, Thodupuzha, with liberty to seek such prayer by moving an appropriate petition at a later stage after appearing before the learned Magistrate and securing bail. In view of the submission made by the petitioner, the aforestated main prayer in this Crl.M.C is closed with the said liberty to the petitioner.

2. The learned counsel for the petitioner further submits that this Court may issue appropriate directions to the Chief Judicial Magistrate Court, Thodupuzha to ensure that the petitioner's bail application may be considered on the same day on which he appears by taking into account the facts and circumstances of this case. It is pointed out that the petitioner was abroad even prior to

the institution of the impugned complaint as per S.T No.88/2013 on the file of the Chief Judicial Magistrate Court, Thodupuzha and that he is coming back to India for the first time thereafter and it was only in these circumstances that the petitioner was treated as an absconding accused which led to the issuance of the pending non bailable warrant and then the case is included in the list of long pending cases as L.P No.4/14 on the file of the court below. The petitioner's counsel submits that the petitioner will produce attested photocopies of all the entries in the passport along with the original passport before the learned Magistrate, to convince him about these facts. It is further pointed out that the petitioner will reach India by the last week of July 2015 and that he will appear before the learned Chief Judicial Magistrate's court, Thodupuzha and will seek for bail on or before 7.8.2015. The aforestated submissions made by the petitioner's counsel are recorded. In view of these aspects, taking into account the fact that the offence alleged is only one under Section 138 of the Negotiable Instruments Act and the factual submissions now made that the passport entries will clearly show that the petitioner was abroad even prior to the institution of the impugned complaint and that he has come back to India for the first

time thereafter only now, it is ordered as follows.

4. The petitioner will appear before the Chief Judicial Magistrate's Court, Thodupuzha without any further delay at any rate on or before 7.8.2015 and submit necessary application for recall of warrant and application for grant of bail, along with attested photocopies of his passport to establish the aforestated facts. In such a situation the learned Magistrate shall consider those applications on the same day and in case it is established through the entries in the passport that the petitioner was abroad at the time of the institution of the complaint till now, then the learned Magistrate shall grant him bail after imposing such conditions as may be found necessary just and fair by the learned Magistrate. Consequent orders on the application for recall of warrant will also be passed accordingly. It is further ordered in the interest of justice that until orders are passed by the learned Magistrate as directed above, all further coercive proceedings in pursuance of the execution of the impugned warrant pending against the petitioner will be kept in abeyance. It is made clear that in case the petitioner does not surrender before the court below concerned within the aforestated period then the directions issued

herein above shall automatically stand vacated.

5. It is further made clear that thereafter the petitioner will be at liberty to seek his appropriate remedies including the petition under Section 482 of Cr.P.C for quashment of the impugned criminal proceedings.

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

sd/-

sab

ALEXANDER THOMAS, JUDGE