

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE P.UBAID**

**TUESDAY, THE 3RD DAY OF NOVEMBER 2015/12TH KARTHIKA, 1937**

**Crl.MC.No. 5496 of 2015 ()**

**CMP 4255/2015 IN C.PNO.51/2013 of J.M.F.C-I, MAVELIKKARA**

**PETITIONER(S)/ACCUSED:**

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**SUNILKUMAR AGED 37 YEARS  
S/O.DIVAKARAN, KUZHIPARAMPIL VEETIL  
ARUNOOTTIMANGALAM MURI,  
VETTIYAR VILLAGE, MAVELIKKARA.**

**BY ADVS.SRI.B.PRAMOD  
SRI.S.K.SAJI**

**RESPONDENT(S):**

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**STATE OF KERALA  
REPRESENTED BY PUBLIC PROSEUCTOR  
HIGH COURT OF KERALA, ERNAKULAM.**

**R BY PUBLIC PROSECUTOR ADV.SMT.M.MADHUBEN**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON  
03-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

**Crl.MC.No. 5496 of 2015 ()**  
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**APPENDIX**

**PETITIONER(S)' EXHIBITS**  
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| <b>ANNEXURE I-</b>   | <b>TRUE COPY OF THE FINAL REPORT IN CRIME NO.962/2011 OF<br/>MAVELIKKARA POLICE STATION.</b>                        |
| <b>ANNEXURE II-</b>  | <b>TRUE COPY OF THE JUDGMENT DATED 31.3.2015 IN CRL.MC.<br/>NO.4005/13 OF THIS HON'BLE COURT</b>                    |
| <b>ANNEXURE III-</b> | <b>TRUE COPY OF THE C.M.P NO.4255/15 ON THE FILE OF THE<br/>J.F.C.M COURT - I, MAVELIKKARA.</b>                     |
| <b>ANNEXURE IV-</b>  | <b>TRUE COPY OF THE ORDER DATED 16.7.15 IN CMP NO.4255/15<br/>ON THE FILE OF THE J.F.C.M COURT -I, MAVELIKKARA.</b> |
| <b>ANNEXURE V-</b>   | <b>TRUE COPY OF THE APPLICATION FILED BY THE ASSISTANT<br/>PUBLIC PROSECUTOR.</b>                                   |

**RESPONDENT(S)' EXHIBITS**  
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**NIL**

**//TRUE COPY//**

**P.A. TO JUDGE**

**AVS**

**P.UBAID, J.**  
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**Crl.M.C No.5496 of 2015**  
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**Dated this the 3<sup>rd</sup> Day of November 2015**

**O R D E R**

The petitioner herein is the sole accused in C.P.No.51/2013 before the Judicial First Class Magistrate Court-I, Mavelikkara. He made an application before the learned Magistrate as C.M.P.No.4255/2015 for exemption from personal appearance in the process of committal. An application brought by him to quash the whole prosecution as Crl.M.C.No.4005/2013 was dismissed by this Court. He approached the trial court with the above application when a non-bailable warrant issued from the committal court was pending. The learned Magistrate dismissed C.M.P.No.4255/15 on 16-07-2015. The said order is under challenge in this proceeding, and the petitioner seeks a direction to the learned Magistrate to commit the case in his absence. The prayer as sought by the petitioner cannot be granted by this Court. The petitioner will have to surrender before the learned Magistrate for complying with the necessary procedure for committal, and after the case is committed as provided under the law, the petitioner can very well approach the trial court with necessary application for exemption from personal appearance. Such request cannot be considered or decided by the committal court, whose function is very limited.

In the result, this Crl.M.C is disposed of with observation that the petitioner will have to surrender before the learned Magistrate, and the request for exemption from personal appearance will have to be appropriately considered by the trial court. If such an application is made, the trial court shall consider the request and pass appropriate orders. The learned Magistrate is also directed, that in case application for bail is filed by the petitioner on his surrender, it shall be judiciously considered and decided on the date of surrender itself.

Sd/-  
**P.UBAID**  
**JUDGE**

AVS