

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 5TH DAY OF MARCH 2015/14TH PHALGUNA, 1936

Crl.MC.No. 4688 of 2013 ()

IN ST 1652/2013 of JUDL.MAG.OF FIRST CLASS-I,MANJERI

PETITIONER(S):

**LUKMAN, S/O.ALI AGED 28 YEARS
PADINJAREYIL HOUSE, POTHUVETTY, EDAVANNA
NILAMBUR TALUK, MALAPPURAM DISTRICT.**

**BY ADVS.SRI.P.SAMSUDIN
SMT.NIMA JACOB**

RESPONDENT(S)/RESPONDENT:

**STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA
ERNAKULAM - 682 031.(SUB INSPECTOR OF POLICE
EDAVANNA).**

R BY PUBLIC PROSECUTOR SMT. S. HYMA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 05-03-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 4688 of 2013 ()

APPENDIX

PETITIONER(S)' EXHIBITS

**ANNX.A1 - CERTIFIED COPY OF THE CHARGE SHEET IN LAID BY EDAVANNA
POLICE**

**ANNX.A2 - TRUE COPY OF THE MEDICAL REPORT ISSUED BY THE MEDICAL
OFFICER.**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

PA TO JUDGE
sab

P.UBAID, J.

Crl. M.C No. 4688 of 2013

Dated this the 5th day of March, 2015.

O R D E R

The petitioner seeks orders quashing the prosecution against him in S.T No.1652 of 2013 of the Judicial First Class Magistrate Court-I, Manjeri under Section 51(a) of the old Kerala Police Act. The alleged incident happened on 28.01.2008. It is submitted that the petitioner is on bail, and that his plea is not yet recorded. The case of the petitioner is that there is absolutely nothing in the petty case charge sheet filed by the police to constitute the offence under Section 51(a) of the Kerala Police Act. What is alleged is only disorderly behavior in public place. Such allegation will constitute only the offence under Section 51(A) of the old Kerala Police Act. The petitioner's apprehension is that if he pleads guilty, the learned Magistrate will convict him under Section 51(a) of the Kerala Police Act where imprisonment is mandatory. I do not think that the learned Magistrate will be carried away by the section quoted by the police. What is important is, the allegation made in the complaint. The medical certificate also shows that the

petitioner was in fact not under the influence of alcohol at the time of the alleged incident. Thus this is clearly a case under Section 51(A) of the Kerala Police Act. The petitioner can very well plead guilty directly or through counsel, and he need not have any apprehension of jail sentence. He can very well appear before the learned Magistrate and make plea as desired by him, if it is not so far recorded. His further grievance is that he is being denied the passport in view of the prosecution, and that if the passport is not released, he will lose the job abroad. I find that there is absolutely no reason in this case to deny such relief. The passport can very well be released to the petitioner without any condition. In view of the findings above, the petitioner can plead guilty even through counsel, and his physical presence need not be insisted.

With the above observations, this Crl.M.C is closed. Communicate a copy of this order to the learned Magistrate.

P.UBAID,
JUDGE