

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.UBAID

TUESDAY, THE 8TH DAY OF SEPTEMBER 2015/17TH BHADRA, 1937

Crl.M.C.No.6032 of 2015

C.C.1034/2013 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-III, KOZHIKODE

PETITIONER/ACCUSED :-

**HARSHAD, AGED 30 YEARS,
S/O.MUHAMMED UNNI,
"SHAMILA", KONARATH HOUSE,
THIRUVATHARA, CHAVAKKAD,
THRISSUR DISTRICT.**

BY ADV.SRI.M.M.ABDUL RAHIMAN

RESPONDENT(S)/COMPLAINANT & STATE :-

- 1. FATHIMA SERIN, D/O.K.V.ANWAR,
1/4535, KANDOTH HOUSE,
BILATHIKKULAM, ERANHIPPALAM,
KOZHIKODE, PIN - 673 006.**
- 2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

R2 BY SRI.JUSTIN JACOB, PUBLIC PROSECUTOR

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 08.09.2015, THE COURT OF THE SAME DAY PASSED THE FOLLOWING:**

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P.UBAID, J.

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Crl.M.C.No.6032 of 2015

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Dated this the 8th day of September, 2015

ORDER

The petitioner herein is the sole accused in C.C.No.1034 of 2013 of the Judicial First Class Magistrate Court -III, Kozhikode. In the said prosecution involving the offence under Section 498A of the Indian Penal Code, the learned Magistrate has issued a non bailable warrant against the petitioner. On the apprehension of remand to judicial custody on arrest, the petitioner seeks a direction to the learned Magistrate to recall the warrant of arrest, on the ground that he had not in fact received summons from the Court. Order as sought by the petitioner cannot be granted by this Court under Section 482 Cr.P.C. However, he can very well surrender before the learned Magistrate, and make application for bail. I do not think that the learned Magistrate will mechanically remand him to the judicial custody. His grievance that he had not received any summons from the Court, will definitely have to be considered by the learned Magistrate, and the request for bail on surrender

will have to be judiciously considered.

This Crl.M.C. is accordingly disposed of, with direction to the learned Magistrate that in this case the petitioner makes application for bail on surrender, or on arrest in C.C.1034 of 2013, the same shall be judiciously, and appropriately decided on the date of application itself.

Hand over a copy of this order to the learned counsel.

Sd/-
P.UBAID
JUDGE

rkj

//TRUE COPY//

P.A. TO JUDGE