

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

THURSDAY, THE 10TH DAY OF SEPTEMBER 2015/19TH BHADRA, 1937

Crl.MC.No. 6063 of 2015 ()

AGAINST THE JUDGMENT IN ST 3596/2008 of J.M.F.C.-I MUVATUPUZHA

PETITIONER/ACCUSED:

THOMAS K.GEORGE, AGED 49 YEARS,
PROPRIETOR, K.THOMAS & CO. 38/1882, MAVELI ROAD,
GANDHI NAGAR, KADAVANTHARA, KOCHI 20.

BY ADV. SRI.T.K.VIPINDAS

RESPONDENT/STATE:

THE STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM
REPRESENTING SHO KADAVANTHARA POLICE STATION

BY PUBLIC PROSECUTOR SMT P. MAYA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 10-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CrI.MC.No. 6063 of 2015 ()

APPENDIX

PETITIONER'S ANNEXURE:

ANNEXURUE A1:TRUE COPY OF THE JUDGMENT IN CRIMINAL APPEAL NO.56/2012 DATED
23.10.2014 ON THE FILE OF ADDITIONAL DISTRICT & SESSIONS JUDGE VIII, ERNAKULAM

RESPONDENT'S ANNEXURE: NIL

/TRUE COPY/

P.S TO JUDGE

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K. RAMAKRISHNAN, J.

.....
Crl.M.C.No.6063 of 2015

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Dated this the 10th day of September, 2015.

O R D E R

This petition is filed seeking a direction to be given to the Magistrate to consider the petitioner's bail application on the date of surrender under section 482 of the Code of Criminal Procedure.

2. It is alleged in the petition that petitioner is the accused in ST.No.3596/2008 on the file of the Judicial First Class Magistrate Court, Muvttupuzha, which has been taken on file on the basis of a private complaint filed by the complainant under section 138 of the Negotiable Instruments Act. Earlier he was convicted by the Magistrate, against which he preferred Crl.A.No.56/2012 before the Sessions Court, Ernakulam which was made over to the Additional Sessions Court, Ettumanoor for disposal and the learned Additional Sessions Judge allowed the appeal and remanded the matter back for recording 313 statement of the accused as per judgment dated 23.10.2014. He was directed to appear before the court on 29.11.2014. But the result of the appeal

was not intimated to the petitioner or his counsel who was appearing in the lower court. Now non bailable warrant has been issued against the petitioner. He is prepared to surrender, but his apprehension was that he will not be granted bail by the court below. Hence the petition.

3. Heard counsel for the petitioner and learned Public Prosecutor.

4. Even as per the allegations in the petition, it is after remand that a direction was issued to appear before the Magistrate court on 29.11.2014. But he did not appear and that was the reason for issuing non bailable warrant. However, it is mentioned in the petition that he was not aware of the remand order as it was not intimated to him or his counsel appearing in the lower court by the counsel in the appellate court and his non appearance is not willful. These are all matters to be considered by the Magistrate when he moves for bail on his surrender. The apprehension of the petitioner that without giving direction of this Court, his bail application will not be considered by the court below is also without any basis as this Court has in several matters of this nature observed

that Presiding Officers in criminal courts are expected to consider and dispose of the bail application on the date of its filing itself as far as possible. So under the circumstances, this Court feels that this petition can be disposed of as follows:

If the petitioner surrenders before the Judicial First Class Magistrate, Muvattupuzha in ST.No.3596/2008 and moves for recalling the warrant and releasing him on bail after giving notice to the counsel appearing for the complainant, then the court below is directed to consider and dispose of that application on the date of filing itself after hearing the counsel for the complainant in the case as well.

With the above directions, this petition is disposed of.

Office is directed to communicate a copy of this order to the concerned court immediately.

Sd/-

K. RAMAKRISHNAN, JUDGE.

/true copy/

P.S to Judge

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