

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

CrI.MC.No. 6074 of 2015 ()

AGAINST THE ORDER IN LP 5/2005 of J.M.F.C.,RANNI

PETITIONER/ACCUSED:

C.G.VARGHESE @ LALU,
CHOTHYPLACKAL HOUSE, KAITHAKODI PO,
AYROOR VILLAGE,
PATHANAMTHITTA DISTRICT

BY ADVS.SRI.M.T.SURESHKUMAR
SRI.S.SANAL KUMAR
SMT.SMITHA PHILIPOSE
SMT.BHAVANA VELAYUDHAN
SMT.T.J.SEEMA

RESPONDENTS/COMPLAINANT & STATE:

1. P.V.ANOJ KUMAR,
ANOJ NIVAS, MANDIRAM PO, RANNY
PATHANAMTHITTA 689662

2. STATE
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM 682031

R2 BY PUBLIC PROSECUTOR SMT.SAREENA P. GEORGE

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

K. RAMAKRISHNAN, J.

.....
Crl.M.C.No.6074 of 2015

.....
Dated this the 10th day of September, 2015.

O R D E R

This petition is filed by the accused in LP.No.5/2005 on the file of the Judicial First Class Magistrate, Ranni to consider and dispose of the bail application on the date of filing itself under section 482 of the Code of Criminal Procedure.

It is alleged in the petition that petitioner was the accused in C.C.No.5/2002 on the file of the Judicial First Class Magistrate Court, Ranni which was taken on file on the basis of a private complaint filed by the first respondent alleging offence under section 138 of the Negotiable Instruments Act. Since he did not appear, the case has been transferred to register of long pending cases and pending as LP.No.5/2002. Though he is prepared to surrender, he apprehends that he is likely to be remanded and bail application will not be considered on the date of filing itself. So the petitioner has no other remedy except to approach this Court seeking direction to the Magistrate to consider the bail application on the date of surrender itself and grant bail to the petitioner as it is a

bailable offence.

3. Considering the nature of relief claimed, this Court felt that the petition can be disposed of at the admission stage itself without issuing notice to the first respondent and after hearing counsel for the petitioner and Public Prosecutor alone.

4. Heard counsel for the petitioner and Public Prosecutor.

5. Even on going through the allegations in the petition itself, it is seen that he did not appear and that was the reason why the case was transferred to register of long pending cases after complying with formalities. From 2005 onwards he had not appeared. However the apprehension of the petitioner that if he surrenders, his bail application will not be considered on the date of filing itself is without any basis as this court has in several cases of this nature had observed that Presiding Officers of criminal courts are duty bound to consider and dispose of the bail application on the date of filing of the application itself as far as possible. So, there is no necessity to issue any direction as such. The question as to whether it is bailable offence or not can be considered by the Magistrate while considering the bail application. However

considering the apprehension of the petitioner this Court feels that the petition can be disposed of as follows:

If the petitioner surrenders before the Judicial First Class Magistrate, Ranni in LP.No.5/2005 (C.C.No.5/2002 of that court) and moves for recalling the warrant and release him on bail, then the court below is directed to consider and dispose of that bail application on the date of filing of the application itself as far as possible after hearing the counsel for the complainant as well in accordance with law.

With the above directions and observations, 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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