

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

WEDNESDAY, THE 23RD DAY OF SEPTEMBER 2015/1ST ASWINA, 1937

Cr1.MC.No. 6317 of 2015 ()

AGAINST THE ORDER/JUDGMENT IN LP 76/2005 of J.M.F.C.,
CHANGANACHERRY.

&

AGAINST THE ORDER/JUDGMENT IN CC 1366/2001 of J.M.F.C.,
CHANGANACHERRY, IN
CRIME NO.138/2001 OF KARUKACHAL POLICE STATION, KOTTAYAM.

PETITIONER(S)/ACCUSED :

NAJEEB ISMAIL, AGED 38 YEARS,
S/O. ISMAIL, THADATHIL PARAMBIL HOUSE,
NEDUMKUNNAM VILLAGE, CHANGANACHERRY TALUK,
NEDUMKUNNAM P.O., KOTTAYAM DISTRICT, PIN-686 542.

BY ADVS.SRI.ABU MATHEW
SRI.AJU MATHEW

RESPONDENT(S)/COMPLAINANT:

STATE OF KERALA
THROUGH SUB INSPECTOR OF POLICE,
KARUKACHAL POLICE STATION, KOTTAYAM DISTRICT
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.

BY PUBLIC PROSECUTOR SMT. HYMA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
23-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

:2:

Cr1.MC.No. 6317 of 2015 ()

APPENDIX

PETITIONER(S) ' EXHIBITS

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ANNEXURE A1 : COPY OF THE FINAL REPORT SUBMITTED BY KARUKACHAL
POLICE IN CRIME NO.138 OF 2001 OF KARUKACHAL POLICE
STATION IN CC NO.1366 OF 2001 ON THE FILE OF THE
JUDICIAL FIRST CLASS MAGISTRATE COURT,
CHANGANACHERRY.

RESPONDENT(S) ' EXHIBITS

: NIL

//True Copy//

P.A. to Judge

SS

K. RAMAKRISHNAN, J.

Crl. M.C.No.6317 of 2015

Dated this the 23rd day of September, 2015

ORDER

This criminal miscellaneous case is filed by the petitioner who is the accused in L.P.No.76/2005 on the file of the Judicial First Class Magistrate Court, Changanassery, to issue direction to the magistrate to enlarge him on bail on the same date of surrender under Section 482 of the Code of Criminal Procedure.

2. It is alleged in the petition that the petitioner was arrayed as accused in Crime No.138/2001 of Karukachal police station, which after investigation ended in filing of final report alleging offences under Section 332 and 341 of the Indian Penal Code and taken on file as C.C.No.1366/2001 pending before the Judicial First Class Magistrate Court, Changanassery. Since he did not appear, the case has been transferred to the register of

long pending cases and now pending as L.P.No.76/2005 and non-bailable warrant is pending against him. Though he is prepared to surrender, he apprehends that, if he surrenders he is likely to be remanded without considering his bail application. So the petitioner has no other remedy except to approach this court, seeking the following reliefs:

a. Direct the Judicial First Class Magistrate Court, Changanassery to enlarge the petitioner on bail on the same day of his surrender in L.P.No.76/2005 (c.C.No.1366/2001 on the file of the Judicial First Class Magistrate Court, Changanassery).

b. Pass such other reliefs as deem fit by this Hon'ble Court during the pendency of the above Criminal Miscellaneous Case.

3. Considering the nature of relief claimed, this court felt that the petition can be disposed of at the admission stage itself after hearing the counsel for the petitioner and Smt.Sareena P.George, learned Public Prosecutor appearing for the State.

4. The counsel for the petitioner submitted that his apprehension is that, if he surrenders, he will be

remanded to custody without considering his bail application and unless a direction is given from this court, the bail application will not be considered and disposed of by the court below on the same date.

5. The application was opposed by the learned Public Prosecutor on the ground that he is an absconding accused.

6. Even as per the allegations in the petition, it is seen that he was the sole accused in Crime No.138/2001 of Karukachal police station which resulted in filing of final report and taken of file as C.C.No.1366/2001 on the file of the Judicial First Class Magistrate Court, Changanassery. Since he did not appear, the case has been transferred to the register of long pending cases as L.P.No.76/2005 and warrant is pending against him. The apprehension of the petition that, if he surrenders his bail application will not be considered and he will be remanded to custody is without any basis, as this court has observed in several cases of this

nature that the presiding officers of the criminal courts are duty bound to consider and dispose of the bail application on the date of surrender itself as far as possible in accordance with law. Further no direction can be granted to grant bail as claimed in the petition as it is for that court to consider, considering the circumstances of the case. Though there is no necessity to issue any direction as claimed in the petition, considering the apprehension raised by the counsel for the petitioner, this court feels that the petition can be disposed of as follows:

If the petitioner surrenders before the Judicial First Class Magistrate Court, Changanassery or concerned magistrate court where the case is pending and moves for recalling the warrant and release him on bail in L.P.No.76/2005 (C.C.No.1366/2001 and Crime No.138/2001 of Karukachal police station), concerned magistrate is directed to consider and

dispose of the bail application on the date of filing of the application itself as far as possible after hearing the Assistant Public Prosecutor of that court in accordance with law.

With the above direction and observation, the petition is disposed of.

Sd/-
K. Ramakrishnan, Judge

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P.A. to Judge

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