

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 29TH DAY OF SEPTEMBER 2015/7TH ASWINA, 1937

Crl.MC.No. 6397 of 2015 ()

**C.C.NO. 1936/2008 of JUDICIAL FIRST CLASS MAGISTRATE COURT-1, ALUVA
CRIME NO. 1573/2007 OF ALUVA POLICE STATION , ERNAKULAM**

PETITIONERS/ACCUSED:

1. ALI HAMEED, AGED 45 YEARS,
S/O.KOYAKUTTY THANGAL, PUTHENMALIYAKKAL, KEEYMAD,
ALUVA, ERNAKULAM DISTRICT.
2. POOKUNJU KOYA, AGED 57 YEARS,
S/O.KOYAKUTTY THANGAL, PUTHENMALIYEKKAL, MALAYANKAD,
KEEYMAD, ALUVA, ERNAKULAM DISTRICT.
3. NAZEEBA KOYA, AGED 54 YEARS,
S/O.KOYAKUTTY THANGAL, PUTHENMALIYEKKAL, MALAYANKAD,
KEEYMAD, ALUVA, ERNAKULAM DISTRICT.
4. RASHEEDA BEEVI, AGED 49 YEARS
W/O.IQBAL, MALAYANKAD, ALUVA,
ERNAKULAM DISTRICT.
5. AYSHA, AGED 81 YEARS,
W/O.KOYAKUTTY THANGAL, PUTHENMALIYAKKAL,
MALAYANKAD BHAGOM, KEEYMAD, ALUVA
ERNAKULAM DISTRICT.

BY ADV. SRI.MANSOOR.B.H.

RESPONDENTS/STATE:

**STATE OF KERALA
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM, REPRESENTING STATION HOUSE OFFICER,
ALUVA POLICE STATION, ERNAKULAM DISTRICT.**

R BY PUBLIC PROSECUTOR SMT. SHEEBA M.T.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 29-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

ANNEXURE A- COPY OF THE PROCEEDINGS IN C.C.1936/2008 OF JUDICIAL FIRST CLASS MAGISTRATES COURT-1 ALUVA.

/TRUE COPY/

P.A. TO JUDGE

AK

P.UBAID, J.

Crl.M.C.No. 6397 of 2015

Dated this the 29th day of September, 2015

ORDER

The petitioners herein are the accused in C.C. No. 1936/2008 where trial is going on before the Judicial First Class Magistrate Court-I, Aluva. They are aggrieved by the non bailable warrant ordered against them by the learned Magistrate on 7.8.2015. Their grievance is that despite allowing the application to excuse their absence on 7.8.2015, the learned Magistrate ordered warrant of arrest against them, and also notice to the sureties. I find that their grievance is quite genuine. Extract of the proceedings of the learned Magistrate dated 7.8.2015 shows that the application filed by the petitioners counsel to excuse their absence was allowed by the learned Magistrate at the first instance. But when the learned counsel did not turn up to cross examine the witness, the learned Magistrate mechanically cancelled the bail and ordered warrant of arrest. Any way, this Court cannot intrude into the process under Section 482 Cr.P.C. The petitioners can very well surrender before the learned Magistrate and make application for the bail afresh.

Their grievance will have to be considered by the learned Magistrate. If the very same sureties are acceptable, the learned Magistrate can direct the very same sureties to execute bond afresh. I do not think that the learned Magistrate will, in the above circumstance, mechanically remand them to custody or, deny bail afresh. Furnish a copy of this order to the learned counsel for the petitioners.

With the above observations, this Crl.M.C. is closed.

Sd/-
P.UBAID
JUDGE

AK

//True copy//

P.A. to Judge