

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 20TH DAY OF OCTOBER 2015/28TH ASWINA, 1937HJ13

Crl.MC.No. 6822 of 2015

CC 166/2015 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, SASTHAMCOTTAH

CRIME NO. 1324/2011 OF SOORANADU POLICE STATION, KOLLAM

PETITIONER(S)/ACCUSED :-

**GOPAKUMAR, AGED 34 YEARS,
S/O.RAMAKRISHNA PILLAI,
NANDANAM, AYANIVENIKULANGARA,
KARUNAGAPPALLY VILLAGE,
FROM MALAYADISSERI VEEDU,
KAMPALADI MURI, PORUVAZHI VILLAGE,
KOLLAM DISTRICT.**

BY ADV. SRI.P.RAHUL

RESPONDENT :-

**STATE OF KERALA,
(SHO SOORANADU POLICE STATION),
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

R BY SRI.JUSTIN JACOB,PUBLIC PROSECUTOR

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 20-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

rkj

APPENDIX

PETITIONER(S)' ANNEXURES :-

- ANNEXURE A : TRUE COPY OF THE FIR IN CC NO.166/2015 OF THE JFMC,
SASTHAMCOTTAH .**
- ANNEXURE A(a) : TRUE COPY OF THE FIS IN CC NO.166/2015 OF THE JFMC,
SASTHAMCOTTAH .**
- ANNEXURE A(b) : TRUE COPY OF THE WOUND CERTIFICATE IN CC NO.166/2015 OF
THE JFMC, SASTHAMCOTTAH .**
- ANNEXURE B : TRUE COPY OF THE FIR IN CC NO.352/2015 OF THE JFMC,
SASTHAMCOTTAH .**
- ANNEXURE B(a) : TRUE COPY OF THE FIS IN C NO.352/2015 OF THE JFMC,
SASTHAMCOTTAH .**
- ANNEXURE C : CERTIFIED COPY OF THE PETITION ALONG WITH AFFIDAVIT
FILED BY THE PETITIONER BEFORE THE JFMC,
SASTHAMCOTTAH .**
- ANNEXURE D : CERTIFIED COPY OF THE ORDER PASSED BY THE JFMC,
SASTHAMCOTTAH .**

RESPONDENT(S)' ANNEXURES :- NIL

//TRUE COPY//

P.A. TO JUDGE

P.UBAID, J.

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Crl.M.C.No.6822 of 2015

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Dated this the 20th day of October, 2015

ORDER

The petitioner herein is the sole accused in C.C.166 of 2015 of the Judicial First Class Magistrate Court, Sasthamcottah. He was granted exemption from personal appearance by the learned Magistrate at the initial stage. When the case came up for consideration on 18.05.2015, it was submitted on behalf of the material witnesses that the accused will have to appear in person as part of trial for the purposes of identification. Without making any thought on this, the learned Magistrate cancelled the exemption granted earlier, and directed the petitioner to appear in person, by order dated 08.06.2015, in the proceedings. The said order is under challenge, and it is sought to be set aside.

2. On hearing both sides, and on a perusal of the materials including the complaint, I find that the question of identification will not arise very much in this case. The

complainant itself shows that the parties are close relatives. It appears that without perusing the materials, the learned Magistrate simply accepted the submissions from the side of the witnesses, and straight away cancelled the exemption already granted. I do not think that this is a case where the question of identification of the accused will arise during trial; the parties being close relatives. In such a situation, the exemption granted to the petitioner will continue, subject to further appropriate orders passed by the learned Magistrate, after the examination of prosecution witnesses, if felt necessary.

In the result, this petition is allowed. The impugned order will stand set aside. However, it is made clear that after the examination of the prosecution witnesses, the learned Magistrate can pass appropriate orders for the personal appearance of the accused, if felt absolutely necessary for a just decision.

rkj

//TRUE COPY//

P.A. TO JUDGE

Sd/-
P.UBAID
JUDGE