

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

MONDAY, THE 23RD DAY OF NOVEMBER 2015/2ND AGRAHAYANA, 1937

Crl.MC.No. 7376 of 2015 ()

STC NO. 4/2014 OF CHIEF JUDICIAL MAGISTRATE COURT, AMINI

PETITIONER/ACCUSED :

**MAHFOOZ HUSSAIN
S/O. A.M. HUSSAIN, AGED 21
B.SC & HA, INSTITUTE OF HOTEL MANAGEMENT
TARAMANI, CHENNAI.**

BY ADV. SRI.K.R.SUNIL

RESPONDENT :

**THE STATION HOUSE OFFICER
KAVARATHY POLICE STATION
REPRESENTED BY THE SPECIAL PROSECUTOR
LAKSHADWEEP ADMINISTRATION
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT. SEENA RAMAKRISHNAN

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 23-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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Crl.MC.No. 7376 of 2015 ()

APPENDIX

PETITIONERS' ANNEXURES :

**ANNEXURE AI : THE ORDER OF WARRANT OF ARREST ISSUED BY THE CJM
COURT, KAVARATHY.**

RESPONDENT'S ANNEXURES : NIL

//TRUE COPY//

P.A. TO JUDGE

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K. RAMAKRISHNAN, J.

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Crl.M.C.No.7376 of 2015

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Dated this the 23rd day of November, 2015

O R D E R

This application filed by the petitioner who is accused in STC.No. 4 of 2014 on the file of Chief Judicial Magistrate, (Juvenile Justice Board), Amini, Lakshadweep to issue directions to the court below under Section 482 of Code of Criminal Procedure.

2. It is alleged in the petition that petitioner the student now studying for B.Sc. Hospitality and Hotel Administration at Institute of Hotel Management, Chennai. Petitioner met with an accident on 18.11.2010 while he was riding a two wheeler at Kavarathy Union Territory of Lakshadweep. He was riding bike with a friend and the bike hit apart a tree near Chicken Neck Area, Kavarathy. He sustained injuries and he was admitted in Indira Gandhi Hospital, Kavarathy. The respondent registered a case as crime no.25 of 2010 against the petitioner alleging offences

under Sections 279, 338 of Indian Penal Code and Section 181 read with Section 34 of Motor Vehicle Act. After investigation, final report was filed before the Juvenile Board and it was taken on file as STC.No.4 of 2014 (wrongly noted as C.C.No.4 of 2014 in the synopsis as well as in the statement of facts) on the file of the Chief Judicial Magistrate, (Juvenile, Amini), Lakshadweep. The petitioner was appearing through mukthiar. Since the mukthiar did not appear, court below had issued warrant of arrest to the petitioner. He is now studying in Chennai and his examinations will be over only by 05.12.2015. He is prepared to surrender before the court at any time after 05.12.2015 till then he wants the Board to kept in abeyance the warrant issued against him; hence the petition.

3. Heard the learned counsel for the petitioner, Sri.K.R.Sunil and Special Public Prosectuor, Sri.Rashakrishnan, appearing for the respondent.

4. The counsel for the petitioner submitted that he is prepared to surrender after 05.12.2015 since the examinations are scheduled as he is a II year student, he will not get leave and that will affects his education.

5. The application was opposed by the Public Prosecutor.

6. I have gone through the allegations in the petition. The court has got power to issue warrant, if the petitioner, who is the accused did not appear or the person who has been authorised to appear on special authorisation did not appear before the court on the date on which it is posted for appearance of the petitioner. So the order passed by the court below issuing warrant of arrest cannot be said to be illegal.

7. However, considering the fact that the petitioner is a student studying in Chennai and his exams are scheduled and he may not be able to get leave to appear and even if

he appears, it will affect his educational prospects as he could not appear for the examination, this Court feels that some leniency can be shown in favour of the petitioner. So the petition is disposed of as follows:

The Chief Judicial Magistrate, (Juvenile, Amini), Lakshadweep is directed to keep the coercive steps initiated against the petitioner for his non appearance in STC.No.4 of 2014, pending before that court for a period of one month. The petitioner is directed to surrender before the concerned court on or before 22.12.2015 and move for recalling the warrant and release him on bail, then the court below ie., Chief Judicial Magistrate, (Juvenile Justice Board), Amini, Lakshadweep, is directed to consider and dispose of the application on the date of surrender itself as far as possible, after hearing the Prosecutor of that court in accordance with law. If the petitioner did not surrender as stated above, then the court below is at liberty to proceed

with the coercive steps initiated for getting the presence of the accused.

With the above direction and observation, the petition is disposed of. Office is directed to communicate this order to the concerned court immediately by fax.

Sd/-
K.RAMAKRISHNAN
JUDGE

skr