

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. 6456 of 2013 ()

AGAINST THE ORDER/JUDGMENT IN CC 746/2011 of J.M.F.C., KODUNGALLUR IN
CRIME NO.30/2011 OF VALAPPAD POLICE STATION, TRISSUR

PETITIONER(S)/ACCUSED:

P.B.SIVANANDAN,
S/O.BALAN, PATTINIPALATHU HOUSE, NATTIKA BEACH P.O.,
THRISSUR.

BY ADV. SRI.K.I.SAGEER

RESPONDENT(S)/RESPONDENT/STATE AND COMPLAINANT:

1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, PIN 682 031.

2. SUB INSPECTOR OF POLICE,
VALAPPAD POLICE STATION, VALAPPAD [CRIME NO.30/2011]
THRISSUR DISTRICT, PIN 680121.

BY PUBLIC PROSECUTOR SMT. SEENA RAMAKRISHNAN

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
23-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

:2:

Cr1.MC.No. 6456 of 2013 ()

APPENDIX

PETITIONER(S) ' EXHIBITS

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ANNEXURE-A1:A TRUE COPY OF THE FIR IN CRIME NO.30/2011 OF VALAPPAD
POLICE STATION.

RESPONDENT(S) ' EXHIBITS

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NIL

// True Copy//

P.A. to Judge

SS

K. RAMAKRISHNAN, J.

Crl. M.C. No.6456 of 2013

Dated this the 23rd day of November, 2015

ORDER

This is an application filed by the petitioner for a direction to the magistrate to recall non-bailable warrant in L.P.No.209/2012 and grant bail under Section 482 of the Code of Criminal Procedure.

2. It is alleged in the petition that the petitioner is the accused in L.P.No.209/2012 on the file of the Judicial First Class Magistrate Court, Kodungalloor. The petitioner was charge-sheeted by the Sub Inspector of police, Valappad police station in Crime No.30/2011 alleging offence under Section 279 and 304(A) of the Indian Penal Code. After investigation, final report was filed and it was taken on file by the learned magistrate as C.C.No.746/2011. Since he did not appear, after complying with the formalities case was transferred to the register of long pending cases and

non-bailable warrant was issued against him. Since he was working abroad at that time, he could not appear and he is prepared to surrender and co-operate with the trial. So the petitioner filed this petition seeking the following relief:

i) direct the learned magistrate, Kodungallur to recall the non-bailable warrant issued against the petitioner in connection with L.P.No.209/2012 (C.C.No.746/2011) on the file of the court on appearance through his counsel and permit the petitioner to appear through his counsel in the above case under Section.205 Cr.P.C. in the interest of justice.

ii) direct the learned magistrate to grant bail to the petitioner on the date of appearance itself in connection with L.P.No.209/2012 (C.C.No.746/2011) on the file of the Hon'ble Judicial First Class Magistrate Court, Kodungallur.

3. Heard Sri.K.I.Sageer Ibrahim, counsel for the petitioner and Smt.Seena Ramakrishnan, Public Prosecutor appearing for the respondent.

4. The counsel for the petitioner submitted that since non-bailable warrant is pending, the court below will remand him if he surrenders without considering his bail application.

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

6. Even as per the allegations in the petition, since the petitioner did not appear after complying with the formalities, the case has been registered to the register of long pending cases and it is now pending as L.P.No.209/2012 in C.C.No.746/2011 on the file of the Judicial First Class Magistrate Court, Kodungalloor. The remedy of the petitioner is to surrender before the concerned magistrate court and move for recalling the warrant and release him on bail. This court cannot invoking the power under Section 482 of the Code of Criminal Procedure issue any direction usurping the jurisdiction of the court below in such matters. So the prayer in the petition cannot be granted. The petitioner can very well surrender before the concerned magistrate court and move for recalling the warrant and release him on bail. If such an application is filed, it is for that court to consider and pass appropriate orders in accordance with law. So the petition is disposed of as follows:

If the petitioner surrenders before the concerned magistrate court and moves for recalling the warrant and release him on bail, then the learned magistrate is directed to consider and dispose of the application as far as possible on the date of filing of the application itself, after hearing the Assistant Public Prosecutor of that court as well in accordance with law.

With the above direction and observation, the petition is dismissed.

Office is directed to communicate this order to the concerned court, immediately.

Sd/-
K. Ramakrishnan, Judge

//True Copy//

P.A. to Judge