

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 7TH DAY OF JANUARY 2015/17TH POUSHA, 1936

Crl.MC.No. 7191 of 2014 ()

**Crl.MC 2286/2010 of HIGH COURT OF KERALA
CC 33/2008 of JUDICIAL FIRST CLASS MAGISTRATE COURT-V, KOZHIKODE
=====**

PETITIONERS/ACCUSED 4:

**SHAHUL HAMEED, AGED 36 YEARS
S/O.NOORUDHEEN, CHIRAKKALAKATH, PATTAYIKKAL HOUSE
P.O VYDIARANGADI, RAMANATTUKARA AMSOM, VYDIARANGADI
KOZHIKODE**

**BY ADVS.SRI.VICTOR ANTONY NOONE
SRI.S.SIDHARDHAN**

RESPONDENTS/STATE & COMPLAINANT:

- 1. THE STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM 682 031**
 - 2. THE SUB INSPECTOR OF POLICE
NALLALAM POLICE STATION, KOZHIKODE 673 027**
- BY PUBLIC PROSECUTOR SMT. P. MAYA**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 07-01-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

**ANNEXURE 1 TRUE COPY OF THE DISCHARGE/REFERENCE CARD DATED 21-12-09
ISSUED FROM THE HOSPITAL**

**ANNEXURE II PHOTOGRAPH SHOWING THE BEDRIDDEN STATE OF THE PETITIONER
IN THE ACCIDENT IN 2009**

**ANNEXURE III TRUE COPY OF THE DISCHARGE/REFERENCE CARD DATED 4-6-2012
ISSUED FROM THE HOSPITAL**

**ANNEXURE IV PHOTOGRAPH SHOWING THE BEDRIDDEN STATE OF THE PETITIONER
IN THE ACCIDENT IN 2012**

ANNEXURE V TRUE COPY OF THE MEDICAL CERTIFICATE DATED 14-12-2014

ANNEXURE VI TRUE COPY OF THE AGREEMENT DATED 24-2-2003

**ANNEXURE VII TRUE COPY OF THE JUDGEMENT DATED 27-07-2007 IN O.S NO
151/2004 OF THE SUB COURT,KOZHIKODE**

ANNEXURE VIII TRUE COPY OF THE AGREEMENT DATED 8.8.1996

**ANNEXURE IX TRUE COPY OF THE ORDER DATED 29-06-2010 IN CRL MC NO
2286/2010 OF THIS HONOURABLE COURT**

**ANNEXURE X TRUE COPY OF THE ORDER DATED 21-11-2014 IN S.L.A (CRL) NO
8507/2011 OF THE SUPREME COURT OF INDIA**

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY // P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C. No. 7191 of 2014

Dated this the 7th day of January, 2015

O R D E R

The petitioner herein is the 4th accused in C.C.No.33/2008 of the Judicial First Class Magistrate Court-V, Kozhikode. The offences involved are under Sections 452 and 354 IPC. The other accused in the case are on bail. The petitioner herein made an application for discharge before the learned Magistrate, but it was disallowed. The said order was confirmed by the Court of Session, and also this Court. Now, the petitioner has moved the Honourable Supreme Court with a Special Leave Petition, and he is hopeful that he will get orders from the Supreme Court. He has brought this petition under Section 482 Cr.P.C. for a direction deferring the coercive steps ordered against him by the learned Magistrate on transfer of the case to the register of long pending cases.

2. When the matter is pending before the Honourable Supreme Court, this Court cannot intrude into the process and pass orders or make arrangements. The learned counsel now submits that the petitioner's apprehension is that if he surrenders

before the learned Magistrate, he will be remanded to judicial custody. I do not think that the Magistrate will mechanically remand him without considering his grievance and without hearing him properly. It is his further grievance that he is now physically disabled due to some serious injuries sustained in a motor accident. Of course, these things also will be considered by the learned Magistrate. The petitioner will have to surrender before the learned Magistrate and seek bail. This Court cannot help him under Section 482 Cr.P.C., and defer the coercive steps taken by the learned Magistrate to cause his production in court as an accused. That will amount to intrusion into the trial process.

With the above observation, that the petitioner can very well approach the trial court and make application for bail, this Crl.M.C. is closed. However, the court below is directed that in case application for bail is filed by the petitioner on surrender, the same shall be judiciously considered, and appropriate orders shall be passed on the date of surrender itself.

Sd/-

P. UBAID, JUDGE

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