

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 26TH DAY OF OCTOBER 2015/4TH KARTHIKA, 1937

OP(Crl.).No. 353 of 2015 (Q)

ST 116/2007 OF CHIEF JUDICIAL MAGISTRATE COURT, THIRUVANANTHAPURAM

PETITIONER(S)/1ST ACCUSED:

JAGADAMMA, AGED 76 YEARS,
W/O.LATE M.G.PRABHAKARAN,,
RESIDING AT T.C. 19/162, 'GEETHANJALI',
VATTAVILA, THIRUMALA P.O.,
THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.AYYAPPAN SANKAR

RESPONDENT(S):

1. STATE OF KERALA,
REPRESENTED THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM - 682 031.
2. DISTRICT LABOUR OFFICER,
OFFICE OF THE DISTRICT LABOUR OFFICER,
THIRUVANANTHAPURAM.
3. K.SUNIL KUMAR, KUNNAMPALATHU VEEDU,
EDAYAR, THIRUVALLOM,
THIRUVANANTHAPURAM.

R1 & R2 BY PUBLIC PROSECUTOR SMT.MAYA

THIS OP (CRIMINAL) HAVING COME UP FOR ADMISSION ON
26-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

OP(Crl.).No. 353 of 2015 (Q)

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXT.P1: TRUE PHOTOCOPY OF THE SETTLEMENT DTD.20.1.2005 ARRIVED AT BY
CONCILIATION UNDER THE 2ND RESPONDENT.**

**EXT.P2: TRUE PHOTOCOPY OF PETITION DTD.23.1.2006 FILED BY 3RD RESPONDENT
BEFORE 2ND RESPONDENT.**

**EXT.P3: TRUE PHOTOCOPY OF THE SHOW CAUSE NOTICE DTD.6.2.2006 ISSUED BY
2ND RESPONDENT.**

**EXT.P4: TRUE PHOTOCOPY OF THE REGISTRATION CARD AND TREATMENT
RECORDS ISSUED FROM REGIONAL CANCER CENTRE, MEDICAL COLLEGE,
THIRUVANANTHAPURAM.**

**EXT.P5: CERTIFIED TRUE COPY OF ORDER SHEET OF PROCEEDINGS OF CHIEF
JUDICIAL MAGISTRATE'S COURT, THIRUVANANTHAPURAM IN
ST.NO.116/2007.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

B.KEMAL PASHA, J.

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O.P.(Crl) No. 353 of 2015

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Dated this the 26th day of October, 2015

JUDGMENT

The matter involves the prosecution under Section 29 of the Industrial Disputes Act. The petitioner herein is the 1st accused, who is suffering from cancer. She was granted permanent exemption from personal appearance on 29.11.2013. On 14.09.2015, the complainant was present. The petitioner was absent and an application was filed on her behalf. It seems that the court below has rejected the application on the ground that the complainant was present. Non-bailable warrant was issued and notices were ordered to the sureties of the petitioner.

2. I have gone through the entire order sheet of the case being kept by the court below. On all the posting dates from 29.11.2013, numbering around eleven, the complainant remained absent. Even prior to that also, on almost all the posting dates, the complainant was absent.

3. The impugned order passed by the court below is per se illegal. The court below is directed to recall the non-bailable warrant issued to the petitioner as well as the notices issued to the sureties of the petitioner.

This O.P (Crl) is allowed accordingly.

Sd/-
B.KEMAL PASHA, JUDGE

stu