

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 3RD DAY OF FEBRUARY 2015/14TH MAGHA, 1936

Tr.P(Crl.).No. 44 of 2014

IN CP 120/2014 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT
I, KASARAGOD

PETITIONER:

B.M. RAFEEQUE, AGED 31 YEARS
S/O. ADOOR MUHAMMED, BADIRA HOUSE,
VIDYANAGAR P.O.
KASARAGOD.

BY ADV. SRI.SUNNY MATHEW

RESPONDENT:

STATE OF KERALA
THROUGH THE DEPUTY SUPERINTENDENT OF POLICE, CBCID
KANNUR, REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA,
ERNAKULAM, KOCHI-682 031.

BY PUBLIC PROSECUTOR SMT.S.HYMA

THIS TRANSFER PETITION (CRIMINAL) HAVING COME UP FOR
ADMISSION ON 03-02-2015, ALONG WITH TR.P(CR.)NO. 48/2014, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:

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P.UBAID, J.

Tr.P (Crl) Nos.44 & 48 of 2014

Dated this the 3rd day of February, 2015

O R D E R

The petitioner in Tr.P (Crl) No.44/2014 is the first accused in S.C No.644/2014 of the Court of Sessions Court, Kasaragod and the petitioners in Tr.P (Crl) No.48/2014 are the accused Nos. 2 to 6 in the said case. The accused now seek transfer of the case from the Kasaragod District on the ground that no lawyer from Kasaragod District would defend them in court in view of the decision taken by the Bar Associations in district not to defend them. The report submitted by the Judicial First Class Magistrate Court I, Kasaragod, as required by the Court, shows that there is in fact such a decision taken by the Bar Associations in the district. There is also reason to believe that something unhappy and unpleasant had happened at Kasaragod at the hands of some lawyers there, during the proceeding. I find that in the interest of justice the case will have to be transferred from the Kasaragod District. Every accused, whoever be the victim of the offence committed by the accused, has the constitutional right to be defended by a lawyer

of his choice. Any decision taken by any Bar Association against such right will be against the constitutional guarantee, and against professional ethics. Such decision taken by the Bar Associations cannot be approved of. Every accused, however serious is the crime committed by him, has the right to be defended by a counsel of his choice. I feel the necessity of transfer in enforcement of the said precious right of the accused.

In the result, these Transfer Petitions are allowed. S.C No.644/2014 of the Court Sessions, Kasaragod will stand transferred to the Court of Session, Thalassery. Accordingly, the learned Sessions Judge, Kasaragod will transmit the records of S.C No.644/2014 to the Court of Session, Thalassery without delay. The petitioners herein are directed that prompt and regular appearance shall be made in the Court of Session, Thalassery to ensure speedy and smooth trial there.

**P.UBAID
JUDGE**

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