

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.11171 OF 2017

ORDER:

Sri Challa Siva Sankar, learned counsel for the petitioners, seeks permission to withdraw the Criminal Petition with liberty to file petition to discharge before the Sessions Court.

Permission is accorded.

In similar circumstances the Apex Court in **Umesh v. State of Kerala** (Crl.A.No.227 of 2017 dated 03.02.2017) held as under.

“Even if all contentions taken by the appellant are taken on their face value also, it is for the Magistrate concerned to consider those contentions in an appropriate application filed under Section 239 of the Cr.P.C. In that view of the matter, we do not propose to go into all the contentions taken by the appellant. The appeals are hence disposed of as follows:

The appellant shall surrender before the Judicial Magistrate, First Class, Chavakkad, where the criminal cases are pending within four weeks from today. On this surrendering, on the appellant's furnishing a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand), in each case, along with two solvent sureties for the like amount, the appellant shall be released on bail. The appellant will be free to file applications under Section 239 Cr.P.C.

We direct the learned Magistrate to consider the applications, if any filed, having regard to the contentions taken by the appellant and dispose of the same, in accordance with law.

Pending application(s), if any, shall stand disposed of.”

Following the same principle, this Criminal Petition is dismissed as withdrawn and the petitioners are given liberty to file an application under Section 239 Cr.P.C. to raise all their contentions, more particularly, that the proposed charges are groundless and that there is no *prima facie* material to proceed against the petitioners or any other ground. Miscellaneous petitions, if any, pending shall stand dismissed.

(M.SATYANARAYANA MURTHY, J)

21st November 2017
RRB

