IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE V.G.ARUN

WEDNESDAY, THE 02ND DAY OF DECEMBER 2020 / 11TH AGRAHAYANA, 1942

OP(Crl.).No.376 OF 2020

CC 2658/2017 OF TEMPORARY COURT OF JUDICIAL MAGISTRATE OF FIRST CLASS, THIRUVANANTHAPURAM (JMFC XII)

PETITIONER/S:

1 **LEELAMMA JOHN**
AGED 59 YEARS
W/O. JOHN M. GEORGE, PROPRIETRIX OF ALEPH ENTERPRISES, KMC 13/1790, PADIPURACKAL, PRATHIBA JUNCTION, BHAVANA NAGAR, KADAPPAKADA, KOLLAM-691008.

2 **JOHN M. GEORGE**
AGED 63 YEARS
S/O. LATE GEORGE, CHIEF EXECUTIVE OF ALEPH ENTERPRISES, KMC 13/1790, PADIPURACKAL, PRATHIBA JUNCTION, BHAVANA NAGAR, KADAPPAKADA, KOLLAM-691008.

BY ADV. SHRI.H.RAMANAN

RESPONDENT/S:

1 **T. GEORGE VARGHESE,**
AGED 71 YEARS,
S/O. LATE IDICULA GEORGE, MANAGING PARTNER M/S. DELTA STAR, GENERAL TRADING LLC, DUBAI T.C. 2/3310(2) , CHALAKUZHI ROAD, PATTAM P.O., THIRUVANANTHAPURAM-695004.

2 **STATE OF KERALA,**
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM-682031.

OTHER PRESENT:

SR.PP. AMJAD ALI

THIS OP (CRIMINAL) HAVING COME UP FOR ADMISSION ON 02.12.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 02nd day of December, 2020

The prayer in this original petition is for a direction to the Judicial First Class Magistrate Court-XII, Thiruvananthapuram to defer the trial in C.C.No.2658 of 2017. Petitioners are the accused in the case filed by the first respondent alleging commission of the offence under Section 138 of the Negotiable Instruments Act. The solitary ground on which the petitioners seek adjournment of the trial is that the second petitioner had undergone a cardiac surgery in February, 2020 and has not fully recuperated. It is submitted that under the prevailing circumstances, the 2nd petitioner should not be compelled to present in court. Learned Counsel for the petitioners pointed out that the first

respondent had approached this Court earlier, resulting in Ext.P2 judgment, as per which the first respondent was permitted to approach the lower court for early disposal of the case. It is the specific contention of the learned Counsel that in spite of there being no direction to dispose the case within a time limit, the learned Magistrate is under such a misconception.

In the light of the submissions, the original petition is disposed of permitting the petitioners to move an application for adjournment before the learned Magistrate, pointing out the reason for adjournment and producing the medical certificate. In such event, the learned Magistrate shall consider the request for adjournment, taking into account the medical condition of the second petitioner, the guidelines regarding the functioning of the

Subordinate Courts issued by the High Court and to pass a reasoned order on the application.

Sd/-

V.G.ARUN
JUDGE

Scl/02.12.2020

APPENDIX

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	**TRUE COPY OF COMPLAINT IN CC 2658/17.**
EXHIBIT P2	**TRUE COPY OF JUDGMENT IN OP(CRL) 11/2019.**
EXHIBIT P3	**MEDICAL CERTIFICATE ISSUED FROM LISIE HOSPITAL, EKM.**