IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

WEDNESDAY, THE 31ST DAY OF JULY 2024 / 9TH SRAVANA, 1946

CRL.MC NO. 36 OF 2015

CRIME NO.174/2007 OF KALIYAR POLICE STATION, IDUKKI

AGAINST THE ORDER/JUDGMENT DATED IN LP NO.21 OF 2011 OF JUDICIAL MAGISTRATE OF FIRST CLASS -I (FOREST OFFENCES), THODUPUZHA

PETITIONER/THIRD ACCUSED:

SUNIL
S/O.SAMBASIVAN, JANAKEE NIVAS, MANGATTUR KARAM MANGATTUR VILLAGE, KOLLAM TALUK, NOW RESIDING AT V.V.NIVAS, EDAKKULANGARA P.O., KARUNAGAPPALLY, KOLLAM DISTRICT, PIN - 691 562.

BY ADVS.
SMT.SARITHA THOMAS
SRI.SAJEEVAN KURUKKUTTIYULLATHIL

RESPONDENTS/COMPLAINANT & STATE:

1 **MOHAMMED BASHEER**
S/O.KOCHU THAMPI RAWTHER, THOTTUNGAL HOUSE, VANNAMPURA KARA, VANNAMPURA VILLAGE, THODUPUZHA TALUK, VANNAMPURAM P.O. - 685 582.

2 **STATE OF KERALA**
THROUGH THE SUB INSPECTOR OF POLICE, KALIYAR, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

3 **DEPUTY SUPERINTENDENT OF POLICE**
THODUPUZHA - 685 584.

BY ADV. SANGEETHARAJ N.R., PP

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 31.07.2024, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J.

Crl.M.C. No.36 of 2015

Dated this the 31st day of July, 2024

O R D E R

This Criminal Miscellaneous Case is filed to quash the proceedings against the petitioner which is pending as L.P. No.21/2011 before the Judicial First Class Magistrate Court, Thodupuzha.

2. When this Crl.MC came up for consideration, this Court directed the Registry to get a report from the learned Magistrate. From the report, it is clear that, other accused except the petitioner surrendered before the court and the case is compounded against them and they were acquitted under Section 320(8) Cr.P.C. The warrant is pending against the petitioner for the last 10

years and the petitioner refused to appear before the trial court.

3. This Court need not exercise the discretionary jurisdiction under Section 482 Cr.P.C. to an absconding accused. The petitioner is free to surrender before the trial court and file a discharge petition before the trial court. If such a discharge petition is filed, after surrendering before the trial court, the learned Magistrate will consider the same and pass appropriate orders, in accordance with law.

With the above observation, this Criminal Miscellaneous Case is disposed of. All the contentions raised by the petitioner in this Criminal Miscellaneous Case are left open. Forward a copy of this order to the trial court.

Sd/-
P.V.KUNHIKRISHNAN
JUDGE

nvj

APPENDIX OF CRL.MC 36/2015

PETITIONER ANNEXURES

ANNEXURE A1: TRUE COPY OF THE COMPLAINT DATED 21/07/2014 FILED BY THE 1ST RESPONDENT AS CMP NO. 13382 OF 2007.

ANNEXURE A2: TRUE COPY OF THE FIRST INFORMATION REPORT NO. 174/2007 DATED 21/07/2007.

ANNEXURE A3: THE FINAL REPORT DATED 25/11/2007 ALONG WITH THE STATEMENTS RECEORDED UNDER SECTION 161 OF CRPC AND THE MAHAZAR DATED 10/11/2007 FILED BY THE THIRD RESPONDENT.

ANNEXURE A4: TRUE COPY OF THE ORDER DATED 02/03/2010 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-I, THODUPUZHA.

RESPONDENTS EXHIBITS: NIL

//TRUE COPY//

PA TO JUDGE