IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

FRIDAY, THE 26TH DAY OF JULY 2024 / 4TH SRAVANA, 1946

CRL.MC NO. 8823 OF 2016

CRIME NO.345/2013 OF Binanipuram Police Station, Ernakulam

AGAINST THE ORDER IN CC NO.1181 OF 2015 OF JUDICIAL MAGISTRATE OF FIRST CLASS -II, ALUVA

PETITIONER/ACCUSED:

K.N.SATHEESH KUMAR
S/O. NARAYANAN NAIR, KOTTAKKAL HOUSE,
MUPPATHADAM P.O., ALUVA,
ERNAKULAM DISTRICT.
BY ADV SRI.BABU S. NAIR

RESPONDENTS/STATE & COMPLAINANT:

1 THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,HIGH COURT OF KERALA, ERNAKULAM, KOCHI - 682 031
FOR THE SUB INSPECTOR OF POLICE, BINANI PURAM POLICE STATION, ERNAKULAM DISTRICT.

2 BEENA PRASAD
W/O. PRASAD, SREYAS VEETTIL,MUPPATHADAM,
KADUNGALLUR, ERNAKULAM DISTRICT - 683 110.

OTHER PRESENT:

SMT.NIMA JACOB, PP

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 26.07.2024, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**P. V. KUNHIKRISHNAN, J.**

---

Crl.M.C.No.8823 of 2016

---

Dated this the 26th day of July, 2024

**ORDER**

This Criminal Miscellaneous Case is filed to quash the proceedings in C.C.No.1181/2015 on the file of the Judicial First Class Magistrate Court-II, Aluva arising from Crime No.345/2013 of Binanipuram Police Station, Ernakulam. The above case is charge sheeted alleging offences punishable under Sections 447, 354A and 506(i) of the Indian Penal Code and also under Section 119(a) of the Kerala Police Act.

2. After hearing the counsel for the petitioner in length, I am of the considered opinion that the petitioner can be allowed to file a discharge petition, if charge is not framed *in absentia*. If such a petition is filed, the learned Magistrate shall not insist the presence of the petitioner till final orders are passed in the discharge petition.

Therefore this Crl.M.C is disposed of with the following directions:

(a) The petitioner is free to file discharge petition before the trial court raising all the contentions raised in this Crl.M.C within 30 days from the date of receipt of a stamped certified copy of this order, if charge is not framed.

(b) Once such a discharge petition is received, the learned Magistrate will consider the same and pass appropriate orders in it, after giving an opportunity of hearing to the petitioner and the prosecutor concerned as expeditiously as possible, at any rate, within a period of six weeks from the date of receipt of the discharge petition.

(c) If such a discharge petition is filed as directed above, the learned Magistrate will not insist the personal appearance of the petitioner till discharge petition is considered.

(d) All the contentions raised by the petitioner in this Crl.M.C are left open and the petitioner is free to agitate the same before the trial court.

**Sd/-**

**P. V. KUNHIKRISHNAN**
**JUDGE**

Sbna/26.07.24

APPENDIX OF CRL.MC 8823/2016

PETITIONER EXHIBITS

| | |
|---|---|
| A | TRUE COPY OF THE FIR AND FIS IN CRIME NO. 345/2013 OF BINANIPURAM POLICE STATION, DATED 26.4.2013. |
| B | TRUE COPY OF THE COMPLAINT FILED BY THE 2ND RESPONDENT BEFORE THE SUPERINTENDENT OF POLICE, ALUVA RURAL DATED 13.3.2013. |
| C | TRUE COPY OF THE EXTRACT OF THE PETITION REGISTER OF THE BINANI PURAM POLICE STAION, DTED 13.3.2013. |
| D | TRUE COPY OF THE CERTIFIED COPY OF THE CHARGE IN CRIME NO. 345/2013 OF THE BINANPURAM POLICE STATION. |
| E | TRUE COPY OF THE NOTICE ISSUED TO THE PETIITONER BY THE DISTRICT COLLECTOR, ERNAKULAM DATED 19.4.2013. |
| F | TRUE COPY OF THE COMMUNICATION ISSUED TO THE PETITIONER BY THE KADUNGALLUR GRAMA PANCHAYATH COMMITTEE DATED 26.4.2013. |
| G | TRUE COPY OF THE NOTICE ISSUED BY THE R.D.O, FORT KOCHI DATED 03.4.2013. |
| H | TRUE COPY OF THE COMMON JUDGMENT IN OS NO. 304/2013 AND OS NO. 1010/2014 DATED 29.7.2016 OF THE MUNSIFF COURT, NORTH PRAVUR. |
| I | TRUE COPIES OF THE DISPUTED PHOTOGRAPHS. |