

Joji Ka vs Smitha V.a.

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Court : Kerala

Decided On : Jan-04-2024

Judge : Honourable Mr. Justice Bechu Kurian Thomas

Appeal No. : Crl.MC/11365/2023

Appellant : Joji Ka

Respondent : Smitha V.a.

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS THURSDAY, THE 4TH DAY OF JANUARY 2024 / 14TH POUSHA, 1945 AGAINST THE ORDER/JUDGMENT CC 582/2017 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, ANGAMALY PETITIONER: JOJI KA AGED 46 YEARS S/O ANTONY K.O, KADAYAPARAMBIL HOUSE, PALLIPORT, NORTH PARAVUR, ERANKULAM, PIN - 683515 BY ADV LIJU. M.P RESPONDENTS: 1 SMITHA V.A. AGED 43 YEARS W/O SURESH, PROPRIETOR, M/S CHIRACKAL AGENCIES, PULIYANAM, ANGAMALI, ERNAKULAM, PIN - 682308 2 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 OTHER

PRESENT: SRI. C.S. HRITHWIK (PP) THIS CRIMINAL MISC. CASE
HAVING COME UP FOR ADMISSION ON 04.01.2024, THE COURT ON
THE SAME DAY PASSED THE FOLLOWING:

BECHU KURIAN THOMAS, J.

----- CrI.M.C. No.11365 of 2023
----- Dated this the 4th day of January, 2024

ORDER

Petitioner is the accused in C.C.No.582/2017 on the files of the Judicial First Class Magistrate's Court, Angamaly, alleging offences committed under Section 138 of the Negotiable Instruments Act. Due to his failure to appear before the learned Magistrate, a non bailable warrant has been issued.

2. Sri.Liju M.P., the learned counsel for the petitioner,

submitted that though initially the petitioner had appeared before the Court and was released on bail. Subsequently, due to a communication gap, he could not appear on the date on which the case was posted for recording the 313 Cr.P.C. statement, and the learned Magistrate issued a non-bailable warrant. The learned counsel further submitted that the petitioner is willing to appear without fail, and if the non-bailable warrant is not recalled, the petitioner would be subjected to great prejudice.

3. I have heard Sri.C.S.Hrithwik, the learned Public Prosecutor as well.

4. Since the petitioner has expressed his willingness to

appear before the Court, I am of the view that the learned Magistrate can be directed to consider his application for recall of warrant and for the grant of bail afresh on the same day of appearance itself.

5. In the above circumstances, there will be a direction to

the learned Judicial First Class Magistrate's Court, Angamaly, in C.C.No.582/2017 to consider and pass appropriate orders on the application for recall of warrant and for grant of bail, if any, filed by the petitioner, on the same day of his appearance. The aforesaid direction will continue in force for a period of 10 days,

within which time the petitioner shall appear and file appropriate applications. Coercive proceedings pursuant to the non-bailable warrant issued against the petitioner will be kept in abeyance for a period of two weeks from today. The criminal miscellaneous case is disposed of. BECHU KURIAN THOMAS JUDGE
AJM APPENDIX OF CRL.MC 11365/2023 PETITIONER ANNEXURES Annexure
1 TRUE COPY OF THE COMPLAINT IN CC Annexure 2 TRUE COPY OF THE
PROCEEDINGS IN CC

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