

C.Rithanya vs State of Kerala

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Court : Kerala

Decided On : Apr-30-2021

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Crl.MC/2508/2021

Appellant : C.Rithanya

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS FRIDAY, THE 30TH DAY OF APRIL 2021 / 10TH VAISAKHA, 1943 AGAINST THE ORDER/JUDGMENT IN CC 1568/2016 OF TEMPORARY JUDL. FIRST CLASS MAGISTRATE COURT, NJARAKKAL PETITIONERS/ACCUSED NOS. 2 AND 3 :- 1 C.RITHANYA AGED 45 YEARS D/O. LATE S.CHANDRASEKHARAN, NO.25, VENKATRAMAN STREET, D2, CEEBROS-SHANMUGA VILLA, 4TH FLOOR, T NAGAR, CHENNAI-600017. 2 M.BARGAVI, D/O. LATE G. MURUGABOOPATHY, 30/3, RANGA BASHYAM STREET, WEST SAIDAPET, CHENNAI-600015. BY ADVS. SRI.K.T.SHYAMKUMAR SHRI.HARISH R. MENON RESPONDENT/STATE :- STATE OF KERALA REPRESENTED BY

PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, KOCHI-682031. SMT SHYLAJA S L ,PP THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 30.04.2021, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

Dated this the 30th day of April 2021 The petitioners are the accused Nos.2 and 3 in C.C.No.1568 of 2016 of the Court of Judicial First Class Magistrate, Njarakkal, which has been filed against them for the offences punishable under Sections 138 of the Negotiable Instruments Act.

2. The case of the petitioners is that they are residing in Tamilnadu and were unaware of the pendency

of the proceedings. They have not received any summons from the above Court. It is only now when a non-bailable warrant has been issued against them petitioners that they come to learn that the pendency of the case. Due to the Covid-19 pandemic, the petitioners were unable to appear before the Court below on receipt of the letter dated 18.03.2021 addressed to the Commissioner of Police, Chennai. The petitioners are ready to surrender before the Court below, but apprehend that they may be remanded to judicial custody.

3. This Court in *Sujatha v. State of Kerala* [2015 KHC 520] and *Biju v. Praveen v. State of*

Kerala and another [2007 KHC 3436] has categorically laid down in the law that remanding an accused to custody, pending trial, in a casual manner cannot be justified and Court should always be careful in passing orders on bail application, as it deals with personal liberty. Similarly, in *Sreekumar v. State of Kerala* [2008 (3) KLT 748] it is held that the accused appearing upon the summons issued by the Court, may not be remanded even if the offence alleged is bailable or non bailable.

4. Considering the averments in the petition and materials on records and the limited reliefs that has been sought for in the petition, I am inclined to dispose of

the CrI.M.C in the following directions : (i). The petitioners are permitted to surrender

before the Court of the Judicial First Class Magistrate, Njarakkal and move an application for bail in C.C.No.1568 of 2016. (ii). In the event the petitioners file such an application, the learned Magistrate shall consider the bail application on the date of surrender itself and pass orders thereon on the same day itself, keeping in mind in ratio of this Court in Sujatha, Biju and Sreekumar (Supra).

(iii) In order to provide the petitioners an

opportunity to surrender and seek bail, the non bailable warrant pending against the petitioners shall be kept in abeyance for a period of three weeks from today.

Sd/- C.S.DIAS JUDGE SMA APPENDIX PETITIONER'S/S ANNEXURES :-
ANNEXURE A1 TRUE COPY OF THE LETTER DATED 18.3.2021 ISSUED BY
THE JUDICIAL FIRST CLASS MAGISTRATE'S COURT, NJARAKKAL
ADDRESSED TO THE COMMISSIONER OF POLICE, CHENNAI.

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