

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE SUNIL THOMAS**

**FRIDAY, THE 29TH DAY OF JUNE 2018 / 8TH ASHADHA, 1940**

**Cri.MC.No. 4186 of 2018**

**PENDING AS ST 289/2017 of JUDICIAL FIRST CLASS MAGISTRATE COURT,  
KAKKANAD**

**PETITIONER(S)/ACCUSED**

**JIJI VARGHESE, AGED 50, SON OF MR.VARGHESE,  
RESIDING AT THELEKKADAN HOUSE, KALOOR (PO)  
ERNAKULAM DISTRICT, PIN- 682 017.**

**BY ADVS.SRI.SHAJI CHIRAYATH  
SMT.JIJI M. VARKEY  
SMT.SAVITHA GANAPATHIYATAN  
SRI.M.M.SHAJAHAN**

**RESPONDENT(S):**

- 1. THE STATE OF KERALA, REPRESENTED BY THE DIRECTOR GENERAL  
OF PROSECUTION, HIGH COURT OF KERALA, ERNAKULAM DISTRICT  
PIN-682 031.**
- 2. JINU THOMAS, AGED 34, SON OF MR.THOMAS, PRESENTLY RESIDING  
AT 9D, TOWER 2ND MATHER HIGHLANDS, RAJAGIRI VALLEY ROAD,  
KAKKANAD (PO), ERNAKULAM DISTRICT, PIN- 682 030.**

**BY PUBLIC PROSECUTOR SMT.M.K.PUSHPALATHA**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON  
29-06-2018, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

**APPENDIX**

**PETITIONER(S) EXHIBITS:**

**ANNEXURE-A1- COPY OF THE COMPLAINT IN SUMMARY TRAIL NO.289 OF 2017  
ON THE FILES OF JUDICIAL FIRST CLASS MAGISTRATE COURT  
AT KAKKANAD.**

**ANNEXURE-A2-COPY OF THE ORDER GRANTING BAIL TO THE PETITIONER**

**ANNEXURE-A3-CERTIFIED COPY OF THE ORDER ISSUING NON-BAILABLE  
WARRANT TO ACCUSED BY JUDICIAL FIRST CLASS  
MAGISTRATE COURT AT KAKKANAD.**

**RESPONDENT(S)' EXHIBITS**

**NIL**

**R.AV**

**//TRUE COPY//**

**PA TO JUDGE**

**SUNIL THOMAS, J**

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**Crl.M.C.No.4186 of 2018**  
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**Dated this the 29<sup>th</sup> day of June, 2018**

**O R D E R**

The petitioner herein is the accused in ST.No.289/2017 on the files of the Judicial First Class Magistrate Court, Kakkanad for offences punishable under section 138 of the Negotiable Instruments Act.

2. It is stated that the petitioner herein appeared and was on bail. After few postings, the case stood posted to 3.3.2018, on which day there was no sitting. The date was notified. However, due to an inadvertent omission, the date was not noted by the petitioner herein. The case stood posted to 28.4.2018 as evidenced by Annexure-A3. On that day, since the accused and the counsel were absent. The court below issued non bailable warrant to the petitioner herein.

3. Apprehending arrest, the petitioner herein has approached this court submitting that the non appearance was due to an inadvertent omission and

that the petitioner herein is ready and willing to appear before the court below and to participate in all future proceedings. The apprehension is that since the warrant was issued, the petitioner is likely to be detained and an application for bail may be considered only on a subsequent day. Considering the limited prayer sought by the petitioner herein and also the limited prayer that is proposed to be granted, I am not inclined to issue notice to the second respondent.

4. Annexure-A3 itself shows that accused has been appearing regularly without default, either personally or through the counsel. Having considered that, I am inclined to accept the contention of the learned counsel for the petitioner that non appearance of the accused on 28.4.2018 was only due to an inadvertent omission. Having considered that as well as the assertion of the learned counsel for the petitioner that accused will appear in future, either personally or through counsel. I am inclined to give one more opportunity to the petitioner herein to appear before the

court below and to seek appropriate reliefs. The petitioner herein may appear before the court below within ten days from today and apply for recalling warrant and also for granting bail. Both the applications shall be taken up by the court below and appropriate orders shall be passed on the same day, having regard to what is stated above and also further that the appearance of the petitioner herein pursuant to the warrant will serve the interest of justice. The warrant issued from the court below will be kept in abeyance till his actual date of appearance before the court below within the above ten days.

Crl.M.C is allowed as above.

Sd/-  
**SUNIL THOMAS, JUDGE**

R.AV

//True Copy//

PA to Judge