

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE MARY JOSEPH

THURSDAY, THE 31ST DAY OF MARCH 2022 / 10TH CHAITHRA, 1944

CRL.MC NO. 171 OF 2022

AGAINST THE ORDER DATED 26.10.2021 IN

CRL.M.P.NO.1512/2021 IN CRL. APPEAL NO.71/2021 OF II

ADDITIONAL COURT OF SESSIONS, THIRUVANANTHAPURAM

C.C.NO.227/2014 ON THE FILES OF JUDICIAL FIRST CLASS

MAGISTRATE COURT XII, THIRUVANANTHAPURAM

PETITIONER/APPELLANT/ACCUSED:

UNNIKRISHNAN, AGED 45 YEARS,
S/O.SREEDHARAN, "PADMASREE", KUMARAPURAM,
MEDICAL COLLEGE P.O, THIRUVANANTHAPURAM-695 011.

BY ADVS. SRI.ARUN CHAND
SRI.BHARAT VIJAY P.
SRI.THAREEQ ANVER K.
SMT.K.SALMA JENNATH
SRI.MAJID MUHAMMED K.

RESPONDENTS/RESPONDENTS/STATE & COMPLAINANT:

- 1 STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682031.
- 2 JAYARAM C L., AGED 61 YEARS, S/O.LEKSHMANAN,
JAYA NIVAS, T C NO.31/387, ATTUVARAMBU,
ANAYARA P O, THIRUVANANTHAPURAM-695 029.

R2 BY ADVS.SRI.D.KISHORE
SRI.R.MURALEEKRISHNAN (MALAKKARA)

R1 BY SMT.SEENA C, PUBLIC PROSECUTOR

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
31.03.2022, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

ORDER

Dated this the 31st day of March, 2022.

This petition is filed against orders passed by Additional Court of Sessions -II, Thiruvananthapuram (for short 'the court below') respectively on 25.09.2021 and 26.10.2021.

2. Annexure A2 order was passed by the court below in Crl.M.P.No.885/2021 in Crl.Appeal No.71/2021 directing the petitioner who is sole accused in C.C.No.227/2014 on the files Judicial First Class Magistrate Court-XII, Thiruvananthapuram to deposit 20% of the fine amount i.e Rs.17,35,000/-, at the time when the sentence imposed by the trial court is assailed in the appeal. One months' time was granted from 25.09.2021 for depositing 20% of the fine amount, and it was already expired on 25.10.2021. Therefore, the petitioner approached the court below again seeking for extension of time. The court has granted two months' time from 25.10.2021 by Annexure A3 order. The period extended also got expired on 25.12.2021.

3. In the said circumstances that the petitioner has approached this court seeking to quash Annexures A2 and A3 orders and thereby to dispense with the condition to deposit 20% of the fine amount. Annexure A2 order was passed under Section 148 of the Negotiable Instruments Act, 1881 (for short 'the NI Act'). The condition directed to be imposed by Section 148 NI Act is a mandatory one and therefore this Court cannot quash the same. Annexure A3 order is an order extending time. There is no necessity for quashing that order for the reason that, the extension of time is permitted by the provision and granted in favour of the petitioner.

Crl.M.C fails and is dismissed.

Sd/-

**MARY JOSEPH
JUDGE**

NAB

APPENDIX OF CRL.MC 171/2022

PETITIONER ANNEXURES

- ANNEXURE A1 THE TRUE COPY OF THE ORDER DATED
28/04/2021 IN CRL MP NO.741/2021 IN
CRL.APEAL NO.71/2021 PASSED BY THE
ADDITIONAL COURT OF SESSION -I,
THIRUVANANTHAPURAM (VACATION COURT).
- ANNEXURE A2 THE CERTIFIED COPY OF THE ORDER DATED
25.09.2021 IN CRL.M.P NO.885/2021 IN
CRL. APEAL NO.71/2021 PASSED BY THE
ADDITIONAL COURT OF SESSION-II,
THIRUVANANTHAPURAM DISTRICT.
- ANNEXURE A3 THE CERTIFIED COPY OF THE ORDER DATED
26.10.2021 IN CRL.MP.NO.1512/2021 IN
CRL. MP.NO.885/2021 IN CRL APEAL
NO.71/2021 PASSED BY THE ADDITIONAL
COURT OF SESSION-II, THIRUVANANTHAPURAM
DISTRICT.
- ANNEXURE A4 THE TRUE COPY OF THE COVID POSITIVE
TESTED CERTIFICATE DATED 30.11.2021 OF
THE SON OF THE PETITIONER ISSUED BY
DR.MARIA JOHN MD (CONSULTANT
MICROBIOLOGIST) DR.GEETHA'S SCAN AND
DIAGNOSTIC SERVICES, THIRUVANANTHAPURAM.

RESPONDENT'S ANNEXURES: NIL

//TRUE COPY//

P A TO JUDGE