

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ASHOK MENON

FRIDAY, THE 15TH DAY OF MAY 2020 / 25TH VAISAKHA, 1942

CRL.MC.NO.2608 OF 2020

S.C.NO.18/2018 OF THE COURT OF SESSION, PALAKKAD DIVISION

PETITIONER/ACCUSED NO.2:

SHEEJA, AGED 38 YEARS,
W/O.PRATHEESHKUMAR, KUNNINMEL VEEDU,
POOLACKAL PARAMBU, THOLANUR, PALAKKAD.

BY ADV.JOHNSON VARIKKAPPALLIL

RESPONDENT/COMPLAINANT:

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM-682031.

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL MC HAVING COME UP FOR ADMISSION ON 15.05.2020,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ASHOK MENON, J.

CrI.MC No.2608 of 2020

Dated this the 15th day of May, 2020

O R D E R

The petitioner is the second accused in SC No.18/2018 on the files of the Sessions Court, Palakkad which arose from Crime No.578/2017 of Kottayi Police Station for having allegedly committed offences punishable under Sections 120B, 109, 449, 302, 380 and 201 read with Section 34 IPC. Examination of the prosecution witnesses was over and the case stood posted for defence evidence on 8.5.2020. It is submitted that in the absence of the petitioner and without considering the petitioner's counsel's application for adjournment in the light of the present pandemic-COVID-19 and the lock down, the court below issued bailable warrant against the petitioner and also imposed costs of Rs.10,000/- on the petitioner to be paid to each of the four defence witnesses, who were present. The defence witnesses were examined in the absence of the petitioner. The petitioner wants that witnesses to be recalled and also seeks to modify the order directing payment of Rs.10,000/- each as costs to the defence witnesses. The defence witnesses who are

examined, are all Doctors. I think that in view of the pandemic situation and the lock down, it was not proper on the part of the court to refuse the petitioner's request to recall the witnesses for examining them and also, it was harsh on the part of the court to direct the petitioner to pay costs of Rs.10,000/- to each of the four defence witnesses. Hence, the impugned order of the court below is set aside and it is directed that the petitioner shall be given an opportunity to recall those four witnesses on payment of normal costs and witness batta to them and permitted to examine those witnesses.

With these observations, the Criminal MC is allowed.

**ASHOK MENON
JUDGE**

APPENDIX

PETITIONERS' EXHIBITS

ANNEXURE A. TRUE COPY OF THE CRL.M.P.NO.1014 OF 2020 FILED BEFORE THE COURT OF SESSIONS, PALAKKAD DIVISION DATED 16/3/20

ANNEXURE.B. TRUE COPY OF THE CRL.M.P.NO.1015 OF 2020 FILED BEFORE THE COURT OF SESSIONS, PALAKKAD DIVISION DATED 16/3/20

ANNEXURE C. PHOTOCOPY OF THE SCREENSHOT OF THE ECOURT SERVICES OF COURT OF SESSIONS, PALAKKAD DIVISION DATED 28.04.2020.

ANNEXURE.D. TRUE COPY OF THE PETITION DATED 04.05.2020 IN S.C.NO.18/2018 OF THE COURT OF THE DISTRICT AND SESSIONS JUDGE AT PALAKKAD.

ANNEXURE E. PHOTOCOPY OF THE SCREENSHOT OF THE ECOURT SERVICES OF COURT OF SESSIONS, PALAKKAD DIVISION DATED 04.05.2020.

ANNEXURE.F. PHOTOCOPY OF THE SCREENSHOT OF THE ECOURT SERVICES OF COURT OF SESSIONS, PALAKKAD DIVISION DATED 05.05.2020.

ANNEXURE G. TRUE COPY OF THE PETITION DATED 07.05.2020 IN S.C.NO.18/2018 OF THE COURT OF THE DISTRICT AND SESSIONS JUDGE AT PALAKKAD.

ANNEXURE.H. TRUE COPY OF THE PETITION DATED 12.05.2020 IN S.C.NO.18/2018 OF THE COURT OF THE DISTRICT AND SESSIONS JUDGE AT PALAKKAD.