

ORDER BELOW EXH.311 IN SESSIONS CASE NO.38/09.

1. The present application has been filed by the Central Jail, Sabarmati, Ahmedabad, particularly mentioned that earlier, this Court has ordered on 5/1/2012, to send the accused -E.T. Sainuddin alias Abdulsattar alias Salim S/o.E.T.Mahmad, to 8 P.L. Court of NIA Cases, Ernakulam, Kerala, to face and to answer the charge for the offences mentioned in the transfer warrant mark-310/01 in the Sessions Case No.1/2010 (N.I.A.) and at that time, the accused was under the provisions of Sec.268 of Cri.P.C., and therefore, the Government of Gujarat, Home Department has revoked the earlier order for 5 days i.e. for 5/1/2012 to 9/01/2012. In continuation of the above mentioned application and order, the Deputy Superintendent of Central Jail, Sabarmati, Ahmedabad, has filed the present application Exh.311, that due to non-availability of protection force, the above mentioned accused was not sent to the Court of Kerala State and in that circumstances, the Jail has received a Fax warrant mentioned that the accused be produced on 9/1/2012. Shri I.K.Sonara, Jailor Group No.2, Sabarmati Central Jail, Ahmedabad, has produced the above mentioned letter of Central Jail, Sabarmati, Ahmedabad.

2. Now, looking to the facts and circumstances, that the Government of Gujarat has revoked the earlier order only for 5 days as mentioned above i.e. till 9/01/2012, but, looking to the Fax Warrant, first of all, the warrant is not original warrant and it is a

warrant sent by Fax. Moreover, the request has been made to present the accused to Ernakulam Court, Kerala, on 9/1/2012, but, the last date as mentioned in the revoked order of the Government of Gujarat, Home Department is 9/1/2012. Moreover, Shri I.K.Sonara, has also submitted that it is not possible to return the accused at Sabarmati Central Jail on 9/1/2012. So, in the above mentioned circumstances, the period of revocation of earlier order ended on 9/01/2012 and the date of framing of charge at Ernakulam Court, Kerala, is also 9/01/2012, and therefore, it is not possible to fulfill the order of the Government of Gujarat, regarding the revocation of earlier order. Shri Sonara has also submitted that it is not possible that before starting the journey to Ernakulam Court, Kerala State, to extend the period of revocation of earlier order from the Government of Gujarat, and to extend the time. In the above mentioned circumstances, for the sake of arguments, if the permission will be granted to produce the accused on 9/1/2012 before Ernakulam Court, Kerala State, then also, there is no time for the order from Government of Gujarat, Home Department, for the extension of period of revoking the earlier order. Moreover, the original transfer warrant is not produced and only Fax copy of the warrant is produced, but, looking to the above mentioned crisis of time and non-return of accused in time, before the expiry of time period as well as inability to extend the time before leaving Sabarmati Central Jail, Ahmedabad, I come to the conclusion that considering the surrounding circumstances, it will not be proper and in the interest of justice, to grant the present application, and therefore, it deserves to be dismissed. Hence, I pass the following order in the interest of justice :-

ORDER

The present application is hereby dismissed.

Copy of this order be sent to the Superintendent, Central Jail,
Sabarmati, Ahmedabad.

Pronounced in the open court on this 7th day of January-2012.

(V.B.MAYANI.)

I/c.Special Judge

CBI Court, No.1, Ahmedabad.