

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.D.RAJAN

MONDAY, THE 10TH DAY OF AUGUST 2015/19TH SRAVANA, 1937

CRL.A.No. 1139 of 2006 ()

LEAVE GRANTED ON 12-06-2006 IN CrI.L.P. 280/2006

AGAINST THE JUDGMENT IN CRL.APPEAL 402/2004 of ADDITIONAL DISTRICT &
SESSIONS (ADHOC) COURT-I, PATHANAMTHITTA DATED 15-03-2006

APPELLANT(S) /COMPLAINANT:

T.P.PRAVEEN, S/O.SASIDHARAN,
MULAYIDIYIL HOUSE, VALLIKKODE P.O., VALLIKODE VILLAGE.

BY ADV. SRI.S.HARIKRISHNAN

RESPONDENT(S) /ACCUSED:

1. STATE OF KERALA, REPRESENTED BY
ITS PUBLIC PROSECUTOR, HIGH COURT OF KERALA.
2. K.G.GOPU, S/O.GOPALAN, KADATHIKAVIL
HOUSE, MOONANKALUNKU, KAIPPATTUR P.O.
VALLIKKODE VILLAGE.

BY PUBLIC PROSECUTOR, SMT. SAREENA GEORGE.

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON
10-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

acd

P.D. RAJAN, J.

Crl.Appeal No.1139 of 2006

Dated this the 10th day of August, 2015

JUDGMENT

This appeal is preferred against the judgment of acquittal in Crl.Appeal No.402/2004 of Additional District & Sessions Court (Adhoc) Court-I, Pathanamthitta, for offence u/s.138 of the Negotiable Instruments Act. He filed a complaint against the 2nd respondent/accused in the Court of the Chief Judicial Magistrate, Pathanamthitta, and the 2nd respondent was convicted and sentenced to pay a fine of ₹15,000/- , in default, simple imprisonment for two months. If the fine amount is realised, it was directed to pay ₹10,000/- to the appellant as compensation u/s.357(1) Cr.P.C.

2. The appellant's case was that in discharge of a

debt of ₹10,000/-, the 2nd respondent issued a cheque dated 29.1.2003 drawn on the Kaipattoor Service Co-operative Bank Ltd. When it was presented for encashment through Federal Bank, Chandanapally branch, it was dishonoured for the reason of 'insufficiency of funds'. The appellant gave notice to the 2nd respondent and demanded the due amount. But, there was no repayment from the side of the 2nd respondent. In the above circumstances, complaint was filed in the trial Court.

3. To prove the allegation, the defacto complainant was examined as PW1. His documents were marked as Exts.P1 to P6. There was no evidence from the side of the 2nd respondent. The trial Court, after sifting and weighing the evidence on record, convicted the 2nd respondent. Against that, he preferred the above appeal, in which he was acquitted u/s.255(1) Cr.P.C. Hence, this Criminal

Appeal.

4. After filing this appeal, this Court directed the appellant to give notice to the 2nd respondent. Even after specific direction, there was no attempt from the side of the appellant to give notice on the 2nd respondent. On 30.7.2015, this Court directed the appellant to serve notice to the 2nd respondent by special messenger and posted this case to this date.

Today, the learned counsel for the appellant submitted that even after sending notice by speed post, no response from the side of the appellant. In the circumstances, I am of the opinion that the appellant is not interested in prosecuting the matter. Hence, this appeal is dismissed for non-prosecution.

P.D. RAJAN, JUDGE.

acd

