

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.D.RAJAN

THURSDAY, THE 23RD DAY OF JULY 2015/1ST SRAVANA, 1937

CRL.A.No. 992 of 2005 ( )

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AGAINST THE JUDGMENT IN CC 824/2002 of J.M.F.C., VAIKOM  
DATED 10-11-2004

APPELLANT(S)/COMPLAINANT:

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K.V.ABRAHAM, S/O.VARGHESE,  
KARAMEL PUTHENPURAYIL, MEVELLOOR P.O., MEVELLOOR KARA  
VELLOOR VILLAGE.

BY ADV. SRI.A.V.THOMAS

RESPONDENT(S)/ACCUSED IN C.C.NO.824/2002 AND STATE:

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1. SHAJU @ SAJU VARGHESE,  
THIYATTUSSERIL HOUSE, MEVELLOOR P.O., MEVELLOOR KARA  
VELLOOR VILLAGE.
  2. STATE OF KERALA, REPRESENTED BY  
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

ADV. SMT. SEENA RAMAKRISHNAN - PUBLIC PROSECUTOR

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON  
23-07-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

acd

**P.D. RAJAN, J.**

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Crl.Appeal No.992 of 2005  
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Dated this the 23<sup>rd</sup> day of July, 2015

**JUDGMENT**

This appeal is preferred against the judgment in C.C.No.824/2002 of Judicial First Class Magistrate Court, Vaikom, which was filed u/s.138 of the Negotiable Instruments Act. The defacto complainant was examined as PW1 and his documents were marked as Exts.P1 to P8. The accused, who is the 1<sup>st</sup> respondent, in this case examined Dws 1 to 4. The trial Court, after analysing the oral and documentary evidence adduced by both parties, found that the 1<sup>st</sup> respondent is not guilty u/s.138 of the N.I. Act and he was acquitted u/s.255(1) of Cr.P.C. Against that, the defacto complainant preferred this appeal.

2. Leave was granted by this Court on 15.3.2005 to file the appeal. Thereafter, on 20.6.2005, appeal was admitted and notice was ordered. The notice was issued on 23.1.2006 to the 1<sup>st</sup> respondent through C.I. of Police, Kaduthuruthy with hearing date on 20.02.2006, which was returned unserved stating 'addressee not found'. Hence, this Court again directed to issue fresh notice. In spite of specific direction, no steps were taken against the 1<sup>st</sup> respondent. Finally, on 5.10.2012, 10 days' time was granted by this Court to take steps against the 1<sup>st</sup> respondent. Even after that specific direction, there was no response from the side of the appellant. When there was no compliance of the order of service of notice, it is presumed that the appellant is not interested in prosecuting the matter.

Hence, this appeal is dismissed as non-prosecution.

**P.D. RAJAN, JUDGE.**



