

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. 1596 of 2004 ()

AGAINST THE ORDER IN CC 1309/2003 of J.M.F.C.-I, PUNALUR
DATED 29-07-2004

APPELLANT(S)/COMPLAINANT:

MUHASSIN, S/O.MASOOD RAWTHOR,
MUKKUMTHODU, KIZHAKKEKARA, KUNDAYAM
PATHANAPURAM.

BY ADV. SRI.ANCHAL C.VIJAYAN

RESPONDENT(S)/ACCUSED AND STATE:

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1. NASAR, KINATTUVILAYIL,
ELIKULAM, PALLIKKAL.
 2. STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

PUBLIC PROSECUTOR - ADV. SMT. SEENA RAMAKRISHNAN.

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.

Crl.Appeal No.1596 of 2004

Dated this the 23rd day of July, 2015

JUDGMENT

This appeal is preferred against the judgment in C.C.No.1309/2003 of Judicial First Class Magistrate Court-I, Punalur, which was filed u/s.138 of the Negotiable Instruments Act, by the appellant. In the trial Court, on 29.7.2004, the case was posted for hearing and the complainant was not present either in person or by pleader. In the circumstances, the trial Court acquitted the accused u/s.256 (1) Cr.P.C. Against that, the defacto complainant approached this Court.

2. On 28.7.2004, special leave was granted by this Court to file the appeal and on 1.10.2004, notice was ordered.

The notice was issued to the 1st respondent through C.I. of Police, Punalur with hearing date on 5.11.2004, which was returned unserved stating 'addressee not found'. Hence, this Court again directed to issue fresh notice through C.I. Kayamkulam on 5.10.2006 with hearing date on 27.10.2006, which was also returned unserved stating 'address not found'. Even after specific direction, the appellant is not cared to furnish the correct address and serve notice on the 1st respondent or senior member of his family. 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.

acd

