

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

TUESDAY, THE 24TH DAY OF NOVEMBER 2015/3RD AGRAHAYANA, 1937

CRL.A.No. 70 of 2014 ()

AGAINST THE ORDER IN CC 106/2009 of JUDICIAL FIRST CLASS MAGISTRATE-
III, KANJIRAPPALLY DATED 30-12-2009

AGAINST THE ORDER IN Cr1.L.P. 711/2013 of HIGH COURT OF KERALA DATED
03-01-2014

APPELLANT/COMPLAINANT:

ANTO JACOB
PUTHANPURAYIL HOUSE, (NARITHUKKIL), ELIKULAM VILLAGE.

BY ADV. SRI.SERGI JOSEPH THOMAS

RESPONDENT/ACCUSED/STATE:

1. JANARDHANAN NAIR M.P.
PERUKKUNNEL HOUSE, PANAMATTOM P.O., KOORALI - 686 110.

2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM - 682 031.

R1 BY ADV. SRI.T.M.RAMAN KARTHA
R1 BY ADV. SRI.JOSEPH RONY JOSE
BY PUBLIC PROSECUTOR: M G LISHA

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 24-11-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:

SUNIL THOMAS, J.

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Crl.A.No.70 of 2014

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Dated this the 24th day of November, 2015

JUDGMENT

The appellant is the complainant in C.C.No.106 of 2009 of the Judicial First Class Magistrate-III, Kanjirappally. He laid a complaint on the strength of a cheque for Rs.30,000/- under Section 138 of the Negotiable Instruments Act. After several postings, case stood posted to 30.12.2009, on which day, the appellant and his pleader were absent. The court below, invoking Section 256(1) of Cr.P.C acquitted the accused, which is assailed in this appeal.

2. Heard both sides and examined the records.

3. It is not in dispute that on 30.12.2009, the complainant and his counsel were absent. The reason is attributed to a claim that the advocate clerk took down the date of posting wrongly as 31.12.2009 instead of 30.12.2009. This aspect is not seriously controverted. It has to be noted that the complaint was filed in the year 2009. It was being prosecuted thereafter. Having regard to this, I feel that one more opportunity can be granted to the appellant to prosecute his matter further. The impugned order is,

hence, liable to be set aside.

In the result, the appeal is allowed. The impugned order is set aside and the matter is remanded to the court below to enable the complainant to prosecute his case further. Both sides shall appear before the court below on 05.01.2016.

Sd/-

SUNIL THOMAS
Judge

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True Copy /

P.A to Judge