

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

Crl.MC.No. 780 of 2015 ()

Crl.Rev.Pet 695/1999 of HIGH COURT OF KERALA

PETITIONER/REVISION PETITIONER/APPELLANT/ACCUSED:

**SELVARAJ A., S/O.ARUMUGHAN
P.O.KILLIMANGALAM, WADAKKANCHERRY
THRISSUR DISTRICT.**

BY ADV. SRI.JOSHI N.THOMAS

RESPONDENTS/RESPONDENTS/COMPLAINANT & STATE:

**1. M/S. SOUMYA, WHOLESALE CLOTH MERCHANT
BELLARD ROAD, KANNUR
REPRESENTED BY ITS PROPRIETOR
A.V.KUNJAMBOO, S/O.GOVINDAN.**

**2. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.**

R2 BY Sr. PUBLIC PROSECUTOR SMT. SAREENA GEORGE P.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 09-02-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

**ANNEUXRE I- TRUE COPY OF ORDER IN CRL.R.P.NO.695/1999 DATED 24.11.2006 OF
THIS HONOURABLE COURT.**

**ANNEXURE II- TRUE COPY OF RELEVANT PORTION OF PASSPORT OF THE
PETITIONER.**

ANNEXURE III- TRUE COPY OF ORDER IN CRL.M.C.NO.3813/2005 DATED 18.11.2005

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY // P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.780 of 2015

Dated this the 9th day of February, 2015

O R D E R

The petitioner herein stands convicted and sentenced under Section 138 of the Negotiable Instruments Act. The substantive sentence was modified by this Court in revision as only imprisonment till rising of the court. There is also a direction to pay compensation to the complainant under Section 357(3) Cr.P.C. The revision brought by the petitioner as Crl.R.P.No.695/1999 was disposed of by this Court on 24.11.2006 directing the petitioner to surrender before the trial court within two months, and to make payment of compensation. The petitioner has not so far complied with the directions. It appears that he went abroad for job, and thus he could not surrender and make payment of compensation. Now, he seeks orders from this Court under Section 482 Cr.P.C. directing the court below not to execute the sentence. Of course, such a prayer cannot be granted. When the sentence stands not served out and the compensation stands not paid, the trial court will

definitely issue warrant of arrest. The sentence will have to be executed. The petitioner also cannot be granted extension of time now. He will have to surrender before the learned Magistrate, and make payment of compensation. At any time he can surrender before the learned Magistrate and serve out the sentence till rising of the court. If he failed to make payment of compensation on surrender, no doubt, he will be sentenced to undergo default sentence.

With these observations, this Crl.M.C. is closed.

Sd/-

P. UBAID, JUDGE

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