

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

Crl.MC.No. 1099 of 2015 ()

AGAINST ST 40/2010 of J.M.F.C. - II, NORTH PARAVUR

PETITIONER(S)/ACCUSED:

AJI P.A
PULIKKAL VEEDU, PANJIPPALA, PUTHENVELIKKARA P.O.
PIN-683 594.

BY ADV. SRI.DINESH MATHEW J.MURICKEN

RESPONDENT(S)/COMPLAINANT:

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1. M/S.MUTHOOT LEASING & FINANCE LTD.
ADAM PLAZA, NEAR MUNICIPAL OFFICE
NORTH PARAVUR BRANCH, REP. BY ASST. MANAGER, GEO JACOB
AGED 33 YEARS, S/O.JACOB, CHELATTU HOUSE
NEERICODE P.O., ALANGAD, ERNAKULAM.
 2. STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM.

R1 BY ADV. SRI.S.NIDHEESH
R2 BY PUBLIC PROSECUTOR SMT.P.MAYA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
09-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 1099 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A1 : TRUE COPY OF THE JUDGMENT IN S.T.NO.40 OF 2010 PASSED BY THE JUDICIAL FIRST CLASS MAGISTRATE COURT-II, NORTH PARAVUR, DATED 09-09-2010.

ANNEXURE A2 : TRUE COPY OF THE JUDGMENT IN CRL.APPEAL NO.583 OF 2010 PASSED BY THE ADDITIONAL DISTRICT & SESSIONS COURT, NORTH PARAVUR DATED 19-08-2013.

ANNEXURE A3 : TRUE COPY OF THE ORDER PASSED BY THIS HONOURABLE COURT IN CRL.R.P.NO.998/2014 DATED 10-06-2014.

ANNEXURE A4 : THE TRUE COPY OF THE RECEIPT ISSUED BY THE 1ST RESPONDENT EVIDENCING THE RECEIPT OF AMOUNT COVERED IN S.T.NO.40 OF 2010 DATED 16-02-2015.

RESPONDENT(S)' EXHIBITS

//TRUE COPY/

P.S TO JUDGE

P.UBAID, J.
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**Crl.M.C No.1099 of 2015**  
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Dated this the 9th March 2015

ORDER

The petitioner herein stands convicted and sentenced under Section 138 of the Negotiable Instruments Act. The conviction was confirmed in appeal and also in revision. However in revision, this Court granted some time to the petitioner to serve out the sentence and to make payment of the amount of fine. The fine imposed by the court below is ₹ 288,033/-. The entire amount of fine was ordered to be given as compensation to the complainant under Section 357 (1) of Cr.P.C. In stead of remitting the amount of fine in court, the petitioner wrongly made payment of the amount directly to the complainant. Now, steps are pending to recover the amount of fine. In such a situation, the petitioner seeks a direction from this court to the court below to record payment of fine and payment of compensation appropriately in the concerned registers.

2. In **Beena v. Balakrishnan Nair [2010 (2) KLT 1017]**, this Court in such a situation made direction to the trial

court to record payment of fine/compensation appropriately in the proceedings. Of course, **Beena v. Balakrishnan Nair [2010 (2) KLT 1017]** cannot be treated as a precedent. This Court gave such a direction in the said case in the particular circumstances. Though not a precedent, this Court later made such direction in some of other cases also. Here, the petitioner has discharged the whole liability directly to the complainant. No amount of fine will go to the State in this case because the entire amount of fine is directed to be given as compensation to the complainant. In such a situation, what is required is only some entries in the fine register and other registers. The complainant has filed affidavit before this Court that the complainant has received the full amount ordered as compensation by the trial court. The affidavit is accepted by this Court. In the above circumstances, as done in **Beena v. Balakrishnan Nair [2010 (2) KLT 1017]**, this Court directs the court below to make entries appropriately in the fine register and other registers regarding the payment of fine and payment of compensation in S.T No.40 of 2010.

Sd/-
P.UBAID
JUDGE

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/True copy/

P.S to Judge