

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 10TH DAY OF MARCH 2015/19TH PHALGUNA, 1936

Cr1.MC.No. 1486 of 2015

AGAINST THE ORDER IN CRL.M.P NO.278/2015 IN CRL.A NO.56/2015
BEFORE THE SESSIONS COURT, ERNAKULAM.

AGAINST CC 56/2014 OF THE JUDICIAL FIRST CLASS MAGISTRATE
COURT - II, PERUMBAVOOR

PETITIONER/APPELLANT/ACCUSED:

JOY C. JOSEPH.
CHERUVELIL HOUSE, PERUVA P.O.,
KOTTAYAM DISTRICT
KERALA-686610.

BY ADV. SRI.JOHN T.PAUL

RESPONDENTS/RESPONDENTS/COMPLAINANT AND STATE:

1. E.S.SIVANANADAN,
S/O. SATHAMAN, EDAYATH HOUSE,
PULLUVAZHY P.O,
RAYAMANGALAM VILLAGE, ERNAKULAM DISTRICT
KERALA-683541.
2. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM-682031.

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

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 10-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 1486 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A1: COPY OF THE JUDGMENT IN C.C.NO.56/2014 BY THE
HON'BLE JUDICIAL I CLASS MAGISTRATE-II, PERUMBAVOOR DATED
30.12.2014.

ANNEXURE AII: COPY OF THE CRL.APPEAL NO.56/2015 ALONG WITH
CRL.M.P.NO.278/2015 BEFORE THE HON'BLE SESSIONS COURT, ERNAKULAM.

ANNEXURE AIII: CERTIFIED COPY OF THE ORDER IN CRL.M.P.278/2015 IN
CRL.APPEAL NO.56/2015 DATED 5.2.2015.

ANNEXURE AIV: COPY OF THE MEDICAL CERTIFICATE ISSUED BY THE
SUPERINTENDENT, TALUK HOSPITAL, PIRAVOM DATED 5.3.2015.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.1486 of 2015

Dated this the 10th day of March, 2015

O R D E R

The petitioner herein stands convicted and sentenced under Section 138 of the Negotiable Instruments Act by the Judicial First Class Magistrate Court II, Perumbavoor. Aggrieved by the conviction and sentence he preferred appeal before the Court of Sessions, Ernakulam as Crl.A No.56/2015. Along with the appeal, he made an application under Section 389 of the Code of Criminal Procedure for suspending the sentence. On the said C.M.P No.278/2015 the learned Sessions Judge granted suspension of sentence on conditions. One of the conditions is that the petitioner shall deposit an amount of ₹1,00,000/- in the trial court within one month. The petitioner is aggrieved by the said condition. He seeks cancellation or modification of the said condition, under Section 482 of the Code of Criminal Procedure.

2. On hearing the learned counsel and on a perusal of the impugned order, I find that the amount ordered to be deposited in the trial court is only 1/7th of the total amount due

under the cheque in question. In the circumstances of the case, where the amount involved is huge, I do not think that the condition imposed by the learned Sessions Judge for suspension is irrational or unreasonable or onerous. I do not find any reason or ground to cancel or modify the condition. However, the learned counsel for the petitioner makes a request for granting some reasonable time to deposit the amount as ordered by the trial court. Of course the request is genuine. Hence, in the interest of justice, I am inclined to grant some time for making deposit.

In the result, this Criminal Miscellaneous Case is dismissed. However, the petitioner is granted time till 10.4.2015 to make deposit of the amount as ordered by the appellate court. Steps for execution of sentence from the trial court will stand suspended till 10.4.2015.

**P.UBAID
JUDGE**

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