

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

THURSDAY, THE 20TH DAY OF AUGUST 2015/29TH SRAVANA, 1937

Crl.MC.No. 2292 of 2015 ()

**CRL.A.NO.209/2001 OF ADDL.SESIONS COURT-I, MAVELIKKARA
ST. NO. 2497/1998 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, KAYAMKULAM**

PETITIONER :

**V.CHELLAPPAN, AGED 74 YEARS,
KURUMTHODATHU VEEDU, EROOR THEKKU,
KEERIKKADU P.O., KAYAMKULAM.**

BY ADV. SRI.B.RENJITHKUMAR

RESPONDENT(S):

- 1. JITRA CHERIYAN,
HOBBY VILLA, CHERAVELLI MURI,
KAYAMKULAM VILLAGE, ALAPPUZHA DIST. PIN-688 001.**
- 2. STATE OF KERALA,
REPRESENTED BY ITS PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 31.**

**R1 BY ADV. SRI.T.PRADEEP KUMAR
R2 BY PUBLIC PROSECUTOR SRI.RAJESH VIJAYAN**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 20-08-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

sts

Crl.MC.No. 2292 of 2015 ()

APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEX-A1: CERTIFIED COPY OF THE JUDGEMENT IN CRL.R.P NO.252/2005
DATED 31.10.2007**

RESPONDENT(S)' ANNEXURES: **NIL**

/TRUE COPY/

P.S.TO JUDGE

sts

ALEXANDER THOMAS, J.

=====

Crl.M.C.No.2292 of 2015

=====

Dated this the 20th day of August, 2015

O R D E R

The petitioner was convicted for the offence under Sec.138 of the Negotiable Instruments Act in the judgment rendered in Summary Trial Case, S.T.No.2497/1998 of the Judicial First Class Magistrate's Court, Kayamkulam, on the basis of the complaint instituted by the contesting respondent No.1. The same was challenged in Crl.Appeal No.209/2001 before the 1st Addl. Sessions Court, Mavelikkara and it was later challenged in Criminal Revision Petition No.252/2005 before this Court. This Court, as per Anx.A-1 order dated 31.10.2007 in Crl.R.P.No.252/2005, confirmed the conviction, but had modified the sentence and accordingly the sentence imposed by the court below was set aside and modified to a sentence to pay a fine of Rs.1 lakh within one month, failing which, the petitioner accused was ordered to suffer simple imprisonment for three months by way of default sentence and that as and when the fine amount is deposited, the same shall be paid to

the complainant by way of compensation under Sec.357(1) of the Cr.P.C. It is common ground that the petitioner did not make the payment of the fine amount of Rs.1 lakh and therefore coercive steps were set in motion against the petitioner. The 1st respondent complainant has filed affidavit dated 10.7.2015 before this Court in this case, wherein it is stated that though the direction in Anx.A-1 order was to pay the fine of Rs.1 lakh within one month therefrom, the petitioner had on 15.3.2015 directly paid the said amount of Rs. 1 lakh to the 1st respondent complainant. It is further pointed out by the learned counsel appearing for the 1st respondent complainant that the 1st respondent is fully satisfied with the said payment and has accordingly submitted that this Court may consider the plea of the petitioner that this payment made directly to the 1st respondent may be treated as a payment in full and final compliance of the directions issued by this Court in Anx.A-1 order and therefore the prayer of the petitioner may be considered in that line.

2. The Division Bench of this Court in the case Sreedharan v. Bharathan reported in 2014 (1) KLT 236 (para 16) has held that it would be reasonable to hold that by extending the time for payment

of fine/compensation, this Court, in exercise of powers under Sec.482 of the Cr.P.C. would not be offending the provisions contained in S.362 Cr.P.C., but would only be securing the ends of justice. Accordingly, it was held that though the post revisional composition is not permissible, even by invoking Sec.482 of the Cr.P.C., it would be reasonable to hold that exercise of power under Sec.482 of the Cr.P.C. in the matter of extending the time for payment of fine/compensation in such cases, etc. In the light of these aspects and more so particularly, in view of the specific stand now being taken by the 1st respondent complainant, it is ordered in the interest of justice that the payment of the amount made by the petitioner directly to the complainant shall be treated as payment in full and final compliance of the requirements of Anx.A-1 order and that therefore all further coercive steps that might have been taken in pursuance of the execution of Anx.A-1 order will stand rescinded and cancelled.

With these observations and directions, the Crl.M.C. stands finally disposed of.

sdk+

///True copy///

Sd/-
ALEXANDER THOMAS, JUDGE

P.S. to Judge

