

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

WEDNESDAY, THE 24TH DAY OF JUNE 2015/3RD ASHADHA, 1937

Crl.MC.No. 3803 of 2015 ()

**CRA 33/2013 of ADDITIONAL DISTRICT & SESSIONS COURT, MOOVATTUPUZHA
ST 1426/2011 of JUDICIAL FIRST CLASS MAGISTRATE COURT, KOLENCHERRY**

PETITIONER/ACCUSED :

**K.N. SIVANKUTTY, AGED 51 YEARS,
S/O.NARAYANAN, KANJIRAKKATTU HOUSE,
KAIPATHOOR P.O., VATTAPPARA, ERNAKULAM.**

**BY ADVS.SRI.A.X.VARGHESE
SRI.A.V.JOJO**

RESPONDENTS/COMPLAINANT :

**1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682031.**

**2. P.K. SURESH
S/O.KARUNAKARAN, PULLUKATTU HOUSE,
UDAYAMPEROOR P.O., ERNAKULAM-682307.**

**R1 BY PUBLIC PROSECUTOR SMT. SAREENA GEORGE
R2 BY ADV. SRI.SAJIV.C.K.**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 24-06-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

bp

Crl.MC.No. 3803 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A1 : TRUE COPY OF THE JUDGMENT DATED 12-12-2012 IN ST. 1426/2011.

ANNEXURE A2 : ORIGINAL OF THE AFFIDAVIT SWORN BY THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

ALEXANDER THOMAS, J.

=====

Crl.M.C.No. 3803 of 2015

=====

Dated this the 24th day of June, 2015

ORDER

The petitioner herein is the accused in Summary Trial Case, S.T.No.1426/2011 on the file of the Judicial First Class Magistrate's Court, Kolencherry, for offence alleged under Sec.138 of the Negotiable Instruments Act and was sentenced to undergo imprisonment till the rising of the court and to pay a fine of Rs. 50,000/- in default thereof, with sentence of 3 months' simple imprisonment. The petitioner filed Crl.Appeal No.33/2013 on the file of the Sessions Court, Muvatupuzha, which was dismissed by the appellate court. It is stated that the time limit stipulated in the judgment for payment of the fine amount has expired. The 2nd respondent is the complainant in S.T.No.1426/2011 on the file of the Judicial First Class Magistrate's Court, Kolencherry. It is stated that later the petitioner directly made the payment to the 2nd respondent the amount of Rs.50,000/- ordered to be paid by Judicial First Class Magistrate's Court, Kolencherry in S.T.No.1426/

2011 to the 2nd respondent complainant, to which effect the complainant has sworn to Anx.A-2 affidavit dated 17.6.2015 before this Court, in this case.

2. The prayer in this Crl.M.C. reads as follows:

“..... to direct the Judicial First Class Magistrate Court, Kolenchery to accept that as sufficient compliance of direction contained in the orders disposing of S.T.No.1624/2011 and make necessary entries in the fine register as if fine is realised and paid to the complainant and further direct to recall non-bailable warrant against the petitioner, for the ends of justice.”

3. Heard Sri.A.X.Varghese, learned counsel for the petitioner, Sri.Sajiv.C.Krishnan, learned counsel appearing for the 2nd respondent and learned Public Prosecutor appearing for the 1st respondent State of Kerala.

4. Sri.Sajiv.C.Krishnan, learned counsel appearing for the 2nd respondent submitted that the 2nd respondent has already directly received the amount of Rs. 50,000/- as ordered by the court below as per Anx.A judgment from the petitioner and that he has no objection for granting the prayer in this Crl.M.C. The above submission made on behalf of the 2nd respondent complainant is recorded.

5. This Court has in the case Sreedharan v. Bharathan reported in 2014 (1) KLT 236 rendered by the Division Bench and

Girish v. Muthoot Capital Service (P) Ltd. reported in 2007 (1) KLT 16 has held that this Court under Sec.482 of the Cr.P.C. can extend the time limit of payment of fine or compensation and that this will not amount to offending the judgment of conviction, but would only be securing the ends of justice.

6. Therefore, in view of the aforestated settled legal position in that regard, more particularly, as reported in the Division Bench ruling supra and in the light of Anx.A-2 affidavit sworn to by the 2nd respondent and the submission made on behalf of the 2nd respondent, it is ordered in the interest of justice that the payment of the above amount of Rs. 50,000/- shall be treated to be in proper compliance with the order in Anx.A-1 judgment. All further adverse or coercive steps due to the alleged non-compliance of Anx.A-1 will stand rescinded and recalled.

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

sd/-
ALEXANDER THOMAS, JUDGE

sdk+
///True copy///

P.S. to Judge

Cr1.M.C.3803/15

- : 4 :-