

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 30TH DAY OF MARCH 2015/9TH CHAITHRA, 1937

Crl.MC.No. 2640 of 2014

IN S.T NO.97/2012 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT
- III, KOCHI

PETITIONER/ACCUSED:

SAJEEB.S.THAVAKKAL, AGED 32 YEARS,
S/O. SIRAJUDHEEN, PROPRIETOR,
AL- FURSAN TRADING COMPANY,
REGISTERED OFFICE OF TAJ AUDITORIUM,
KAREELAKULANGARA, KAYAMKULAM,
RESIDING AT VALAYIL HOUSE, KAYAMKULAM P.O
ALAPPUZHA DISTRICT

BY ADV. SRI.B.RENJITHKUMAR

RESPONDENTS/COMPLAINANT:

1. THE STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM 682031
2. SANJU K.SALIM, AGED 30 YEARS,
S/O SALIM, KALAPPURAKKAL HOUSE, KUTTIKATTUKARA
ELAOOR, ERNAKULAM DISTRICT 682024

R2 BY ADV. SRI.T.MADHU

R2 BY ADV. SRI.D.M.SAJEEVAN

R1 BY SR.PUBLIC PROSECUTOR SMT.SAREENA GEORGE.P

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
30-03-2015, ALONG WITH CRL.M.C. NO.2643/2014, THE COURT ON THE
SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 2640 of 2014

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE 1: COPY OF THE COMPLAINT FILED BEFORE THE JUDICIAL FIRST
CLASS MAGISTRATE COURT III KOCHI AS S.T NO 97/2012

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C Nos.2640 & 2643 of 2014

Dated this the 30th day of March, 2015

O R D E R

The petitioner in these two proceedings is the accused in two cases before the Judicial First Class Magistrate Court III, Kochi. Those are S.T No.96/2012 and S.T No.97/2012 brought under Section 138 of the Negotiable Instruments Act. The complainant in the court below is the 2nd respondent herein. Pending the proceedings, the matter was referred to mediation. The parties came to terms amicably in the mediation process, and executed a memorandum of settlement before the Mediator. The said original memorandum of settlement is produced before this Court as part of Crl.M.C No.2640/2014. The agreement arrived at is that the petitioner herein will pay a total amount of ₹9,00,000/- to the 2nd respondent herein within six months in full satisfaction of the amount due from him. The parties have also agreed for instalment payment. The details are available from the memorandum of settlement. When the amount is paid fully within six months, the complainant will withdraw the complaint

under Section 257 of the Code of Criminal Procedure. In the above circumstances, the two proceedings here can be closed. The original memorandum of settlement signed by the parties can be forwarded to the trial court, and the trial court can be directed to adjourn the cases for six months. After six months, appropriate orders can be passed by the court below, in the circumstances at that time, depending upon the performance of the terms of the agreement, or the breach thereof. In the result, these Criminal Miscellaneous Cases are disposed of as follows:

- a) The settlement arrived at by the parties in the process of mediation is accepted.
- b) The original memorandum of settlement signed by the parties will be forwarded to the trial court.
- c) The parties will act in terms of the memorandum of settlement, and the petitioner herein will make full payment of the amount in instalments, within six months as agreed in mediation.
- d) The trial court will adjourn the two cases for six months.

e) After six months the trial court will pass appropriate orders in the situation at that time, depending upon the performance of the terms of the agreement, or breach thereof.

f) The trial court will also make the memorandum of agreement part of the judgment at the time of disposal.

**P.UBAID
JUDGE**

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