

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

WEDNESDAY, THE 15TH DAY OF JULY 2015/24TH ASHADHA, 1937

CrI.MC.No. 4205 of 2015 ()

CRA 422/2008 of SESSIONS COURT-I,MAVELIKKARA

ST 238/2006 of J.M.F.C.-II, HARIPAD

PETITIONER(S):

VIDHYADHARAN AGED 62,
S/O. NARAYANAN, PUTHENKATTIL, MHADEVI KAADU MURI
KARTHIKA PALLI VILLAGE, ALAPPUZHA DISTRICT.

BY ADV. SRI.B.RENJITHKUMAR

RESPONDENT(S):

1. T.M.JOHN, S/OAGED 43
S/O. MATHEW, THEVARAKATTU VEETTIL
NANGYARKULANGARA MURI, CHINGOLI VILLAGE
KARTHIKA PALLI, ALAPPUZHA DISTRICT.

2. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR OF HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI. GITHESH

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
15-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CrI.MC.No. 4205 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

A1 - THE TRUE COPY OF THE JUDGMENT IN ST 238/2006 OF JFCM -II,
HARIPAD DT. 12.8.08.

A2 - TRUE COPY OF THE JUDGMENT IN CRL.APPEAL NO. 422/2008 OF ADDL.
SESSIONS COURT - I, MAVELIKKARA DT. 29.11.10 AS

TRUE COPY

P.S TO JUDGE

RAJA VIJAYARAGHAVAN.V. J

Crl.M.C. 4205 of 2015

Dated 15th July, 2015

ORDER

1. The petitioner has suffered concurrent judgments of conviction and sentence in a proceeding initiated by the 1st respondent u/s 138 of the Negotiable Instruments Act. It is submitted that the judgment passed by the Judicial Magistrate of First Class-II, Haripad, dated 12.7.2008 in S.T.No.238 of 2006 was modified by judgment dated 29.11.2010 in Crl.A.422 of 2008 by the Additional Sessions Court-I, Mavelikkara and the petitioner was directed as per the appellate judgment to undergo simple imprisonment for one day and to pay Rs.1,00,000/- by way of compensation within one month and in default to undergo simple imprisonment for three months.

2. According to the learned counsel for the petitioner, the petitioner was unable to appear before the trial Court in time to pay the compensation and to suffer imprisonment. The limited prayer sought for by the learned counsel for the petitioner is to issue a direction to

the learned Magistrate to consider his application in terms of S.68 of the IPC and to pass appropriate orders. He also placed reliance on the judgments reported in **(K.G.Gireesh Kumar V Muthoot Capital Services Pvt.Ltd. (2007 (1) KLT 16))** and **(Sreedharan v. Bharathan (2014 (1) KLT 236))** to advance his case.

3. In the light of the limited prayer sought for by the petitioner, I am inclined to pass an order allowing the petitioner to appear before the learned Magistrate and to file appropriate application in terms of what is observed above so as to enable him to pay the compensation and to suffer the imprisonment as ordered in the appellate Judgement, and the said Court shall consider the application and pass appropriate orders on merits, in accordance with law.

Crl.M.C is disposed of as above.

Sd/-

RAJA VIJAYARAGHAVAN.V.
Judge

MrCs

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