

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 2ND DAY OF SEPTEMBER 2015/11TH BHADRA, 1937

Crl.MC.No. 4532 of 2015

STC 25/2015 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, THALASSERY

PETITIONER(S):

**M.ASHRAF, AGED 63 YEARS,
MANAGING PARTNER, S/O.LATE MOIDEEN KOYA HAJEE,
M/S.UNIQ IMPORTS, ARISTO COMPLEX, NEAR KTC PETROL PUMP,
POST MAHE, PIN-673 311.**

BY ADV. SRI.T.P.PANKAJAKSHAN

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**
- 2. P.M.SAJID, AGED 36 YEARS,
S/O.P.A.MOHAMMED HANEEF, PEEDIYEKKAL HOUSE,
KOCHI-682 018.**
- 3. P.K.RIYAS PARVEES PARAMBATHKANDY,
PARTNER, UNIQUE IMPORTS, ARISTO COMPLEX,
NEAR KTC PETROL PUMP, POST MAHE, PIN-673 310,
PONDICHERY STATE.**

BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 02-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' ANNEXURES

**ANNEXURE I- TRUE COPY OF THE PETITION ALONG WITH AFFIDAVIT FILED BY THE
2ND RESPONDENT.**

**ANNEXURE II- A TRUE COPY OF THE NOTICE ISSUED TO THE PETITIONER DATED
12.12.2014.**

ANNEXURE III- A TRUE COPY OF THE ORDER PASSED IN CMP 3342/2014.

**ANNEXURE-IV- A TRUE COPY OF THE SUMMONS ISSUED TO THE ACCUSED DATED
23.02.2015.**

RESPONDENT(S)' ANNEXURES

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

B. KEMAL PASHA, J.

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Crl.M.C. No.4532 of 2015
.....

Dated this the 2nd day of September, 2015

ORDER

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A complaint alleging an offence under Section 138 of the NI Act was filed before the Additional Chief Judicial Magistrate's Court, Ernakulam with an application for condoning the delay of 270 days in filing the complaint. The same was returned for proper presentation before the Judicial First Class Magistrate's Court, Thalassery. The matter came up before that court on 03.01.2015. On that day, there was no sitting. It seems that the parties had appeared before the Judicial First Class Magistrate's Court, Thalassery on 03.01.2015. Subsequently, the matter was considered by the Judicial First Class Magistrate's Court, Thalassery on 05.01.2015. The court below has chosen to condone the delay of 270 days caused in filing the complaint. According to the court below, the averments in

the affidavit have revealed that the delay was not wilful.

2. The argument that the petitioner did not get an opportunity to challenge the application for getting the delay condoned, is of no merit at all. The petitioner had notice of the proceedings and the petitioner had appeared before the court below on 03.01.2015. When there was no sitting on 03.01.2015, definitely, the matter would have been notified. Without caring to note down the notified, the petitioner cannot complain that he was unaware of the adjournment of the case. Matters being so, there is nothing to interfere with the order passed by the court below. The petitioner can participate in the further proceedings of the case.

With the said observations, this CrI.M.C. is dismissed.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/02/09

// True Copy //

PA to Judge