

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 14TH DAY OF OCTOBER 2015/22ND ASWINA, 1937

Crl.MC.No. 6703 of 2015

**CMP.NO.11669/2013 OF JUDICIAL FIRST CLASS MAGISTRATE COURT,
KODUNGALLUR**

PETITIONER(S)/RESPONDENT:

**NOUSHIYA, AGED 38 YEARS,
D/O.KOCHUMUHAMMED, MATHILAKATHUVEETIL,
PANAMBIKUNNATH DESOM, KAIPAMANGALAM VILLAGE,
KODUNGALLUR TALUK, THRISSUR DISTRICT.**

**BY ADVS.SRI.P.M.ABDUL JALEEL (KODUNGALLUR)
SRI.T.V.SHAJI**

RESPONDENT(S)/PETITIONERS & STATE:

- 1. JOSHY, AGED 51 YEARS,
S/O.ARAVINDAKSHAN, MANAKATTIL HOUSE, P
APALIYAMTHURUTH DESOM, METHALA VILLAGE,
KODUNGALLUR TALUK-680669.**
- 2. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-682031.**

R2 BY PUBLIC PROSECUTOR SMT.MAYA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 14-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

Crl.MC.No. 6703 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES

**ANNEXURE 1- TRUE COPY CMP.11669/13 ON THE FILE OF THE JUDICIAL FIRST
CLASS MAGISTRATE COURT, KODUNGALLUR**

ANNEXURE B2- TRUE COPY OF THE COUNTER SUBMITTED ON THE ABOVE CMP

**ANNEXURE 3- THE CERTIFIED COPY OF THE ORDER OF THE COURT BELOW IN THE
ABOVE CMP.**

RESPONDENT(S)' ANNEXURES

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

B. KEMAL PASHA, J.

.....
CRL. M.C. No. 6703 of 2015
.....

Dated this the 14th day of October, 2015

ORDER

Heard the learned counsel for the petitioner.

2. What is under challenge is Annexure-3 order passed by the Judicial First Class Magistrate's Court, Kodungallur in CMP No.11669/2013 in C.C.No.1175/2015. The said application was filed under Section 142(b) of the N.I. Act by the complainant in a complaint alleging an offence under Section 138 of the N.I. Act, seeking to get the delay of 3 three days caused in filing the complaint, condoned. Annexure-1 is the copy of CMP No.11669/2013. The ground mentioned by the complainant to get the delay condoned is that he was not in station, as he was away in connection with his employment.

3. According to the petitioner, who is the accused, that was not a valid ground for getting the delay condoned as the place of work of the petitioner is not much distance away from the court. Further, according to the petitioner, when it is a penal provision, the same has to be strictly intrpretted.

4. It is a fact that even the legislature has given the right to the complainants to get the delay condoned in filing the complaints, on sufficient grounds. In such a case, the reason mentioned by the complainant in Annexure-1 seems to be sufficient for condoning the delay of three days in filing the complaint. Matters being so, this Crl.M.C. is devoid of merits, and is only to be dismissed, and I do so.

In the result, this Crl.M.C. Stands dismissed.

Sd/- B.KEMAL PASHA, JUDGE

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[True copy]

P.S. to Judge