

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.D.RAJAN

WEDNESDAY, THE 19TH DAY OF AUGUST 2015/28TH SRAVANA, 1937

Crl.Rev.Pet.No. 1778 of 2005 ()

**AGAINST THE ORDER IN CC 73/2004 of SPL. COURT FOR TRIAL OF MARADU CASES,
KOZHIKODE**

REVISION PETITIONER(S)/COMPLAINANT::

**DR. P.K.MUJEEB RAHMAN, S/O. KUNHIMOIDU,
AGED 42 YEARS, THONDAYAD, CALICUT.**

**BY ADVS.SRI.P.S.SREEDHARAN PILLAI
SRI.K.B.SAJEESH
SRI.P.GOPINATH
SRI.C.S.SUNIL**

RESPONDENT(S)/ACCUSED::

**1. RAMESH BALLAL, S/O. ANANDAMURTHI,
AGED 28 YEARS, MAIN ROAD, KOPPA
COORGE DISTRICT, KARNATAKA STATE.**

**2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.**

R2 BY PUBLIC PROSECUTOR SMT.SEENA RAMAKRISHNAN

**THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 19-
08-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

STK

P.D. RAJAN, J.

Crl. R. P. No.1778 of 2005

Dated this the 19th day of August, 2015

ORDER

Revision Petitioner is the complainant in C.C.73/04 on the file of Special Judicial First Class Magistrate (Marad Cases), Kozhikode challenges the order of dismissal in the above case. After filing the above complaint, process was issued to the accused in the address, Coppa Chikmangalore District, Karnataka. Non-bailable warrant was issued against him twice, which was returned stating that the address is not correct. Complainant was directed to assist the court to take summons or warrant by hand and execute it through Police, but he failed to comply the direction, accordingly the above complaint was dismissed by the court below under Section 204 Cr.P.C.

2. In the circumstance, I have verified the order of Judicial First Class Magistrate which reads as follows;

“Complainant applied. Rejected. Complainant absent. This is a case in which the accused is stated to be in Koppa of Chickmangalore District. But when NBW and steps under Section 82 and 73 Cr.P.C. were issued, they twice returned stating it is not the correct address. Hence

complainant was asked to assist the court to take steps by hand and execute it through correct police station. But in spite of repeated opportunities, the complainant failed to appear. For more than one year, the steps could not be executed due to the defect in the address and non co-operation of the complainant. Hence the complaint is dismissed under Section 204 Cr.P.C.”

According to Section 204 Cr.P.C., in a proceeding instituted upon a complaint made by him, it is necessary to file a copy of such complaint and warrant or summons shall be accompanied by such copy, where if any process fees or other fees are payable, no process fees shall be issued until the fees are paid and, if such fees are not paid within a reasonable time, the Magistrate may dismiss the complaint.

The learned counsel appearing for the revision petitioner was absent and no steps were taken against the first respondent even after specific directions. A close scrutiny of the proceedings of the court below shows that there was laches from the side of the revision petitioner.

I find no illegality in the order passed by the trial court.
There is no merit in the revision petition and it is
dismissed for non-prosecution.

STK

Sd/-
P.D. RAJAN,
JUDGE

//TRUE COPY//

P.A. TO JUDGE