

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

WEDNESDAY, THE 8TH DAY OF JULY 2015/17TH ASHADHA, 1937

Cr1.Rev.Pet.No. 2072 of 2005 (D)

AGAINST THE ORDER IN ST 1773/2004 of J.F.C.M.COURT -III,
KOZHIKODE DATED 11-7-2005

REVISION PETITIONER(S)/COMPLAINANT:

K.M.MANOCHARAN, KINARULLAKANDY HOUSE,
THIHKODI P.O.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENT(S)/ACCUSED & STATE:

1. R.V.SHIVALINGAL, S/O.GANAPATHY,
CORPORATION OFFICE.

2. STATE OF KERALA, REP. BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

R1 BY ADV. SRI.M.SASINDRAN

R2 BY PUBLIC PROSECUTOR SRI.JUSTINE JACOB

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY
HEARD ON 08-07-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

OKB

K.HARILAL, J.

Crl.R.P. No.2072 of 2005

Dated this the 8th day of July, 2015.

O R D E R

Heard the learned counsel for the revision petitioner.

2. The order dismissing S.T.No.1773/04 on the files of the Judicial First Class Magistrate's Court-III, Kozhikode under Section 204(4) of the Code of Criminal Procedure is challenged by the complainant in this revision.

3. Going by the impugned order, I do not find fault with the court below in dismissing the complaint under Section 204(4) of the Cr.P.C., when no process fee was paid in spite of repeated orders.

4. But, I take a lenient view on a different perspective. In a prosecution under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the N.I. Act'), the compensatory aspect of remedy must be

given more priority rather than punitive aspect. If he is deprived of his right to proceed against the accused under Section 138 of the N.I. Act, certainly he would be put to heavy financial loss and hardship. Hence, this revision petition will stand allowed on condition that the revision petitioner shall pay a cost of Rs.5,000/- (Rupees Five thousand only) to the first respondent, either directly or through his counsel, and produce receipt thereof before the trial court within a period of two months from today. In the event of failure, the impugned order will stand in force.

Sd/-
K. HARILAL, JUDGE

okb.