

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR

MONDAY, THE 30TH DAY OF MARCH 2015/9TH CHAITHRA, 1937

Crl.Rev.Pet.No. 281 of 2015 ()

AGAINST THE JUDGMENT IN S.T.NO.203/2012 of JUDICIAL FIRST CLASS
MAGISTRATE COURT-IV, KOCHI DATED 02-02-2013

REVISION PETITIONER(S)/COMPLAINANT:

C.J.JOSEPH @ C.J.JOY, AGED 56 YEARS
S/O.C.P.JOSEPH, CHAKKALAKKAL HOUSE, MASTER ROAD
VADUTHALA P.O., PIN-682023.

BY ADV. SRI.T.R.MADHU

RESPONDENT(S)/ACCUSED:

1. SHYLAJA GOPI
W/O.GOPI, IRIPARAMBIL HOSUE,
CHITTOOR P.O.
KOCHI-682027.

2. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM, PIN-682031.

R1 BY ADV. SMT.MINI.V.A.

R2 BY PUBLIC PROSECUTOR SMT.SEENA RAMAKRISHNAN

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 30-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.Rev.Pet.No. 281 of 2015 ()

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A: CERTIFIED COPY OF JUDGMENT IN S.T.NO.203/2012 DATED
2.2.2013 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-IV,
KOCHI.

RESPONDENTS ANNEXURES: NIL

//TRUE COPY//

P.A. TO JUDGE.

dlk

C.T.RAVIKUMAR, J

Crl.R.P. No.281 of 2015

Dated this the 30th day of March, 2015

ORDER

This revision petition is directed against the order dated 2.2.2013 in S.T.No.203/2012 of the Court of the Judicial First Class Magistrate-IV, Kochi. The revision petitioner was the complainant in S.T.No.203/2012 on the files of the said court. In fact, the complaint was originally filed before the Court of the Chief Judicial Magistrate, Ernakulam and cognizance was taken thereon and it was taken into file and registered as S.T.No.484/2012 Thereafter, it was transferred to court of the Judicial First Class Magistrate-IV, Kochi. Thereupon, it was renumbered as S.T.No.203/2012 on 19.9.2012. The case was taken up on 2.2.2013 on which day the complainant and the counsel were absent. Taking note of the fact that they were absent continuously and the process was not paid, the learned magistrate dismissed the complaint under section 204 (4) of the Code of Criminal Procedure. Consequently, the accused was acquitted. This revision petition is filed against the said order.

2. I have heard the learned counsel for the petitioner, the learned counsel for the first respondent and also the learned Public Prosecutor.

3. Taking note of the rival submissions on 24.3.2015 this Court directed the Registry to get a report regarding the postings from the court of the Judicial First Class Magistrate-IV, Kochi with certain aspects. Pursuant to the same a report has been received from the Court of the Judicial First Class Magistrate-IV, Kochi, which would reveal that on receipt of transfer from the court of the Chief Judicial Magistrate, Ernakulam S.T.No.484/2012 was renumbered as S.T.No. 2013/12 on 19.9.2012. Thereafter, it was published in the notice board and the date for appearance of the parties was shown as 7.11.2012. On 7.11.2012 the complainant was absent. Summons was ordered to the first respondent herein/accused and the case was posted to 19.12.2012. On 19.12.2012 the complainant was absent. No steps were taken. For taking steps time was granted and the case was adjourned to 31.12.2012. On 31.12.2012 the complainant was absent and no steps were taken as ordered. Still, the learned magistrate granted further time to take steps for issuing summons to the accused and the case was adjourned to 7.1.2013.

On 7.1.2013 there was no sitting and consequently, the case was adjourned to 2.2.2013. On 2.2.2013 when the case was taken, neither the complainant nor the counsel present. There was no representation. Evidently, despite the granting of time to take steps even in the absence of the revision petitioner/complainant, no steps were taken by him. In the said circumstances, the learned magistrate dismissed the complaint under section 204(4) Cr.P.C. In the light of the provisions under section 204(4) and in view of the facts obtained in this case it cannot be said that the learned magistrate committed an error in law warranting interference in exercise of the revisional jurisdiction. Though the petitioner was not present the learned magistrate granted time to take steps twice. It is evident that from 7.1.2012 to 2.2.2013 no steps were taken by the revision petitioner/complainant to pay the process, as has been ordered on 7.11.2012. In such circumstances, I do not find any reason to interfere with the order passed by the learned magistrate. In the result, this revision petition is liable to fail and accordingly it is dismissed.

Sd/-

C.T.RAVIKUMAR,JUDGE.

dlk