

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

FRIDAY, THE 7TH DAY OF AUGUST 2015/16TH SRAVANA, 1937

Crl.Rev.Pet.No. 973 of 2015

AGAINST THE JUDGMENT IN CRL.A. NO. 294/2013 of I
ADDITIONAL SESSIONS COURT, KOLLAM DATED 13-02-2015.

AGAINST THE JUDGMENT IN SC 617/2010 of THE ASSISTANT
SESSIONS COURT, KARUNAGAPPALLY DATED 12-09-2013

REVISION PETITIONER/APPELLANT/ACCUSED:

RAJAN, S/O. BHASKARAN,
MEZHUVELITHARA HOUSE,
KADATHUR MURI, THAZHAVA VILLAGE,
KARUNAGAPPALLY, KOLLAM DISTRICT.

BY ADVS.SRI.C.RAJENDRAN
SRI.K.R.RANJITH

RESPONDENT/RESPONDENT/COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM-682 031.

BY PUBLIC PROSECUTORSRI. JUSTINE JACOB

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR
ADMISSION ON 07-08-2015, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING:

K. HARILAL, J.

Crl.R.P. No. 973 of 2015

Dated this the 7th day of August, 2015

ORDER

The revision petitioner is the appellant in Crl. Appeal No.294 of 2013 on the files of the I Additional Sessions Court, Kollam. The above appeal was filed challenging the findings of conviction and sentence imposed on the revision petitioner for the commission of the offence under Sec.138 of the Negotiable Instruments Act. Now, the appeal stands dismissed on the ground that neither the revision petitioner nor his counsel was present before the court when the appeal was taken up for hearing. It is also stated that the revision petitioner has been consecutively absent. The legality and propriety of the dismissal of the appeal on the above ground is under challenge in this revision petition.

2. Heard the learned counsel for the revision

petitioner.

3. The dismissal of the appeal, without considering merits, in the absence of the appellant or the counsel is improper, in view of the decision reported in *Panduranga v. State of Karnataka* [2013 (1) KLT 874 (SC)]. Therefore, in the absence of the counsel, the appeal should have been disposed of on merits only.

4. In the above view of the matter, the impugned order is set aside and the matter is remitted to the appellate court for fresh consideration on merits, after affording an opportunity of being heard to the revision petitioner. It is made clear that if the revision petitioner again fails to appear before the court on the date of hearing, without reasonable cause, to the satisfaction of the appellate court, the appeal can be disposed of on merits.

This revision petition is allowed.

Sd/-

(K. HARILAL, JUDGE)

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P.S. to Judge