

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.D.RAJAN

THURSDAY, THE 15TH DAY OF OCTOBER 2015/23RD ASWINA, 1937

Crl.Rev.Pet.No. 4351 of 2007 ()

**CMP 5701/2006 of CHIEF JUDICIAL MAGISTRATE COURT, KOLLAM
DATED 26-07-2007**

REVISION PETITIONER(S)/COMPLAINANT :

**RAJAN, S/O.NARAYANAN,
AGED 60 YEARS, VASANTHI MANDIRAM, THEKKEVILA CHERRY
MUNDAKKAL VILLAGE, VADAKKEVILA PO, KOLLAM TALUK.**

**BY ADVS.SRI.K.S.MANU (PUNUKKONNOOR)
SRI.P.SREEKUMAR**

RESPONDENT(S)/ACCUSED :

- 1. STATE OF KERALA, REP. BY THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.**
- 2. AMEER SETT, PROPRIETOR,
A.S.MOTORS, TRIVANDRUM ROAD, KOTTIYAM P.O.
KOLLAM.**

R1 BY PUBLIC PROSECUTOR SRI.DHANESH MATHEW MANJOORAN

**THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON
15-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

VS

P.D.RAJAN, J.

Crl.R.P.No.4351 of 2007

Dated this the 15th day of October, 2015

ORDER

Revision petitioner is the complainant in C.M.P.No.5701/2006 on the files of Chief Judicial Magistrate Court, Kollam, challenged the order of dismissal under Section 203 of the Code of Criminal Procedure. He filed the above complaint against the accused alleging offences punishable under Section 138 of the Negotiable Instruments Act (hereinafter called 'the Act' for short) and Section 420 of the Indian Penal Code.

2. The complainant's case is that the accused borrowed a sum of Rs.1,642/- from him and in discharge of that debt, he issued a cheque dated 11.10.2006. When the cheque was presented for encashment, it was dishonoured for the reason 'funds insufficient'. The complainant sent a lawyer's notice to the accused, informing about the dishonour of the cheque and

demanded the amount. Accused, after receipt of notice, did not repay the amount. In that circumstances, the complainant filed a complaint in the court below. The learned Magistrate recorded the sworn statement of the complainant and examined one witness.

3. In the complaint, it is stated that the amount was borrowed on 11.09.2006. But in the statement, he deposed that the amount was borrowed on 11.10.2006. But before that he had a case that the amount was borrowed on 09.10.2006. The witness also stated that the transaction was on 11.10.2006. When inconsistent and contradictory statements were stated by the complainant and the witnesses, the trial court was of the view that prima facie case is not made out and the complaint was dismissed under Section 203 of the Code of Criminal Procedure(hereinafter called 'the Code' for short).

4. Section 203 of the Code reads as follows :

“Dismissal of complaint - If, after considering the statements on oath (if any) of the complainant and of the witnesses and the result of the inquiry or investigation (if any) under section 202, the Magistrate is of opinion that there is no sufficient

ground for proceeding, he shall dismiss the complaint, and in every such case he shall briefly record his reasons for so doing."

5. Therefore in this case, the learned Magistrate had considered the statements of the witnesses and the complainant under Section 203 of the Code, the Magistrate was of the opinion that there is no sufficient ground to proceed and he dismissed the complaint. When he dismiss the complaint and in every case he shall briefly record his reasons for so doing. This position was explained by the Apex Court in ***Manharidhai Muljibhai Kakadia v. Shaileshbhai Mohanbhai Patel*** reported in 2012 (10) SCC 517. I found no illegality in the order passed by the learned Magistrate and there is no merit in the petition.

Therefore, this revision petition is dismissed accordingly.

Sd/-
P.D.RAJAN
JUDGE

VS