

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

THURSDAY, THE 29TH DAY OF OCTOBER 2015/7TH KARTHIKA, 1937

Crl.Rev.Pet.No. 1378 of 2015 ()

CC 4924/2010 of J.F.C.M - VI, ERNAKULAM

REVISION PETITIONER/PETITIONER/COMPLAINANT:

LEENA CHACKO,
W/O CHACKO, CHAKKALPARAMBIL HOUSE, PUTHIYA ROAD
KALOOR, COCHIN-17
RESIDING AT PALATHARA HOUSE N.A.NAGAR, AZAD ROAD
COCHIN-17.

BY ADVS.SRI.ALEXANDER GEORGE
SMT.CHITHRA R.SHENOY

RESPONDENT/ACCUSED/STATE:

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1. GEORGE N.J.,
NJARACKAL HOUSE, PULLIKILLAM ROAD, CHEMPUMUKKU
KAKKANAD, ERNAKULAM DISTRICT-682030.
 2. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.

R1 BY ADV. SRI.P.T.JOSE
R2 BY PUBLIC PROSECUTOR, SHRI.R.GITHESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON
29-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P. No.1378 of 2015

Dated this the 29th day of October 2015

O R D E R

The revision petitioner is the complainant in C.C.No.4924 of 2010 on the files of the Court of the Judicial Magistrate of First Class-VI, Ernakulam, who in this revision petition challenges the order passed by the court below dismissing the complaint under Section 204 (4) Cr.P.C.

2. Heard the learned counsel for the revision petitioner, the learned counsel for the first respondent and the learned Public Prosecutor.

3. The revision petitioner filed a complaint against the

the first respondent herein, alleging the offence under Section 138 of the N.I.Act. The accused appeared before the Court on 6.11.2012 in response to the process issued from the Court. Thereafter, the case was posted to 24.10.2013, after several postings. On that day, the revision petitioner was present. The revision petitioner filed proof affidavit. The documents were also produced by the revision petitioner. However, the case was adjourned to 29.10.2013 for cross-examination of the revision petitioner. On 29.10.2013, the accused filed fresh vakalath. He was not ready to cross-examine the complainant on that day. Therefore, the case was adjourned to 19.11.2013 on payment of cost. On that day, the cost was not paid. Therefore, the case was adjourned to 26.11.2013. On that day, the counsel for the accused

reported no instructions. The complainant had taken steps. Therefore, non-bailable warrant was issued against the accused. Finally, on 16.5.2014, the court below ordered to issue steps under Sections 82 and 83 of the Code and adjourned the case to 17.5.2014. On that day, the case was adjourned to 20.5.2014. On 20.5.2014, the complaint was dismissed by the court below under Section 204(4) of the Code, as the revision petitioner did not take steps as directed by the court.

4. It is borne out from the proceedings sheet of the court below that the revision petitioner was directed to take steps under Sections 82 and 83 of the Code due to the absence of the accused after the appearance of the accused before the court in response to the summons. Therefore, the order impugned cannot be legal and correct in view of

the decision of this Court **Ayodya Printers Ltd. v. State of Kerala** [2015(4) KLT 251] and consequently, the order impugned cannot be sustained.

In the result, this revision petition stands allowed setting aside the order impugned and the matter is remitted to the court below, for proceeding with the complaint afresh in accordance with law. The proceedings of the court below shall stand relegated to the stage prior to the dismissal of the complaint on 20.5.2014. The parties are directed to appear before the court below on 20.11.2015.

sd/

**B.SUDHEENDRA KUMAR,
JUDGE**

dl

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PA to Judge