

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

MONDAY, THE 16TH DAY OF NOVEMBER 2015/25TH KARTHIKA, 1937

Crl.Rev.Pet.No. 1469 of 2015 ()

AGAINST THE ORDER DATED 11-12-2014 IN CC 925/2014 of
C.J.M., KASARAGOD

REVISION PETITIONER(S)/COMPLAINANT:

MOHAMMED SAFAL MEETHAL,
AGED 29 YEARS, S/O.MOHAMMED MEETHAL
RESIDING AT SAFAL MANZIL-MUNDOL HOUSE, THEKKIL POST
CHENGALA (VIA) KASARAGOD.

BY ADVS.SMT.HEMALATHA
SRI.BINU GEORGE

RESPONDENT(S)/RESPONDENTS:

1. ABDUL RAHIMAN
AGED 42 YEARS, NIMMI NIVAS, NEAR KSEB OFFICE
PATHODI ROAD UPPALA P.O, MAJAALA, KASARAGOD 671 315.

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

R1 BY ADV. SRI.T.MADHU
R2 BY PUBLIC PROSECUTOR SRI. V.S. SREEJITH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY
HEARD ON 16-11-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

B. SUDHEENDRA KUMAR, J.

.....
Crl.R.P. No. 1469 of 2015
.....

Dated this the 16th day of November, 2015

ORDER

The revision petitioner is the complainant in C.C. 925 of 2014 on the files of the Court of the Chief Judicial Magistrate, Kasaragod, 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 both sides.

3. C.C. No. 925 of 2014 was a complaint filed by the revision petitioner against the first respondent herein alleging offence under Section 138 of the N.I.Act. It appears from the proceedings of the court below that after taking cognizance of the offence under Section 138 of the N.I.Act, the court ordered to issue process against the accused and posted the case to 11-12-2014. On that day, the revision petitioner was absent. No stamp was also produced to issue process to the accused. In the said circumstances, the court below dismissed the complaint as stated above.

4. Having gone through the order impugned, I am of the considered view that the Court below should not have axed down the complaint at the threshold on 11-12-2014, which was the first day of posting of the case after ordering process against the accused. Therefore, it is only just and proper to grant one more opportunity to the complainant to contest the matter on merits. For the said reason, I am inclined to set aside the order impugned.

5. In the result, this revision petition stands allowed, setting aside the order impugned and the matter is remitted to the court below for fresh consideration of the complaint in accordance with law. The proceedings of the court below shall stand relegated to the stage prior to the dismissal of the complaint on 11-12-2014.

Both parties shall appear before the court below on 10-12-2015 without further notice.

Sd/-B. SUDHEENDRA KUMAR,
JUDGE.

Ani/19-11

/truecopy/

P.S. To Judge

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