

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

MONDAY, THE 30TH DAY OF NOVEMBER 2015/9TH AGRAHAYANA, 1937

Crl.Rev.Pet.No. 1549 of 2015 ()

(AGAINST THE ORDER IN CMP 155/2015 of JUDICIAL FIRST CLASS MAGISTRATE
COURT, KALADY)

REVISION PETITIONER/ACCUSED:

BIJU JOSEPH, MANAGER (MARKETING)
M/S.TRANS ASIA SHIPPING SERVICES PVT. LTD.
REG.OFFICE AT TRANS ASIA CORPORATE PARK, SEA PORT
AIRPORT ROAD, KAKKANAD
HAVING BRANCH OFFICE AT BBTCL BUILDING
SUBRAMANIAN ROAD, W/ISLAND, COCHIN-3.

BY ADV. SRI.G.KRISHNAKUMAR

RESPONDENTS/COMPLAINANT AND STATE:

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1. M/S.ARROW GRANITES
M.C.ROAD, PULLUVAZHY, PERUMBAVOOR
REPRESENTED BY ITS PROPRIETOR SAYIN SEBASTIAN.
 2. SAYIN SEBASTIAN
PROPRIETOR, M/S.ARROW GRANITES, M.C.ROAD
PULLUVAZHY, PERUMBAVOOR.
 3. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA ERNAKULAM.

R1&2 BY ADV. SRI.A.T.ANILKUMAR
R1&2 BY ADV. SMT.V.SHYLAJA
R3 BY PUBLIC PROSECUTOR, SHRI.V.S.SREEJITH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 30-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P. No.1549 of 2015

Dated this the 30th day of November 2015

ORDER

The revision petitioner is the petitioner in C.M.P. No.155 of 2015 on the files of the Court of the Judicial Magistrate of First Class, Kalady.

2. The revision petitioner filed a complaint before the court below under Section 138 of the Negotiable Instruments Act against respondent Nos.1 and 2 herein. Along with the said complaint, the revision petitioner filed C.M.P.No.155 of 2015 before the court below praying for condoning the delay of 127 days in filing the same. The court below granted sufficient adjournments. However, there was no representation for the revision petitioner

before the court below on any of the said dates. In the said circumstances, the court below, on 22.4.2015, passed the order impugned on merits dismissing C.M.P. No.155 of 2015. Consequent upon the dismissal of the delay petition, the court below dismissed the complaint also. Aggrieved by the said dismissal of C.M.P. No.155 of 2015, this revision petition has been filed.

3. Heard.

4. It has been submitted by the learned counsel for the revision petitioner that the counsel was practising in Perumbavoor and hence, he was not able to reach the court on time to argue the matter on 22.4.2015. The learned counsel has prayed for granting one more opportunity to the revision petitioner to contest the matter on merits. In view of the above submission, I am of the view that one

more opportunity can be granted to the revision petitioner to contest the matter on merits. That apart, it is settled law that the Court should not dispose of criminal cases without hearing the parties or the counsel. For the said reasons, I am inclined to set aside the order impugned.

In the result, the revision petition stands allowed, setting aside the order impugned and the matter is remitted to the court below for fresh disposal of C.M.P. No.155 of 2015 in accordance with law, after hearing the learned counsel for the revision petitioner or the *amicus curiae*, as the case may be.

The parties shall appear before the court below on 22-12-2015, without further notice.

SD/-
B.SUDHEENDRA KUMAR,
JUDGE

dl/30.11.2015

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PA to Judge