

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

THURSDAY, THE 8TH DAY OF OCTOBER 2015/16TH ASWINA, 1937

Crl.Rev.Pet.No. 2171 of 2014 ()

CMP NO.3583/2012 IN CMP NO.2988/2012 OF THE ADDITIONAL CHIEF JUDICIAL
MAGISTRATE, THIRUVANANTHAPURAM DATED 30.08.2014

REVISION PETITIONER/COMPLAINANT:

P.K.SEETHALAXMI,
D/O.KAMALAKSHY, TC 36/248, SEETHABHIRAMAM HOUSE
VIVEKANANDA LANE, DRAINAGE ROAD, VALLAKKADAVU
ENCHAKKAL, THIRUVANANTHAPURAM.

BY ADVS.SRI.S.NARAYANAN NAIR
SRI.K.PUSHPARAJAN ACHARY

RESPONDENTS/ACCUSED:

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1. K.SATHEESH KRISHNA,
S/O.SARALA, PADMAM, ANA 20
PONGUMODU, MEDICAL COLLEGE, THIRUVANANTHAPURAM
PIN - 695 011, (HAWILDAR NO.8982, HQ COMPANY
SAP CAMP, PEROORKADA, THIRUVANANTHAPURAM) .
 2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

R1 BY ADV. SRI.D.AJITHKUMAR
R BY PUBLIC PROSECUTOR SRI. V.S.SREEJITH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 08-10-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

SCL.

B. SUDHEENDRA KUMAR, J.

Crl. R.P. No.2171 of 2014

Dated this the 8th day of October, 2015.

ORDER

The revision petitioner is the petitioner in C.M.P.No.2988 of 2012 and C.M.P.No.3583 of 2012 on the files of the Court of the Additional Chief Judicial Magistrate, Thiruvananthapuram.

2. The revision petitioner filed a complaint against the first respondent herein before the court below alleging offence under Section 138 of the Negotiable Instruments Act. Along with the said complaint, the revision petitioner filed C.M.P.No.3583 of 2012 praying for condoning the delay of 22 days in filing the complaint. The court below dismissed C.M.P.No.3583 of 2012 and as a consequence, dismissed the complaint as well. Aggrieved by the said order, this revision petition has been filed.

3. Heard both sides.

4. It is contended by the revision petitioner that the delay of 22 days occurred in filing the complaint on account of

the reason that the revision petitioner was laid up due to arthritis.

4. The first respondent herein appeared before the court below and filed objection contending that the revision petitioner was not suffering from any arthritis as contended by the revision petitioner.

5. The court below after considering the rival contentions, dismissed C.M.P.No.3583 of 2012 stating that the revision petitioner did not produce any medical certificate or any other document to show that she was actually suffering from any illness. The revision petitioner has produced the medical certificate before this Court showing that the revision petitioner was laid up due to arthritis.

6. Having heard both sides and perused the medical certificate, I am of the view that it is only just and proper to condone the delay of 22 days in filing the complaint. Since reason has been shown by the revision petitioner, it is only just and proper to grant an opportunity to the revision

petitioner to contest the matter on merits. For the above said reason, I am inclined to allow C.M.P.No.3583 of 2012. Accordingly, C.M.P.No.3583 of 2012 stands allowed, condoning the delay in filing the complaint namely CMP No.2988 of 2012.

In the result, this revision petition stands allowed, setting aside the orders passed by the court below in C.M.P.No.2988 of 2012 and C.M.P.No.3583 of 2012. C.M.P.No.3583 of 2012 stands allowed condoning the delay of 22 days in filing C.M.P.No.2988 of 2012 and C.M.P.No.2988 of 2012 stands restored and the matter is remitted to the court below to proceed with C.M.P No.2988 of 2012 in accordance with law. The proceedings of the court below shall stand relegated to the stage prior to the dismissal of the complaint on 30.8.2014.

The parties shall appear before the court below on 2.11.2015.

**Sd/-
B. SUDHEENDRA KUMAR
JUDGE**

Scl.

True Copy

PA to Judge