

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 4TH DAY OF MARCH 2015/13TH PHALGUNA, 1936

OP(Crl.).No. 67 of 2015 (Q)

IN CC 5185/2010 of J.M.F.C. - IV, ERNAKULAM

PETITIONER(S):

**M.C.GEROGGE AGED 54 YEARS
SON OF MR.CHACKO, VACHANAM HOUSE, EROOR P.O.
TRIPUNITHURA, ERNAKULAM DISTRICT, PIN: 682 306.**

**BY ADVS.SRI.SHAJI CHIRAYATH
SMT.JIJI M. VARKEY
SRI.M.M.SHAJAHAN**

RESPONDENT(S):

- 1. STATE OF KERALA
REPRESENTED BY THE DIRECTOR GENERAL OF PROSECUTIONS
HIGH COURT OF KERALA, ERNAKULAM DITRICT.**
- 2. K.T.NADESAN, SON OF MR.THAYIKKUTTY,
ARIPARAYIL HOUSE, MARADU P.O., ERNAKULAM DISTRICT
PIN: 682 306.**

R1 BY GOVERNMENT PLEADER SMT. P. MAYA

**THIS OP (CRIMINAL) HAVING COME UP FOR ADMISSION ON 04-03-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: THE COPY OF THE JUDGMENT OF CONVICTION AND SENTENCE PASSED BY THE JUDICIAL FIRST CLASS MAGISTRATE COURT (IV), ERNAKULAM IN CALENDAR CASE NO.5185/2010.**
- P2: THE COPY OF THE CHEQUE NO.809297 RELIED IN EXT.P1 JUDGMENT**
- P3: THE COPY OF THE MEMORANDUM OF CRIMINAL APPEAL AGAINST EXT.P1 JUDGMENT**
- P4: THE TRUE COPY OF THE CRIMINAL MISCELLANEOUS PETITION NO.103 OF 2015 FOR CONDONATION OF DELAY IN FILING EXHIBIT P2 APPEAL.**
- P45: THE TRUE COPY OF THE CRIMINAL MISCELLANEOUS PETITION NO.104/2015 FOR SUSPENSION OF SENTENCE**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

PA TO JUDGE
sab

P.UBAID, J.

O.P(Crl.) No. 67 of 2015

Dated this the 4th day of March, 2015.

J U D G M E N T

The petitioner herein stands convicted and sentenced under Section 138 of the Negotiable Instruments Act by the Judicial First Class Magistrate Court -IV, Ernakulam. Aggrieved by the conviction and sentence the petitioner preferred appeal before the Court of Session as Crl. Appeal No. 24 of 2015. As the appeal was delayed, he filed an application to condone the delay as Crl.M.P 103 of 2015. Another application filed by the petitioner to suspend the sentence (C.M.P No.104 of 2015) is also pending. On the apprehension of arrest in execution of the sentence, the petitioner brought this petition for a direction to the appellate court to hear and dispose of the application to condone delay, and also the application to suspend sentence, within a time frame fixed by the court. There is report by the learned Sessions Judge that the application to condone delay now stands posted to 11.3.2015 for hearing. Appeal can be admitted and suspension

of sentence can be ordered only if delay in filing the appeal is condoned. The report shows that the respondent has received notice in the proceeding, and that the application to condone delay can be heard and decided within a short period. If a decision is not taken at the earliest on the application to condone delay, it will cause hardship to the petitioner who apprehends arrest in execution of the sentence. So it is appropriate that the application to condone delay be decided by the learned Sessions Judge by 30.4.2015. Till then execution of the warrant of arrest will stand suspended.

In the result, this original petition is disposed of with a direction to the appellate court to hear and dispose of the petitioner's applications in Crl.Appeal No. 24 of 2015 by 30.4.2015. Till then execution of the warrant of arrest will stand suspended.

P.UBAID,
JUDGE