

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 3RD DAY OF NOVEMBER 2015/12TH KARTHIKA, 1937

OP(Crl.).No. 187 of 2015 (Q)

CC. NO.69/2014 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-III, NEDUMANGAD.

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PETITIONER/ACCUSED:-:

**SAJINI NAJEEB,
W/O.NAJEEB, SAJINI MANZIL, VETTU ROAD,
KAZHAKKOOTTAM P.O., THIRUVANANTHAPURAM.**

BY ADV. SRI.LIJU. M.P.

RESPONDENT/COMPLAINANT:-:

**1. A. SURENDRAN NAIR,
S/O.KRISHNA PILLAI, AMAL BHAVAN, MANCHADI,
PANAYAMUTTOM P.O., NEDUMANGAD,
THIRUVANANTHAPURAM - 695 561.**

*** ADDL. R2 IMPEADED**

**2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

*** ADDL. 2ND RESPONDENT IMPEADED AS PER ORDER
DATED 16/09/2015 IN I.A. NO.13340/2015.**

ADDL. R2 BY PUBLIC PROSECUTOR SMT.P. MAYA.

**THIS OP (CRIMINAL) HAVING COME UP FOR ADMISSION
ON 03-11-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

OP(Crl.).No. 187 of 2015 (Q)

APPENDIX

PETITIONER'S EXHIBITS:-

**EXHIBIT P1. TRUE COPY OF THE COMPLAINT IN CC NO.69/2014 ON THE
FILE OF JUDICIAL FIRST CLASS MAGISTRATE COURT-III,
NEDUMANGAD.**

**EXHIBIT P2. TRUE COPY OF THE DECREE/HOLDER OF THE LOK ADALAT
DATED 06.12.2014.**

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

B.KEMAL PASHA, J.

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O.P.(Crl.) No. 187 of 2015

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Dated this the 3rd day of November, 2015

JUDGMENT

The petitioner is the accused in C.C.No.69/2014 of the Judicial First Class Magistrate's Court-III, Nedumangad, for the offence under Section 138 of the Negotiable Instruments Act. The matter was referred to the Lok Adalath. The Lok Adalath passed Ext.P2 award.

2. As per Ext.P2 award, the petitioner was directed to pay an amount of ₹50,000/- on or before 31.03.2015, ₹ 50,000/- on or before 10.06.2015, ₹50,000/- on or before 20.08.2015 and ₹60,000/- on or before 20.10.2015. It was further ordered "if the accused failed to pay any of the installments, the complainant can proceed with the case for the whole amount covered by the cheque". In this case, 'fortunately', the petitioner has not paid even a single instalment.

3. The learned counsel for the petitioner has pointed out that it is an award that has to be executed as if it is a decree and therefore, the court below cannot proceed with the complaint. A further argument forwarded is that if any amount was paid, the court below could not have proceeded with for an offence under Section 138 of the N.I.Act. That is why, this Court has stated earlier that 'fortunately', no amount has been paid. The other one is only a hypothetical situation that has been pointed out by the learned counsel for the petitioner. When no amount has been paid, it seems that the said conditional award has failed. The matter has to be proceeded with by the court below.

In the result, this Original Petition (Crl.) is dismissed. In case of surrender of the petitioner before the court below within ten days from today, the court below shall dispose of the application seeking bail on the date of filing itself.

Sd/-
B.KEMAL PASHA, JUDGE

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