
(2011) 05 KL CK 0124
In the High Court Of Kerala
Case No : Criminal M.C. No. 1457 of 2011

K. Sivarajan

APPELLANT

Vs

Thangal Kunju and State of Kerala

RESPONDENT

Date of Decision : 23-05-2011

Acts Referred:

Negotiable Instruments Act, 1881 (NI) — Section 138

Citation : (2011) 05 KL CK 0124

Hon'ble Judges : Thomas P. Joseph, J

Bench : Single Bench

Advocate : K. Siju, for the Appellant; No Appearance, for the Respondent

Judgement

Thomas P. Joseph, J.—Heard counsel for Petitioner, first Respondent and learned Public Prosecution who took notice for the second Respondent.

2. Petitioner suffered conviction and sentence u/s 138 of the Negotiable Instruments Act. He was sentenced to undergo simple imprisonment till rising of the court and payment of compensation of Rs. 50,000/- to the first Respondent. Criminal Appeal No. 718 of 2007 filed by the Petitioner was dismissed by the learned Sessions Judge, Kollam. Thereon Petitioner filed Crl. R.P. No. 3081 of 2009 in this Court. This Court did not interfere with the conviction and sentence but granted Petitioner six months' time to deposit the compensation in the trial court on condition of Petitioner executing bond for Rs. 10,000/-. Petitioner says that he has paid compensation to the first Respondent directly within the time granted by this Court. Petitioner filed C.M.P. No. 7 of 2011 (in S.T. No. 78 of 2007) to drop coercive steps against him in view of the said payment. That petition was dismissed by the learned Magistrate as per Annexure-4, order for the reason that this Court directed deposit of the amount in court. Learned Counsel submitted that payment made to the first Respondent may be treated as sufficient compliance with the direction in Crl.R.P. No. 3081 of 2009. Learned Counsel for first Respondent confirmed receipt of the amount within the prescribed time.

3. It is true that this Court in Annexure-1, order granted Petitioner six months" time to deposit the amount in the trial court on condition that he shall execute bond for Rs. 10,000/- and in spite of such direction Petitioner has paid compensation to the first Respondent directly. Learned Magistrate cannot be faulted with for passing Annexure-4, order since direction issued by this Court was to deposit the amount in court. In the light of the decision in Beena Vs. The Union of India (UOI) and The Central Bank of India, payment made to the first Respondent can be treated as sufficient compliance with the direction in Crl. R.P. No. 3081 of 2009.

Resultantly, this Criminal Miscellaneous Case is allowed. Annexure-4, order is set aside. C.M.P. No. 7 of 2011 is allowed subject to the following conditions:

(i) Petitioner shall appear in the trial court on 06.06.2011 to receive the sentence of imprisonment till rising of the court.

(ii) In case first Respondent filed a statement through his counsel in the trial court on 06.06.2011 or any day prior to that date acknowledging receipt of compensation learned Magistrate shall accept the same as sufficient compliance with the direction for deposit of the amount in the order in Crl. R.P. No. 3081 of 2009 and on such statement being filed learned Magistrate shall make necessary entries in the relevant Registers of that court as directed in paragraph 5 of the decision referred supra.

(iii) Coercive steps if any taken against Petitioner will remain in abeyance until 06.06.2011.