

(2011) 05 KL CK 0125
In the High Court Of Kerala
Case No : Criminal M.C. No. 1455 of 2011

Muraleedharan Nair

APPELLANT

Vs

State of Kerala and Vijayan Pillai

RESPONDENT

Date of Decision : 23-05-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 357(1)

Citation : (2011) 05 KL CK 0125

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.—Petitioner is accused in C.C. No. 488 of 2000 of the court of learned Judicial First Class Magistrate-II, Kollam. He was convicted and sentenced to undergo simple imprisonment for one year and payment of fine of Rs. 5,000/-. Criminal Appeal No. 70 of 2003 filed by the Petitioner was dismissed by the learned Sessions Judge, Kollam. Thereon he filed CrI. R.P. No. 3282 of 2010 in this Court. This Court while refusing to interfere with the conviction modified the sentence as simple imprisonment till rising of the court, payment of fine of 2,25,000/- to be paid before 18.02.2011 and in default of payment to undergo simple imprisonment for six months. It was also directed that out of the fine if realised, 2,20,000/- shall be to paid to the complainant as compensation u/s 357(1)(b) of the Code of Criminal Procedure. Learned Counsel submitted that Petitioner has paid the amount of compensation to the second Respondent directly. Thereon second Respondent filed a memo to that effect in the trial court. Petitioner filed C.M.P. No. 314 of 2011 to permit him to deposit the balance amount (by way of fine) in the trial court. But that petition was dismissed by the learned Magistrate vide Annexure-3, order. Learned Counsel submitted that though the entire amount was not deposited in court, payment to the second Respondent is sufficient compliance with the order in CrI. R.P. No. 3282 of 2010 and Petitioner may be permitted to deposit the fine amount in the trial court.

Learned Counsel for second Respondent confirmed receipt of Rs. 2,20,000/- within the time directed by this Court in Crl.R.P. No. 3282 of 2010.

2. Since sentence is modified by this Court as one of simple imprisonment till rising of the court and payment of fine with a further direction that a portion of the fine shall be paid to the second Respondent as compensation) Petitioner ought to have deposited the amount in the trial court. But in the light of the decision in Beena Vs. The Union of India (UOI) and The Central Bank of India, payment made to the second Respondent can be treated as sufficient compliance with the direction for payment of compensation in Crl. R.P. No. 3282 of 2010.

Resultantly, this Criminal Miscellaneous Case is allowed. Annexure-3, order dated January 01, 2011 is set aside. C.M.P. No. 314 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 second 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 said amount in the order in Crl. R.P. No. 3282 of 2010 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) Petitioner is permitted to deposit the balance amount 5,000/- by way of fine in the trial court on or before 06.06.2011 failing which he shall undergo default sentence as ordered by this Court in Crl.R.P. No. 3282 of 2010.

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