

(2012) 08 KL CK 0193

In the High Court Of Kerala

Case No : Criminal MC. No. 355 of 2005 in CC. 1081 of 2002

T.P. Abdul Rahim

APPELLANT

Vs

M/s. Nicco Uco Alliance Credit Ltd. and State of Kerala

RESPONDENT

Date of Decision : 06-08-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Negotiable Instruments Act, 1881 (NI) — Section 138

Citation : (2012) 08 KL CK 0193

Hon'ble Judges : P.S. Gopinathan, J

Bench : Single Bench

Advocate : Sunny Mathew, for the Appellant; Lowsy A., Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

P.S. Gopinathan, J.—This is a petition preferred by the accused in C.C. No. 1081 of 2002 on the file of the Chief Judicial Magistrate, Ernakulam. The first respondent herein prosecutes the petitioner alleging offence u/s 138 of the Negotiable Instruments Act. Annexure-A1 is the complaint. The petitioner now seeks to quash Annexure-A1 complaint with a plea that the cheque was issued in connection with the hypothecation of a vehicle and that the vehicle was seized by the first respondent. Other than the oral exercise, there is no material to show that the vehicle was repossessed by the first respondent. This petition was filed as early as on 20.1.2005, no step was taken to serve notice to the first respondent. Irrespective of the various opportunities given to the petitioner, there is no action. In the above circumstance, I have heard the learned counsel appearing for the petitioner and gone through the pleadings in the petition as well as the complaint. As mentioned earlier, there is no bit of document to conclude that the vehicle was repossessed by the first respondent so as to find that there was no existing liability as on the date of issuance of the cheque. Therefore, this petition is devoid of merits. There is nothing to interfere u/s 482 Cr.P.C.

In the above circumstance, this petition is dismissed without prejudice to the defence of the petitioner. The case being a pretty old one the trial court is directed to dispose of the case as expeditiously as possible.