

O.P.Sooppy Vs. State of Kerala

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Court : Kerala

Decided On : Dec-19-2013

Judge : Honourable Mr.Justice Harun-Ul-Rashid

Appellant : O.P.Sooppy

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE HARUN-UL-RASHID THURSDAY, THE19H DAY OF DECEMBER201328TH AGRAHAYANA, 1935 CrI.MC.No. 6404 of 2013 ()
----- AGAINST THE

ORDER

IN CC31995 of JUDICIAL FIRST CLASS MAGISTRATE COURT, NADAPURAM
----- PETITIONER(S)/ACCUSED: ----- O.P.SOOPY,
S/O AMMAD, MARAKKIZHANGIL P.O., VANIMEL, NADAPURAM, KOZHIKODE.
BY ADVS.SRI.K.RAKESH ROSHAN SMT.THUSHARA.V
RESPONDENT(S)/STATE/COMPLAINANT:

----- STATE OF KERALA, REPRESENTED
BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM -
682 031. BY PUBLIC PROSECUTOR SMT.S.HYMA THIS CRIMINAL MISC.
CASE HAVING COME UP FOR ADMISSION ON1912-2013, THE COURT ON
THE SAME DAY PASSED THE FOLLOWING: PJ CrI.MC.No. 6404 of 2013 ()

----- APPENDIX PETITIONERS' ANNEXURES

----- ANNEXURE I: COPY OF THE

JUDGMENT

DATED 29/6/1998 IN C.C.NO.3/95 ON THE FILE OF J F C M, NADAPURAM.
ANNEXURE II: COPY OF THE

ORDER

DATED 11/2/2002 IN CRL.MP.NO.845/2002. ANNEXURE III: COPY OF THE
CERTIFICATE ISSUED BY THE SUPERINTENDENT CENTRAL PRISON
KANNUR DATED 8/8/2002 ANNEXURE IV: RECEIPT ISSUED OFFICE OF THE
JFCM, NADAPURAM FOR REMITTANCE OF RS.25,000/- ON 30/7/2002.
ANNEXURE V: COPY OF THE

JUDGMENT

DATED 19/7/2011 IN CRL.RP.NO.142/2002. RESPONDENTS' ANNEXURE
----- NIL. / TRUE COPY / P.S. TO JUDGE PJ HARUN-
UL-RASHID, J.

----- CRL.M.C. NO. 6404 OF 2013----- DATED THIS
THE 19TH DECEMBER, 2013

ORDER

Petitioner is the accused in C.C.No.3/1995 on the file of the Judicial First Class Magistrate Court, Nadapuram. The offence alleged is punishable under Section 138 of the Negotiable Instruments Act. The court below, after trial, held that petitioner is guilty under Section 138 of the Negotiable Instruments Act and he was convicted and sentenced to undergo simple imprisonment for six months and to pay compensation of `25,000/-, in default, to undergo simple imprisonment for another three months. The judgment is dated 29/6/1998. The appeal preferred by the petitioner as Crl.A.No.233/1998 was dismissed confirming the conviction and sentence. Petitioner preferred Crl.R.P.No.142/2002 before this Court. This court passed an order dated 11/2/2002 in Crl.M.P.No.845/2002 suspending the sentence of imprisonment on condition that the petitioner shall deposit an amount

of `50,000/- apart from executing a bond for `25,000/- with two solvent sureties for the like amount. It is submitted that the petitioner could not deposit the amount of `50,000/- and as directed by this Court and as a result the condition imposed by the court could not be complied with. Consequent to the non-compliance of the condition imposed in the order dated 11/2/2002, copy marked as Annexure-II. The trial court issued conviction warrant and the petitioner had surrendered before the learned Magistrate and he was sent to Central Prison, Kannur to undergo the sentence of simple imprisonment for six months. After undergoing imprisonment, the petitioner was released on 8/8/2002. In the certificate issued by the Superintendent, Central Prison, Kannur dated 8/8/2002 certifying that the petitioner had undergone simple imprisonment for six months and remitted `25,000/- as compensation in C.C.No.3/1995 on the file of the Judicial First Class Magistrate Court, Nadapuram. Copy of the receipt issued is produced as Annexure-IV. The fact that the petitioner had undergone sentence of imprisonment was not brought to the notice of this Court in CrI.R.P.No.142/2002. This Court without noticing the said fact disposed of the CrI.R.P.confirmitg the finding of conviction and modified the sentence of imprisonment till the raising of the court and a fine of `4,00,000/-, in default, to undergo simple imprisonment for six months. The petitioner had undergone the sentence of simple imprisonment for six months and payed an amount of `25,000/- as compensation as ordered by the learned Magistrate. Since the petitioner had undergone the punishment and complied with the direction to deposit the amount imposed, the modifid order passed in CrI.R.:P.No.142/2002, copy marked as Annexure-V has become infructuous. It is declared that the sentence of conviction undergone by the petitioner as certified in Annexure-III certificate and payment made as per Annexure-IV reeceipt are sufficient compliance of the punishment imposed by the order in C.C.No.34/1995 on the file of the Judicial First Class Magistrate Court, Nadapuram. HARUN-UL-RASHID, JUDGE. kcv.