

**K.J.Xavier vs E.V.Thomas**

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**SooperKanoon Citation :** [sooperkanoon.com/1288484](https://sooperkanoon.com/1288484)

**Court :** Kerala

**Decided On :** Jan-12-2024

**Judge :** Honourable Mr.Justice P.G. Ajithkumar

**Appeal No. :** CRL.A/448/2006

**Appellant :** K.J.Xavier

**Respondent :** E.V.Thomas

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR  
FRIDAY, THE 12TH DAY OF JANUARY 2024 / 22ND POUSHA, 1945  
CRL.A NO. 448 OF 2006 AGAINST THE JUDGMENT DATED  
06.10.2005 IN CC 1573/2000 OF JUDICIAL MAGISTRATE OF FIRST  
CLASS-I, ERNAKULAM APPELLANT: K.J.XAVIER,  
KANIYAKKODATHU HOUSE, SANKARANANDASHRAMAM ROAD,  
AYYAPPANKAVU ROAD,, KOCHI 682 018. BY ADV SRI.ALEXANDER  
PETER RESPONDENTS: 1 E.V.THOMAS PROPRIETOR, C FINES  
AND SUIT MAKERS, OPP.VARKEY BAKERY, NEAR SEEMATY,  
M.G.ROAD, ERNAKULAM, RESIDING AT KITHALAPARAMBU,  
PARAMBITHARA ROAD, KOCHI -15. 2 STATE OF KERALA,

REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM. BY ADVS. PUBLIC PROSECUTOR-SEENA C. S.NIRMAL KUMAR THIS CRIMINAL APPEAL HAVING COME UP FOR ADMISSION ON 12.01.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: Crl. Appeal No.448 of 2006

## **JUDGMENT**

Dated this the 12th day of January, 2024

This is an appeal filed under Section 378(4) of the Code of Criminal Procedure, 1973. The 1st respondent is the accused in C.C. No.1573/2000. He was acquitted by the Judicial Magistrate of the First Class-I, Ernakulam of the offence under Section 138 of the Negotiable Instruments Act, 1881. The learned Amicus Curiae appearing for the appellant/complainant would submit that the 1st respondent expired. That fact is affirmed by the learned Public Prosecutor also. Since, the 1st respondent/accused expired and the appeal is one filed one under Section 378 of the Code, the appeal is abated as provided under Section 394 of the Code. Hence, this appeal is dismissed as abated.

Sd/- P.G.AJITHKUMAR JUDGE SMF

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