

Sajitha Shivadas vs State of Kerala

Sajitha Shivadas vs State of Kerala

SooperKanoon Citation : sooperkanoon.com/1323567

Court : Kerala

Decided On : Jul-31-2024

Judge : Honourable Mr. Justice Bechu Kurian Thomas

Appeal No. : Crl.MC/3531/2024

Appellant : Sajitha Shivadas

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS WEDNESDAY, THE 31ST DAY OF JULY 2024 / 9TH SRAVANA, 1946 CRL.MC NO. 3531 OF 2024 AGAINST THE ORDER DATED 27.09.2022 IN CRL.M.P.NO.3035/2022 IN CL.A.NO.204/2022 OF THE SESSIONS COURT, THRISSUR (CC NO.2119 OF 2014 OF JUDICIAL MAGISTRATE OF FIRST CLASS -III, THRISSUR) PETITIONERS/PETITIONER IN CRL.M.P.3035/2022 IN CRL.A.NO.204/2022/ACCUSE IN C.C.NO.2119/2014: SAJITHA SHIVADAS AGED 48 YEARS W/O. SHIVADAS CHULLIPARAMBIL HOUSE, PANTHALUR ROAD, NELLAYI P.O. THRISSUR DIST, PIN - 680305

BY ADVS. FRANKLIN ARACKAL I.J.AUGUSTINE NEETHU SOMAN
RESPONDENTS/CRL.M.P.3035/2022 IN
CRL.A.NO.204/2022/COMPLAINANT IN C.C.NO.2119/2014: 1 STATE
OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH
COURT OF KERALA., PIN - 682031

2 M/S KUTTANELLUR ASHA KURIES (P) LTD. 2) M/S KUTTANELLUR
ASHA KURIES (P) LTD. REP BY MANAGER P UNNIKRISHNAN, S/O.
BHASKARAMENON, PUTHANVEED, VARANTHARAPPILLY,
THRISSUR., PIN - 680001 BY ADVS. LINDONS C.DAVIS
E.U.DHANYA(K/672/2006) N.S.SHAMILA(K/222/2016) CHINJU P.
JOYIES(K/894/2016) OTHER PRESENT: SMT. NIMA JACOB , PUBLIC
PROCSECUTOR THIS CRIMINAL MISC. CASE HAVING COME UP
FOR ADMISSION ON 31.07.2024, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING: -:3:-

BECHU KURIAN THOMAS, J.

----- Dated this the
31st day of July, 2024

ORDER

Petitioner was the accused in C.C.No.2119/2014 on the files of the Judicial First Class Magistrate Court-III, Thrissur. The said proceedings arose under Section 138 of the Negotiable Instruments Act, 1881.

2. Petitioner was convicted and sentenced in the aforementioned

crime, against which an appeal was preferred as Crl.A.No.204/2022 before the Sessions Court, Thrissur. At the time of admission of the appeal, the appellate court suspended the sentence on condition of a deposit of 20% of the fine amount before the trial court. Petitioner failed to deposit the amount as directed within the time limit, and hence, recovery proceedings were initiated. While so, petitioner deposited the said 20% on 15.06.2023 before the Village Officer, Nellore, pursuant

to initiation of recovery proceedings. Since the time limit for the deposit had expired by then, coercive proceedings have been initiated to recover the entire fine amount.

3. After having heard the learned counsel for the petitioner as well as

the learned counsel for the second respondent, I am satisfied that the deposit made by the petitioner was not in accordance with the directions issued by the trial court. However, since petitioner had deposited the -:4:- amount before the Village Officer, I am of the view that a breathing time can be granted to the petitioner to deposit the amount before the trial court as directed in Annexure-A3 order.

4. Therefore, the time limit for depositing the amount as directed in

Annexure-A3 order shall stand extended by 30 days from today. It is clarified that since the petitioner had deposited the amount before the Village Officer as evident from Annexure-A8 pursuant to the recovery proceedings initiated, he will be at liberty to seek refund of the said amount from the Village Officer by initiating appropriate proceedings after the amount of 20% is deposited before the trial court. With the above observations, this criminal miscellaneous case is disposed of. Sd/- BECHU KURIAN THOMAS JUDGE jka/31.07.24. -:5:- APPENDIX OF CRL.MC 3531/2024 PETITIONERS ANNEXURES Annexure A1 A TRUE COPY OF THE SAID JUDGMENT DATED MAGISTRATE OF THE FIRST CLASS NO.III, THRISSUR Annexure A2 . A TRUE COPY OF THE CRL APPEAL NO.204/2022 DATED 22/9/2022 PENDING ON THE FILE OF HON'BLE SESSIONS COURT, THRISSUR Annexure A3 A TRUE COPY OF THE ORDER OF SESSION'S COURT, THRISSUR IN CRL.M.P 3035 /2022 IN CRIMINAL APPEAL NO 204/2022 DATED Annexure A4 A TRUE COPY OF THE CRL.M.P 3070 /2022 IN CRL.M.P 3035 /2022 CRIMINAL APPEAL NO Annexure A5 A TRUE COPY OF THE DEATH CERTIFICATE DATED NADATHARA GRAMA PANCHAYATH Annexure A6 A TRUE COPY OF THE DEATH CERTIFICATE DATED NADATHARA GRAMA PANCHAYATH Annexure A7 A TRUE COPY OF THE WARRANT FOR RECOVERY OF FINE DATED 30/3/2023 ISSUED BY THE JUDICIAL FIRST-CLASS MAGISTRATE NO.III Annexure A8 A TRUE COPY OF THE RECEIPT DATED 15/06/2023

ACKNOWLEDGING THE RECEIPT OF 20% OF THE FINE AMOUNT (RS.73,600/-)ISSUED FROM THE VILLAGE OFFICE, NELLAYI TO THE PETITIONER Annexure A9 A TRUE COPY OF THE WARRANT FOR RECOVERY OF FINE DATED 11/7/2023 ISSUED BY THE JUDICIAL FIRST-CLASS MAGISTRATE NO. III

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com