

K.Sudhakaran, vs Jayakumar, S/O. Chinnu Pillai Nadar,

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Court : Kerala

Decided On : Dec-02-2020

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : CRL.A/1849/2006

Appellant : K.Sudhakaran,

Respondent : Jayakumar, S/O. Chinnu Pillai Nadar,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
WEDNESDAY, THE 02ND DAY OF DECEMBER 2020 / 11TH
AGRAHAYANA, 1942 AGAINST THE ORDER IN CC 220/2005 OF
PRINCIPAL MUNSIF COURT ,NEYYATTINKARA AGAINST THE
ORDER IN CrI.L.P. 459/2006 DATED 12-09-2006 OF HIGH COURT OF
KERALA APPELLANT: K.SUDHAKARAN, KRISHNA, KAKKAMOOLA,,
KALLIYOOR P.O., NEYYATTINKARA. BY ADV. SRI.G.SUDHEER
RESPONDENTS: 1 JAYAKUMAR, S/O. CHINNU PILLAI NADAR,
KARATTUVILA PUTHENVEEDU, UNDOORKONAM,, KANDALA P.O.,
MARANALLOOR VILLAGE. 2 STATE OF KERALA REPRESENTED BY
THE PUBLIC PROSECUTOR,, HIGH COURT OF KERALA,

ERNAKULAM. R1 BY ADV. SRI.S.GOPAKUMARAN NAIR SR. R1 BY ADV. SRI.S.GOWTHAM R2 BY PUBLIC PROSECUTOR SRI.K.B.UDAYAKUMAR, SENIOR PUBLIC PROSECUTOR THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 02.12.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 2nd day of December 2020 This appeal is filed against the order dated 20.04.2006 in C.C.No.220/2005 on the file of the Judicial First Class Magistrate- IV, Neyyattinkara. The trial court acquitted the accused under Section 256 of Cr.P.C. It is a prosecution initiated by the appellant against the 1st respondent alleging offence punishable under Section 138 of the Negotiable Instruments Act.

2. The case of the complainant is that, the accused issued a cheque for Rs.85,000/- and when the cheque was presented it was dishonored. Even after statutory notice the amount is not paid and hence, the complaint is filed.

3. When the complaint was posted on several occasions,

the complainant was absent. Hence, the learned Magistrate acquitted the accused under Section 256 of Cr.P.C. Aggrieved by the same, this criminal appeal is filed.

4. Heard.

5. The learned Counsel for the appellant submitted that one more chance may be given to the appellant for prosecuting the case. The learned Counsel conceded that he was absent

before the lower court when the case was posted. But the learned Counsel submitted that he has got a very good case to prosecute and therefore, he may be given one more chance.

6. After going through the order passed by the learned

Magistrate, I see no reason to interfere with the impugned order, because, the appellant was continuously absent for about six posting dates before the lower court. But, since it is a complaint initiated under Section 138 of Negotiable Instruments Act and the amount involved in this case is Rs.85,000/-. I think one more chance can be given to the appellant. Therefore, this criminal appeal is allowed.

(1) The order dated 20.04.2006 on the file of judicial First Class Magistrate-IV, Neyyattinkara is set aside.

(2) The learned Magistrate is directed to restore C.C. No.220/2005 and proceed with the same in accordance to law.

(3) The appellant/complainant will appear before the learned Magistrate on 28.12.2020.

(4) Since this is a very old matter, the learned

Magistrate will try to dispose the same as expeditiously as possible. I make it clear that, if there is any chance for settlement, that possibility also should be explored by the learned Magistrate. Sd/- P.V.KUNHIKRISHNAN JUDGE AJ

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