

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

FRIDAY, THE 29TH SEPTEMBER 2006 / 7TH ASWINA 1928

CRL.A.No. 692 of 1999(A)

ST.202/1997 of CHIEF JUDICIAL MAGISTRATE, ALAPPUZHA

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APPELLANT:

JOSEPH KUNJAPPAN,
PUTHENPURACKAL HOUSE,
ARATTUVAZHY WARD, ALAPPUZHA.

BY ADV. SRI.R.BINDU (SASTHAMANGALAM)

RESPONDENTS:

K.J.XAVIER @ SUNNICHAN S/O JOB,
KUPPANDISSERIL, WARD NO.VII,
ARYAD PANCHAYATH,
ALAPPUZHA.

STATE OF KERALA, REP BY THE
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERANAKULAM

BY ADV. SRI.S.SANAL KUMAR
PUBLIC PROSECUTOR K.S. SIVAKUMAR

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD
ON 29/09/2006, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

J.M.JAMES, J.

CRL.A.692/1999

DATED THIS THE 29TH DAY OF SEPTEMBER, 2006

JUDGMENT

The complainant, in S.T.No.202/1997 on the file of the Chief Judicial Magistrate Court, Alappuzha, is the appellant. The complaint was preferred under Section 138 of the Negotiable Instruments Act, in short 'the Act'. After considering the evidence adduced by the parties, the learned Magistrate found the accused not guilty and therefore, acquitted him. Hence this appeal.

2. When the matter came up for consideration, the counsel on either side submitted that the case was taken up for Adalath, by the Legal Services Authority and the matter had been settled. However, the order do not specifically state about the amount to be paid. It is further submitted that the amount, due to the complainant, was paid by the accused, through the counsel. But the same had not been received by the complainant.

3. Because of the decree passed in the civil suit,

an execution petition had been preferred and the same is also pending. Counsel on either side therefore, submit that an opportunity may be given to the parties to work out the remedy and compound the matter, as per the Act.

4. In the above facts situation, I set aside the judgment dated 24.7.1999 and restore S.T.No.202/1997 on the file of the Chief Judicial Magistrate Court, Alappuzha.

5. The parties shall appear before the Court below, on 19.10.2006.

6. The learned Magistrate shall give an opportunity to the parties to compound the matter, according to the provisions of the Act. This shall be done at the earliest, in any case, within one month from the date of production/receipt of a copy of this judgment.

7. I make it clear that if the parties fail to compound, as above, the learned Magistrate shall pass appropriate orders, as per law, taking into account the

amount, if any, proved to be paid to the complainant.

The appeal is disposed of as above.

**J.M.JAMES
JUDGE**

mrCS