

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.Q.BARKATH ALI

WEDNESDAY, THE 30TH DECEMBER 2009 / 9TH POUSHA 1931

Crl.MC.No. 4230 of 2009()

AGAINST THE ORDER DATED 14/12/2009 IN CRMP.3462/2009 IN
CRA.425/2009 of SESSIONS COURT, KOLLAM
(ST.89/2009 of JUDICIAL FIRST CLASS MAGISTRATE-IV, KOLLAM)
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PETITIONER/PETITIONER/APPELLANT/ACCUSED:

ABDUL SHAMEED, AGED 30, NOORJAHAN,
SIVADASAMANGALAM, POLAYATHODU, MUNDAKKAL EAST,
KOLLAM.

BY ADV. SRI.NAGARAJ NARAYANAN
SRI.SAIJO HASSAN

RESPONDENTS/2ND RESPONDENT/COMPLAINANT & STATE:

1. SHYJU S, SUMA NIVAS, MUNDAKKAL WEST, KOLLAM.
2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. C.M. KAMAPPU

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 30/12/2009, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

P.Q BARKATH ALI,J.

Crl.M.C No.4230 of 2009

Dated this the 30th December,2009

O R D E R

Petitioner is the accused in S.T No.89/2009 on the file of the Judicial First Class Magistrate Court IV, Kollam and the appellant in Crl.A No.425/09 of Sessions Court, Kollam. He was convicted under Section 138 of the Negotiable Instruments Act and was sentenced to undergo simple imprisonment till the rising of the court and to pay a fine of Rs.1,40,000/- and in default to undergo simple imprisonment for two months. On appeal, the appellate court suspended the sentence but ordered him to remit 1/5th of the cheque amount before the court below. The petitioner has challenged the said condition imposed by the Sessions Court in Annexure -I order dated 14.12.2009 directing him to remit 1/5th of the cheque amount.

2. It is alleged in the petition that the petitioner is not in a position to raise any amount as he is financially poor and is suffering from decease and that therefore the condition imposed by the Sessions Court directing him to remit 1/5th of the cheque amount may be lifted.

3. Learned counsel for the petitioner submitted that the petitioner is a coolie worker and he is not doing well. Taking into consideration that aspect, I feel that the petitioner can be directed to remit Rs.10,000/- towards the cheque amount before the trial court.

In the result, the petitioner is directed to remit Rs.10,000/- before the trial court towards cheque amount instead of 1/5th of the cheque amount.

P.Q BARKATH ALI, JUDGE

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