

IN THE COURT OF THE SESSIONS JUDGE, ALAPPUZHA

**Present: Sri. Roy Varghese, Addl.Sessions Judge – I
(In charge of Sessions Judge)**

Thursday the 6th day of June, 2024

Crl. M.P. No.2133/2024 in Crl. Appeal No.116/2024

(S.T No.25/2023 on the file of Judicial First Class Magistrate Court – III, Cherthala)

Appellant: P.K.Mohanan, Aged 56 years, S/o Karunakaran,
Poonilathu Nikarth, Valamangalam South P.O, Cherthala,
Alappuzha
By Adv.S.Ganesh Kumar

Respondents: 1. Anilkumar.S, Aged 57, S/o P.K.Surendran,
Anjilikkad House, Kadakkarappally P.O, Cherthala

2. State of Kerala represented by the Chief Secretary
through the Public Prosecutor, Alappuzha

The petition praying that this court be pleased to suspend the execution of the sentence passed against the petitioner in S.T No.25/2023 on the file of Judicial First Class Magistrate Court – III, Cherthala, having been heard on 06.06.2024 and the court on the same day passed the following:

ORDER

The petitioner is the appellant in the above Criminal Appeal preferred against the judgment dated 08.05.2024 in S.T. No. 25/2023 in the files of the Judicial First Class Magistrate's Court-III, Cherthala. The petitioner/ appellant is the accused and the 1st respondent/ 1st respondent is the complainant in the above case filed under S.190 r/w S.200 of Cr.P.C & S.142(1)(b) of the Negotiable Instruments Act in the court below. The 2nd respondent is the State of Kerala represented through the Public Prosecutor.

2). By the impugned judgment the appellant/ accused is convicted u/S.255(2) of Cr.P.C. for the offence punishable u/S.138 of the Negotiable Instruments Act and sentenced to pay fine of ₹.1,50,000/- and in default to

undergo Simple Imprisonment for a period of 2 months. The fine amount, if released, shall be paid to the complainant as compensation u/S.357(1) of Cr.P.C.

3). Along with the above appeal, the appellant has filed this petition accompanied by an affidavit sworn by him submitting to suspend the sentence as per the impugned judgment.

4). The learned counsel for the appellant submitted that the petitioner/accused is in a financial stringency. In the circumstances, the dictum of law laid down by the Hon'ble Apex Court in *Jamboo Bhandari Vs. M.P. State Industrial Development Corporation Ltd. & Ors.* (2023 Livelaw (SC) 776) would apply and the petitioner to be exempted in the depositing of 20% of the fine amount before the trial court as per S.148(1) of the NI Act.

5). Heard the counsel for the appellant and the appeal is admitted. The execution of the sentence passed by the learned Magistrate *vide* judgment *supra* is suspended u/S.389(1) of Cr.P.C., on the appellant/ accused furnishing bond for an amount of ₹.50,000/- with two solvent sureties each for the like sum to the satisfaction of the Magistrate concerned.

This petition allowed, accordingly.

(Dictated to the Confidential Assistant, typewritten by her in the computer, corrected and pronounced in the Open Court by me on the 06th day of June, 2024).

Sd/-

**ADDL.SESIONS JUDGE – I,
ALAPPUZHA
(In charge of Sessions Judge)**