

O.P.(Crl.) No. 254 of 2025



..1..

2025:KER:31755

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

FRIDAY, THE 11TH DAY OF APRIL 2025 / 21ST CHAITHRA, 1947

OP (CRL.) NO. 254 OF 2025

AGAINST THE COMMON ORDER DATED 04.02.2025 IN CRL.M.P.NO.925
OF 2024 & CRL.M.P.NO.102 OF 2025 IN Cr1.A NO.65 OF 2024 OF
ADDITIONAL SESSIONS COURT - V, KOTTAYAM

PETITIONER/APPELLANT/ACCUSED:

VARGHESE
AGED 51 YEARS, S/O M.V. THOMAS,
MATHUPURAM HOUSE, PUZHAVATHU KARA,
CHANGANACHERRY P.O,
KOTTAYAM DISTRICT, PIN - 686101

BY ADVS.
K.N.RADHAKRISHNAN (THIRUVALLA)
ANJU SUSAN REJI

RESPONDENTS/RESPONDENTS/RESPONDENTS/STATE:

- 1 STATE OF KERALA
REP BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - 682031
- 2 BAIJU ABRAHAM
AGED 36 YEARS,
S/O BABYCHEN KOTTACKAL HOUSE,
THRICKODITHANAM KARA,
THRICKODITHANAM P.O, CHANGANACHERY,
KOTTAYAM DISTRICT, PIN - 686105

SRI.M.P. PRASANTH, PP

THIS OP (CRIMINAL) HAVING COME UP FOR ADMISSION ON
11.04.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



J U D G M E N T

The petitioner is the accused and the 2nd respondent is the complainant in S.T.No.9857 of 2016 on the file of Judicial First Class Magistrate Court-I, Changanacherry.

2. The petitioner was convicted and sentenced for the offence under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the N.I.Act'). He was also directed to pay a fine of Rs.15,00,000/-. The petitioner challenged the conviction and sentence in appeal before the Additional Sessions Court-V, Kottayam as Crl.Appeal No. 65 of 2024. The Sessions Court suspended the execution of sentence on condition among other things that the petitioner shall deposit 20% of the fine amount. Aggrieved by the said condition, the petitioner approached this Court by filing Crl.M.C.No. 6499 of 2024. This Court as per Ext.P2 order, set aside the said condition and directed the Sessions Court to reconsider the matter regarding deposit under Section 148 of the N.I.Act



afresh, on the ground that the order challenged was not a speaking order. Thereafter, the Sessions Court considered the matter and passed Ext.P3 order, again directing the petitioner to deposit 20% of the fine amount. The said order is under challenge in this revision petition.

3. I have heard both sides.

4. The Division Bench of this Court in **Sreenivasan P. v. Babu Raj** [2024 (2) KHC 621], on reference has held that the appellate court has discretion to either order the appellant to deposit a portion of the fine or compensation awarded by the trial court or to waive such deposit. It was further held that, in either event, since the appellate court would be exercising a statutory discretion, it would be legally obliged to furnish reasons for its decision.

I have perused Ext.P3 order. In paragraph 8 of the order, the Sessions Court has given clear reasons for exercising its discretion to direct the petitioner to deposit 20% of the fine

O.P.(Crl.) No. 254 of 2025



..4..

2025:KER:31755

amount. Hence, I see no reason to interfere with the impugned order. Accordingly, this original petition is dismissed. The petitioner is granted one month's time to make the deposit.

Sd/-
DR. KAUSER EDAPPAGATH
JUDGE

APA

O.P.(Crl.) No. 254 of 2025

..5..



2025:KER:31755

APPENDIX OF OP(CRL.) 254/2025

PETITIONER EXHIBITS

- EXHIBIT P1 THE TRUE COPY OF THE JUDGEMENT IN ST 9857/2016
OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT
CHANGANACHERRY, DATED 23.02.2024
- EXHIBIT P2 THE COPY OF THE JUDGEMENT IN CRL.M.C NO 6499 OF
2024 DATED 02.08.2024
- EXHIBIT P3 A TRUE COPY OF THE ORDER IN CRL.MP.925/24 AND
102/2025 IN APPEAL NO. 65 OF 2024 OF THE
JUDICIAL FIRST-CLASS MAGISTRATE COURT-I,
CHANGANACHERRY DATED 04.02.2025