

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

MONDAY, THE 6TH DAY OF SEPTEMBER 2021 / 15TH BHADRA, 1943

CRL.A NO. 1344 OF 2006

AGAINST THE JUDGMENT IN CC 453/2004 OF JUDICIAL MAGISTRATE OF FIRST
CLASS, MUVATUPUZHA, ERNAKULAM

APPELLANT/COMPLAINANT:

N.RAVEENDRAN
MANAGING PARTNER,, LAKSHMI FINANCE, VELLOORKUNNAM
VILLAGE.

BY ADV SRI.P.V.ELIAS

RESPONDENTS/ACCUSED AND STATE:

- 1 SHAJAHAN
POTTEKANDATHIL HOUSE,, ANICKAD, AVOLY, MUVATTUPUZHA.
- 2 STATE OF KERALA
REP. BY THE PUBLIC PROSECUTOR,, HIGH COURT OF KERALA,
ERNAKULAM.

BY ADV SRI. RENJITH GEORGE, PUBLIC PROSECUTOR

THIS CRIMINAL APPEAL HAVING COME UP FOR ADMISSION ON 06.09.2021,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

This appeal arises out of the judgment dated 04.05.2006 in C.C. No.453/2004 on the file of the Judicial First Class Magistrate Court, Muvattupuzh. C.C. No.453/2004 was a complaint filed alleging the commission of an offence under Section 138 of the Negotiable Instruments Act.

2. The appellant/complainant is the Managing Partner of a firm by name '*Lakshmi Finance*', which is stated to be a partnership firm. Reading of the judgment dated 04.05.2006 in C.C. No.453/2004 shows that the accused was acquitted on the sole ground that the subject cheque was drawn in favour of '*Lakshmi Finance*' and not '*M/s.Lakshmi Finance*', though it is seen from the partnership deed that the name of the firm is '*M/s.Lakshmi Finance*'.

3. Though the notice ordered in this appeal to the 1st respondent/accused was duly served on the 1st respondent/accused, there is no appearance for the 1st respondent. The alphabets '*M/s*' which is short form for '*Messrs*' is normally a salutation intended to refer to a group of unincorporated persons, such as a partnership firm. The absence of such salutation while drawing the cheque by the 1st respondent/accused cannot be a ground for the accused to be acquitted. Such a view is as good as saying that if the payee is not referred to in the cheque as "Mr.....", the accused has to be acquitted.

In the result, this appeal is allowed, the judgment dated 04.05.2006 in C.C. No.456/2004 on the file of the Judicial First Class Magistrate Court, Muvattupuzha, acquitting the 1st respondent/accused is set aside. C.C.No.453/2004 will stand restored to the file of the Judicial First Class Magistrate Court, Muvattupuzha, for disposal, in accordance with law. It is made clear that the trial court may proceed from the stage before the pronouncement of the judgment dated 04.05.2006 in that case. C.C. No.453/2004 shall be disposed of within a period of three months from the date of receipt of a certified copy of the judgment. The appellant/complainant shall appear before the Judicial First Class Magistrate Court, Muvattupuzha on 15.09.2021. The court shall issue fresh summons to the 1st respondent/accused and will thereafter, proceed to dispose of the matter in accordance with law.

SD/-
GOPINATH P.
JUDGE