

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL NO(S). 2606 OF 2023
(@ SPECIAL LEAVE PETITION(CRIMINAL) NO(S). 4447 OF 2023)**

JAYESH **APPELLANT(S)**

VERSUS

STATE OF KERALA & ANR. **RESPONDENT(S)**

ORDER

Leave granted.

2. Heard learned counsel appearing for the appellant and learned counsel appearing for the respondent No.2.

3. The appellant was convicted for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (for short "the N.I. Act"). The Sessions Court by modifying the sentence, directed the appellant to pay a fine amount of Rs. 6 lakhs. In default, sentence of imprisonment was imposed. In terms of the order of this Court, the appellant has so far deposited the cheque amount of Rs. 5 lakhs and in addition, a sum of Rs. 2.5 lakhs. Thus, the appellant has deposited total amount of Rs. 7,50,000/-.

4. Learned counsel appearing for the respondent No. 2 has no objection if the impugned orders of conviction are set aside and the respondent No. 2 is permitted to withdraw the amounts deposited by the appellant.

5. Accordingly, we set aside the impugned orders of the Trial Court, Appellate Court and the High Court and acquit the appellant for the offence punishable under Section 138 of the N.I. Act.

6. At this stage, we may take note here that a sum of Rs. 5 lakhs has already been withdrawn by the respondent No. 2. The Trial Court will permit the respondent No. 2, namely M.K. Mohandas, to withdraw the remaining amount of Rs. 2.5 lakhs. If the amount deposited by the appellant has been invested in a fixed deposit, the respondent No. 2 will be also entitled to withdraw the interest accrued thereon.

7. In view of the above, the appeal is, accordingly, allowed.

8. Pending application(s), if any, shall stand disposed of.

..... J.
[ABHAY S. OKA]

..... J.
[PANKAJ MITHAL]

NEW DELHI;
AUGUST 25, 2023.

ITEM NO.45

COURT NO.11

SECTION II-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No(s). 4447/2023

(Arising out of impugned final judgment and order dated 16-01-2023 in CRLRP No. 440/2020 passed by the High Court Of Kerala At Ernakulam)

JAYESH

Petitioner(s)

VERSUS

THE STATE OF KERALA & ANR.

Respondent(s)

(FOR ADMISSION and IA No.50584/2023-EXEMPTION FROM FILING O.T.)

Date : 25-08-2023 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ABHAY S. OKA
 HON'BLE MR. JUSTICE PANKAJ MITHAL

For Petitioner(s) Mr. Sarath S Janardanan, Adv.
 Mr. Sriram P, Adv.
 Mr. Anand Thumbayil, Adv.
 Ms. Vishnupriya P Govind, Adv.
 Mr. Abid Ali Beeran P, AOR

For Respondent(s) Mr. Harshad V. Hameed, AOR
 Mr. Dileep Poolakkot, Adv.
 Mr. Subhash Chandran K.r., Adv.
 Mrs. Ashly Harshad, Adv.

Dr. D. K. Sharma, Adv.
 Mr. sanchit Vashisthe, Adv.
 Mr. Gaurav Kumar, Adv.
 Mr. Syed Mehdi Imam, AOR
 Mr. Ankur Sharma, Adv.
 Mrs. Shamama Anis, Adv.
 Mr. Tabrez Ahmad, Adv.

UPON hearing the counsel the Court made the following
 O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(POOJA SHARMA)
COURT MASTER (SH)

(AVGV RAMU)
COURT MASTER (NSH)

(Signed order is placed on the file)