

**(2011) 01 KL CK 0219**

**High Court Of Kerala**

**Case No:** C.M.A. No"s. 318 and 319 of 2011 in Criminal R.P. No. 320 of 2002

Surendran

APPELLANT

Vs

Preman

RESPONDENT

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**Date of Decision:** Jan. 18, 2011

**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 357, 421, 446
- Negotiable Instruments Act, 1881 (NI) - Section 138

**Citation:** (2011) 3 BC 324 : (2011) 1 KLT 751 : (2011) 2 RCR(Criminal) 364

**Hon'ble Judges:** S.S. Satheesachandran, J

**Bench:** Single Bench

**Advocate:** P.M. Habeeb, for the Appellant; Public Prosecutor, for the Respondent

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**Judgement**

@JUDGMENTTAG-ORDER

S.S. Satheesachandran, J.

C.M. Appln No. 318 of 2011

1. Petitioner has suffered a conviction for the offence u/s 138 of the Negotiable Instruments Act. Disposing of the revision filed by him challenging his conviction and sentence, he was directed to undergo imprisonment till the rising of the court and to pay a compensation of Rs. 50,000/- to the complainant within two months, failing which, to undergo simple imprisonment for 3 months. The time limit for deposit having expired by this time, the Petitioner has filed the above petition seeking one month"s time for tendering the compensation ordered by this Court.

2. Notice was given to the Public Prosecutor.

3. From the submissions made by the learned Counsel for the Petitioner, it appears, the petition was moved entertaining an apprehension that if there is delay in making deposit after the time granted by this Court, the Petitioner has necessarily

to undergo the imprisonment imposed as default clause. I do not find any merit in the apprehension raised by the counsel. Compensation awarded u/s 357 of the Code of Criminal Procedure has to be realised treating it as akin to fine, following the procedure u/s 421 of the Code of Criminal Procedure. Irrespective of the period fixed for payment, the Petitioner can approach the court below and tender the compensation fixed and avoid the punishment of imprisonment imposed. Separate proceeding, if any, has been taken by the court below for forfeiture of the bond u/s 446 of the Code of Criminal Procedure, has necessarily to be dealt with in accordance with law.

4. C.M. Appln. No. 318 of 2011 is disposed of as indicated above.

C.M. Appln. No. 319 of 2011

Having regard to the facts and circumstances presented and also the submissions made by the counsel, I find the impleading petition filed to bring in the legal representatives of the complainant as additional Respondents in the above petition is not warranted, and hence the petition is closed.