IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT

THE HONOURABLE MR.JUSTICE C. JAYACHANDRAN

TUESDAY, THE 24TH DAY OF NOVEMBER 2026/3RD AGRAHAYANA, 1948

CRL.REV.PET NO.1129 OF 2026

CRIME NO.293/2018 OF KALPETTA POLICE STATION, WAYANAD

AGAINST THE JUDGMENT DATED 16.09.2026 IN Crl.A NO.108 OF 2024 OF DISTRICT COURT & SESIONS & MOTOR ACCIDENT CLAIMS TRIBUNAL & RENT CONTROL APPELLATE AUTHORITY, KALPETTA ARISING OUT OF THE JUDGMENT DATED 22.12.2023 IN CC NO.265 OF 2019 OF JUDICIAL MAGISTRATE OF FIRST CLASS, KALPETTA

REVISION PETITIONER/2nd RESPONDENT/ACCUSED:

PRADEEP A
AGED 42 YEARS
S/O KRISHNAN, ALAKKAD HOUSE, KUTTOTH POST,
MEPPAYOOR, KOYILANDI, CHERUVANNUR VILLAGE,
KOZHIKODE, PIN - 673524

BY ADVS.
SRI.M.P.ASHOK KUMAR (SR.)
SRI.P.C.GOPINATH
SMT.BINDU SREEDHAR
SHRI.ASIF N

RESPONDENTS/STATE & APPELLANT/STATE & DE FACTO COMPLAINANT:

1 **STATE OF KERALA**
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031

2 ABHINAV
AGED 21 YEARS
S/O A. C. RAMAKRISHNAN, SARAVANAM HOUSE,
KARIYAMBADI POST, KANIYAMBETTA VILLAGE, POOTHADI,
SULTHAN BATHERY TALUK, WAYANAD, PIN - 673591

BY ADVS.
SRI.N.D.ARUN DAS
SMT.M.C.CHITHRAKALA
SRI.GIKKU JACOB, SR.PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 24.11.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

'C.R'

O R D E R

The petitioner is the accused in C.C No.265/2019 of the Judicial First Class Magistrate Court, Kalpetta. He was charged with offences under Sections 341 and 323 of the Indian Penal Code. By judgment dated 22.12.2023, the learned Magistrate found the petitioner/accused guilty. However, the petitioner was released after due admonishment in terms of Section 3 of the Probation of Offenders Act, 1958. The victim carried an appeal before the Sessions Court, Kalpetta and as per judgment dated 16.09.2026, the judgment of the learned Magistrate was modified, directing the petitioner/accused to pay Rs.25,000/- (Rupees Twenty five thousand only) as victim compensation under Section 395(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'BNSS'), read with Section 5 of the Probation of Offenders Act. The second direction in the appellate judgment is extracted here below:

> *"(e) The said fine amount shall be deposited within six weeks from the date of this judgment for the benefit of the appellant/victim. In the event of default, the jurisdictional court shall take appropriate steps for recovery in accordance with law."*

2. Learned Senior Counsel on behalf of the petitioner would submit that the language employed in the above clause treating the compensation as 'fine amount' can pose fetters in the service of the petitioner, who is employed in the Education Department, as U.D Clerk. Learned Senior Counsel would clarify that the compensation directed by the Appellate Court cannot have the imprints of a fine. Section 5(2) of the Probation of Offenders Act merely provides that the amount ordered - thereby meaning the compensation - under Section 5(1) may be recovered as fine. This only facilitates recovery of the compensation amount, treating it as a fine. That provision will not alter the nature and character of compensation to that of a fine. Learned Senior Counsel relies on two judgments, one by the Hon'ble Supreme Court in ***Mahadevanna v.***

State of Karnataka [2026 KLT Online 4191] and the second by a learned Single Judge of this Court in ***Unnikrishnan v. State of Kerala*** [Crl.Rev.Pet. No.245/2010 dated 19.01.2010].

3. Learned Senior Public Prosecutor would, however, oppose the above submission.

4. Having heard the learned counsel appearing for the respective parties, this Court finds substantial force in the submission made by the learned Senior Counsel. The directions contained in the last paragraph of the appellate judgment leave no room for any doubt that what has been ordered to be paid by the petitioner/accused is compensation under Section 395(3) of the BNSS and Section 5 of the Probation of Offenders Act. Section 395(3) deals with a situation, where the Court imposes a sentence, of which fine does not form part. Then, the Court may order the accused person to pay, by way of compensation, such amount to the person, who has suffered any loss or injury, by reason of the act for which the accused has

been so sentenced. Strictly speaking, the invocation of Section 395(3) of the BNSS in the instant facts is justified or not, is doubtful, since there is no sentence in this case. If the purpose of the Court is to grant compensation, recourse ought to have been made to Section 5 of the Probation of Offenders Act, alone. A perusal of the appellate judgment would indicate that the admonition under Section 3 of the Probation of Offenders Act has been confirmed. Section 3 specifically carves out that admonition has to be given 'instead of sentence'. Thus, there is no occasion for any sentence, when Section 3 is pressed into service. In the absence of a sentence, Section 395(3) can hardly be invoked. Be that as it may. Even if the payment directed in terms of Section 395(3) or Section 3 of the Probation of Offenders Act is reckoned, the same will only partake the character of 'compensation'. The word 'by way of compensation' is employed in Section 395(3); and 'such compensation' is seen employed in Section 5(1)(a) of the Probation of Offenders Act. For the

mere reason that Section 5(2) of the Probation of Offenders Act enables recovery of the compensation treating the same as 'fine' under the provisions of Sections 386 and 387 of the Code, the character and nature of 'compensation' cannot evaporate. There cannot be any fine, except accompanied by a sentence. In such circumstances, the misnomer as employed in the second direction in paragraph no.19 of the appellate judgment that the 'fine amount shall be deposited', will stand corrected/modified as 'compensation shall be deposited'. It is further clarified on the strength of ***Mahadevanna*** (supra), ***Unnikrishnan*** (supra), and also, in the light of Section 12 of the Probation of Offenders Act, that the above admonition, coupled with the direction to pay compensation, cannot impose any disqualification in the petitioner's service. It is so observed.

5. Learned Senior Counsel would submit that the petitioner will remit the compensation amount of Rs.25,000/- (Rupees Twenty five thousand only) within a period of one week. In the

circumstances, the non-bailable warrant, if any, issued against the petitioner, shall be kept in abyeance for a period of ten days.

This Revision Petition will stand allowed, as indicated above.

Sd/-

C. JAYACHANDRAN, JUDGE

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