



2025:KER:15620

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE C.S. SUDHA

MONDAY, THE 24TH DAY OF FEBRUARY 2025 / 5TH PHALGUNA, 1946

CRL.A NO. 1188 OF 2007

AGAINST THE COMMON JUDGMENT DATED 30.11.2006 IN CC
NO.1596 OF 2003 AND CONNECTED CASES ON THE FILE OF THE JUDICIAL
MAGISTRATE OF FIRST CLASS -I, KOCHI

APPELLANT/COMPLAINANT:

THE INDIA CEMENTS LIMITED
41/697, ICL HOUSE, KRISHNASWAMY ROAD, KOCHI-35,
REPRESENTED BY ITS ASST.MANAGER (ACCOUNTS) AND,
POWER OF ATTORNEY HOLDER, MR.K.SRIDHARAN.

BY ADVS.
SRI.K.SRIKUMAR
SRI.K.MANOJ CHANDRAN

RESPONDENTS/STATE/ACCUSED:

- 1 STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.
- 2 MR.SHAJAHAN @ SHAJI, PROPRIETOR
M/S.KAIPPALLIL AGENCIES VII/122,
KUTTUMUKKU, MADATHIKARANMA, OCHIRA.

BY ADV SRI.K.ABDUL JAWAD
SMT.SHEEBA THOMAS, PUBLIC PROSECUTOR.

THIS CRIMINAL APPEAL HAVING COME UP FOR HEARING ON
24.02.2025, ALONG WITH CRL.A.1189/2007, 1191/2007 AND CONNECTED
CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



2025:KER:15620

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE C.S. SUDHA

MONDAY, THE 24TH DAY OF FEBRUARY 2025 / 5TH PHALGUNA, 1946

CRL.A NO. 1189 OF 2007

AGAINST THE COMMON JUDGMENT DATED 30.11.2006 IN CC
NO.1597 OF 2003 AND CONNECTED CASES ON THE FILE OF THE JUDICIAL
MAGISTRATE OF FIRST CLASS -I, KOCHI

APPELLANT/COMPLAINANT:

THE INDIA CEMENTS LIMITED
41/697, ICL HOUSE, KRISHNASWAMY ROAD, KOCHI-35,
REPRESENTED BY ITS ASST.MANAGER (ACCOUNTS) AND,
POWER OF ATTORNEY HOLDER, MR.K.SRIDHARAN.

BY ADVS.
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- 2 MR.SHAJAHAN @ SHAJI, PROPRIETOR
M/S.KAIPPALLIL AGENCIES VII/122,
KUTTUMUKKU, MADATHIKARANMA, OCHIRA.

BY ADV SRI.K.ABDUL JAWAD
SMT.SHEEBA THOMAS, PUBLIC PROSECUTOR.

THIS CRIMINAL APPEAL HAVING COME UP FOR HEARING ON
24.02.2025, ALONG WITH CRL.A.1188/2007 AND CONNECTED CASES, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



2025:KER:15620

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE C.S. SUDHA

MONDAY, THE 24TH DAY OF FEBRUARY 2025 / 5TH PHALGUNA, 1946

CRL.A NO. 1191 OF 2007

AGAINST THE COMMON JUDGMENT DATED 30.11.2006 IN CC
NO.1661 OF 2003 AND CONNECTED CASES ON THE FILE OF THE JUDICIAL
MAGISTRATE OF FIRST CLASS -I, KOCHI

APPELLANT/COMPLAINANT:

THE INDIA CEMENTS LIMITED
41/697, ICL HOUSE, KRISHNASWAMY ROAD, KOCHI-35,
REPRESENTED BY ITS ASST.MANAGER (ACCOUNTS) AND,
POWER OF ATTORNEY HOLDER, MR.K.SRIDHARAN.

BY ADVS.
SRI.K.SRIKUMAR
SRI.K.MANOJ CHANDRAN

RESPONDENTS/STATE/ACCUSED:

- 1 STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.
- 2 MR.SHAJAHAN @ SHAJI, PROPRIETOR
M/S.KAIPPALLIL AGENCIES VII/122,
KUTTUMUKKU, MADATHIKARANMA, OCHIRA.

BY ADV SRI.K.ABDUL JAWAD
SRI.VIPIN NARAYAN, PUBLIC PROSECUTOR.

THIS CRIMINAL APPEAL HAVING COME UP FOR HEARING ON
24.02.2025, ALONG WITH CRL.A.1188/2007 AND CONNECTED CASES, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



2025:KER:15620

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE C.S. SUDHA

MONDAY, THE 24TH DAY OF FEBRUARY 2025 / 5TH PHALGUNA, 1946

CRL.A NO. 1192 OF 2007

AGAINST THE COMMON JUDGMENT DATED 30.11.2006 IN CC
NO.1599 OF 2003 AND CONNECTED CASES ON THE FILE OF THE JUDICIAL
MAGISTRATE OF FIRST CLASS -I, KOCHI

APPELLANT/COMPLAINANT:

THE INDIA CEMENTS LIMITED
41/697, ICL HOUSE, KRISHNASWAMY ROAD, KOCHI-35,
REPRESENTED BY ITS ASST.MANAGER (ACCOUNTS) AND,
POWER OF ATTORNEY HOLDER, MR.K.SRIDHARAN.

BY ADVS.
SRI.K.SRIKUMAR
SRI.K.MANOJ CHANDRAN

RESPONDENTS/STATE/ACCUSED:

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PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.
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M/S.KAIPPALLIL AGENCIES VII/122,
KUTTUMUKKU, MADATHIKARANMA, OCHIRA.

BY ADV SRI.K.ABDUL JAWAD
SRI.VIPIN NARAYAN, PUBLIC PROSECUTOR.

THIS CRIMINAL APPEAL HAVING COME UP FOR HEARING ON
24.02.2025, ALONG WITH CRL.A.1188/2007 AND CONNECTED CASES, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



2025:KER:15620

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE C.S. SUDHA

MONDAY, THE 24TH DAY OF FEBRUARY 2025 / 5TH PHALGUNA, 1946

CRL.A NO. 1458 OF 2008

AGAINST THE COMMON JUDGMENT DATED 30.11.2006 IN CC
NO.1662 OF 2003 AND CONNECTED CASES ON THE FILE OF THE JUDICIAL
MAGISTRATE OF FIRST CLASS -I, KOCHI

APPELLANT/COMPLAINANT:

THE INDIA CEMENTS LIMITED
41/697, ICL HOUSE, KRISHNASWAMY ROAD, KOCHI-35,
REPRESENTED BY ITS ASST.MANAGER (ACCOUNTS) AND,
POWER OF ATTORNEY HOLDER, MR.K.SRIDHARAN.

BY ADVS.
SRI.K.SRIKUMAR
SRI.K.MANOJ CHANDRAN

RESPONDENTS/STATE/ACCUSED:

- 1 STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.
- 2 MR.SHAJAHAN @ SHAJI, PROPRIETOR
M/S.KAIPPALLIL AGENCIES VII/122,
KUTTUMUKKU, MADATHIKARANMA, OCHIRA.

BY ADV SRI.K.ABDUL JAWAD
SMT.SHEEBA THOMAS, PUBLIC PROSECUTOR.

THIS CRIMINAL APPEAL HAVING COME UP FOR HEARING ON
24.02.2025, ALONG WITH CRL.A.1188/2007 AND CONNECTED CASES, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



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C.S.SUDHA, J.

**Crl.Appeal Nos.1188, 1189, 1191, 1192 of 2007
and 1458 of 2008**

Dated this the 24th day of February 2025

J U D G M E N T

These appeals under Section 378 (4) Cr.P.C. have been filed by the complainant in C.C.Nos.1596, 1597, 1599, 1661 and 1662 of 2003 on the file of the file of the Judicial First Class Magistrate-I, Kochi, aggrieved by common judgment dated 30/11/2006 acquitting the accused under Section 255(1) Cr.P.C. of the offence punishable under Section 138 of the Negotiable Instruments Act.

2. It is submitted by the learned counsel for the appellant/complainant that the second respondent/accused was acquitted solely for the reason that the copy of the resolution as per which the power of attorney holder of the Complainant Company had delegated the conduct of the case to PW1 had not



2025:KER:15620

been produced. He has produced a copy of the resolution showing that PW1 had been authorised by the power of attorney holder of the Complainant Company to conduct the case along with application for receiving the same. Therefore, he submits that he may be given an opportunity to get an order on merits and that the case may be remanded for a fresh consideration.

3. The request for remand is strenuously opposed by the learned counsel for the second respondent, who submits that more than sufficient time had been granted to the appellant/complainant to produce necessary documents. However, they failed to do so. No circumstances have been made out for receiving additional evidence in the appeals. It is also submitted that nearly 21 years have elapsed and that the second respondent is now completely laid up and unable to appear before the court.

4. Heard both sides.

5. As rightly pointed out by the learned counsel for the appellant/complainant, on going through the impugned



2025:KER:15620

judgment, I find that the accused was acquitted solely because the copy of the resolution by which PW1, the Manager of the Company was authorised by the power of attorney holder to prosecute the cases had not been produced before the trial court. The copy of the said resolution dated 14/09/1995 is seen produced in the appeals. A copy of the said document has been produced along with the appeal in criminal appeal no.1189/2007. The resolution is of the year 1995. The examination of PW1 was done much thereafter, that is, in the year 2006. Therefore, as rightly pointed out by the learned counsel for the respondent/accused, the appellant/complainant had ample time and opportunity to produce the document before the court. However, interest of justice requires, the appellant/complainant to be given an opportunity to obtain an order on merits. But for the laches on the part of the appellant/complainant, he has to be penalised. Hence, the impugned judgment is set aside on condition that the appellant/complainant pays costs of ₹10,000/- to the



2025:KER:15620

respondent/accused within a period of one month from the date of receipt of a copy of this order. If the condition is complied with, the impugned judgment shall stand set aside. The trial court shall then make all earnest efforts to dispose of the cases expeditiously as the matter is of the year 2003.

Interlocutory applications, if any pending, shall stand closed.

Sd/-

**C.S.SUDHA
JUDGE**

Jms



2025:KER:15620

APPENDIX OF CRL.A 1189/2007

PETITIONER ANNEXURES

Annexure A1

**A CERTIFIED COPY OF THE RESOLUTION
DATED 14-09-1995**