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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 8044 OF 2011
(arising out of SLP (C) No. 7368 of 2007)

K. DEVARAJAN

.....APPELLANT(S)

VERSUS

THE ENFORCEMENT OFFICER & ANR.

.....RESPONDENT(S)

O R D E R

In pursuance of the order dated March 04, 2011, the petitioner has filed an affidavit stating that he has paid all the provident fund dues. In support of the averment, relevant documents are enclosed with the affidavit.

Leave granted.

Heard counsel for the appellant.

Ms. Prachi Bajpai, Advocate, appears and states that she has given 'No Objection' to the respondents and she is no longer representing the respondents in this matter.

No one appeared for the respondents on the last date of hearing and they remain unrepresented even today.

The appellant is facing prosecution for charges under paragraph 42 of the Employees Pension Scheme, 1995 read with Section 14(2) of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 for failure to deposit the employer's contribution before the Provident Fund Commissioner in time.

The appellant went to the High Court for quashing the prosecution on several grounds. Though the High Court turned down the appellant's plea, in paragraph 13 of the impugned order, it observed as under:

"13. In the result, the Original Petition is dismissed. Considering the age of the petitioner and the antiquity of the claim, if the petitioner is prepared to remit the entire

dues, the respondents may examine whether it is possible to let him off from the prosecution steps, which are in progress."

In the counter affidavit filed on behalf of the respondents in this Court, it is stated that after the order of the High Court, the appellant had made certain payments, but still a sum of Rs.2,00,832/- remained due against him towards damages levied for the period October 1998 to September 2000 vide proceedings dated February 14, 2007.

It was further stated in the counter affidavit that as and when the appellant cleared all the dues, the Department may consider dropping the proceedings against him.

The counter affidavit was filed on January 22, 2008. Later on, the appellant has made payment of all the dues, including the sum of Rs.2,00,832/- as stated in the respondents' counter affidavit.

As noted above, pursuant to our previous order, an affidavit has been filed supported with material documents showing payment of the entire provident fund dues. Since payment of all the dues has been made, we are satisfied that no useful purpose will be served by subjecting the appellant to a protracted prosecution.

We, accordingly, direct the Judicial First Class Magistrate IV, Kozhikode to drop the proceedings in CC Nos. 1040, 1041 and 1042 of 2000.

With the aforesaid observations and direction, the civil appeal is allowed, but with no order as to costs.

.....J.

.....
(Aftab Alam)

.....J.

.....
(Ranjana Prakash Desai)

New Delhi,
September 19, 2011.
ITEM NO.202

COURT NO.8

SECTION XV

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 (Civil) No(s).7368/2007

(From the judgement and order dated 27/10/2006 in OP No.8305/2001 of
the HIGH COURT OF KERALA AT ERNAKULAM)

K. DEVARAJAN

Petitioner(s)

VERSUS

THE ENFORCEMENT OFFICER & ANR.

Respondent(s)

(With prayer for interim relief and office report)

Date: 19/09/2011 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE AFTAB ALAM
HON'BLE MRS. JUSTICE RANJANA PRAKASH DESAI

For Petitioner(s)

Mr. Raghenth Basant, Adv.
Mr. Aryan Singh, Adv.
for Mr.Senthil Jagadeesan, Adv.

For Respondent(s)

Ms. Prachi Bajpai, Adv. (NP)

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

Leave granted.
The civil appeal is allowed, but with no order as to
costs.

(N.S.K. Kamesh)
Court Master

(S.S.R. Krishna)
Court Master

(signed order is placed on the file)