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The **Kerala High Court (Ernakulam Bench)** in the case of **Danikutti Philip vs Johnykutty J [Criminal Application No. 1965 of 2025]** dated **March 26, 2026**, has ruled that when a part of the sum covered by the cheque is paid during the period between the date on which the cheque is drawn and its encashment upon maturity, then the legally enforceable debt on the date of maturity would not be the sum represented on the cheque.

The High Court clarified that when part payment is made and the indorsement mandated under Section 56 of the Negotiable Instruments Act (NI Act) failed to be recorded, presenting the cheque for the whole sum, of which a part payment has already been paid, does not represent the legally enforceable debt; thus no offence under the NI Act would lie in case of dishonour of such a cheque.

The Court observed that Sections 15 and 56 of the NI Act assume significance, noting that Section 56 provides that where an amount has been partly paid, a note to that effect may be indorsed on the instrument, which may then be negotiated for the balance. If the drawer of the cheque pays a part or whole of the sum between the period when the cheque is drawn and when it is encashed upon maturity, then the legally enforceable debt on the date of maturity would not be the sum represented on the cheque. It noted that the complainant launched prosecution claiming Rs. 10.90 lakhs as such, shown in the cheque itself, without disclosing the part payments in the complaint.

The Court therefore observed that the prosecution could not be held as one consequent to dishonour of a cheque which represent a legally enforceable debt coming to Rs. 10.90 lakhs, and when the prosecution is not for a legally enforceable debt in full on the date of presentation of the cheque, no offence under Section 138 of the NI Act gets attracted.