

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

WEDNESDAY, THE 8TH DAY OF JULY 2015/17TH ASHADHA, 1937

Crl.Rev.Pet.No. 15 of 2005 (B1)

AGAINST THE JUDGMENT IN CRL.A 540/2003 of I ADDL. SESSIONS
COURT, THRISSUR DATED 10-12-2003

AGAINST THE JUDGMENT IN ST 140/1998 of J.F.C.M.COURT -III,
THRISSUR DATED 29-7-2003

REVISION PETITIONER/RESPONDENT/COMPLAINANT.:

SATHYANATHAN, S/O.KRISHNANKUTTY NAIR,
VETTAMPILLY HOUSE, CHERUKUNNU DESOM,
PUTHUR VILLAGE, THRISSUR TALUK.

BY ADV. SRI.DILIP J. AKKARA

RESPONDENTS/APPELLANT/ACCUSED.:

1. JOHNSON, S/O.THEKKUMPURAM LONAPPAN,
PUTHUR VILLAGE, VETTUKAD DESOM, THRISSUR TALUK,
DISTRICT.

2. THE STATE OF KERALA, REP. BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

R1 BY ADV. SRI.THIYANNOR RAMAKRISHNAN

R1 BY ADV. SRI.ARUN KUMAR.P

R1 BY ADV. SRI.U.K.DEVIDAS

R1 BY ADV. SRI.SANDEEP.E.

R2 BY PUBLIC PROSECUTOR SRI.JUSTINE JACOB

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY
HEARD ON 08-07-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

OKB

K.HARILAL, J.

Crl.R.P. No.15 of 2005

Dated this the 8th day of July, 2015.

O R D E R

Revision petitioner is the complainant in S.T.No.140/98 on the files of the Judicial First Class Magistrate's Court-III, Thrissur, as well as the appellant in Crl. Appeal No.540/03 on the files of the I Additional Sessions Court, Thrissur. The first respondent was prosecuted for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the N.I. Act') on a complaint filed by the revision petitioner herein. After trial, the learned Magistrate found the accused guilty of the said offence and convicted thereunder. He was sentenced to undergo simple imprisonment for three months and to pay a compensation of Rs.60,000/-. Aggrieved by the conviction and sentence, though he had preferred the above appeal, after re-appreciating

the evidence on record, the learned Sessions Judge reversed the findings of the trial court on the finding that the revision petitioner is not guilty of the offence alleged against him and, thus, he was acquitted of the offence. Challenging the acquittal, the complainant has preferred this revision.

2. At the outset, the learned counsel for the first respondent raised a preliminary objection pointing out that this revision petition itself is not maintainable as an appeal under Section 378 of the Cr.P.C. with the special leave of the court is maintainable against the acquittal of the accused on a private complaint. In support of the above proposition, the learned counsel cited Krishanlal Oberoi v. Corporation of Cochin [1979 KLT 75] and Prabhakaran Pillai v. Subhashani Amma [1980 KLT 777].

3. The short question that arises for consideration is, whether the revision is maintainable or not. As rightly submitted by the learned counsel for the first respondent, going by Section 378 of the Cr.P.C., it is seen that the proper remedy available

against the acquittal of an accused on a private complaint is an appeal before the High Court under Section 378(4) of the Cr.P.C. with special leave of the court under Section 378(3) of the Cr.P.C. I accept the argument advanced by the learned counsel for the first respondent and this revision petition will stand dismissed as not maintainable.

In the result, this criminal revision petition is dismissed accordingly.

Sd/-
K. HARILAL, JUDGE

okb.