

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.D.RAJAN

TUESDAY, THE 15TH DAY OF SEPTEMBER 2015/24TH BHADRA, 1937

Crl.Rev.Pet.No. 1471 of 2006 ()

**AGAINST THE JUDGMENT IN CRA 211/2003 of ADDL. SESSIONS JUDGE, FAST TRACK
COURT-1, ALAPPUZHA**

AGAINST THE JUDGMENT IN CC 42/2000 of J.M.F.C.-I, ALAPPUZHA

REVISION PETITIONER(S)/APPELLANT/ACCUSED:

**A.X.THOMAS,
SENIOR ASSISTANT,
NATIONAL INSURANCE COMPANY, PALAI,
RESIDING AT MANTHARAYIL VEEDU, KAITHAVANA,
SANATHANAPURAM P.O., ALAPPUZHA-3,
(M.X.THOMAS)**

BY ADV. SRI.N.C.SAJITH

RESPONDENT(S)/RESPONDENT/COMPLAINANT:

- 1. R.K.VIJAYAN, VADAKKEVEEDU,
KAITHAVANA, ALAPPUZHA.**
- 2. STATE OF KERALA, REPRESENTED BY THE
CHIEF SECRETARY, THROUGH THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.**

R2 BY PUBLIC PROSECUTOR SRI. N. SURESH

**THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 15-
09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

STK

P.D. RAJAN, J.

Crl. R.P. No.1471 of 2006

Dated this the 15th day of September, 2015

ORDER

The revision petitioner is the appellant in Crl. Appeal 211/2003 on the file of Additional Sessions Judge, Fast Track(1), Alappuzha for offence under Section 420 IPC. He was accused in C.C.42/2000 of the Judicial First Class Magistrate-I, Alappuzha and sentenced to imprisonment for two years and pay a fine of Rs.5,000/-, in default, simple imprisonment for 3 months under Section 420 IPC.

2. The complainant's case in the trial court was that, revision petitioner and the accused were friends and neighbours. On 08.01.99 the revision petitioner approached the first respondent and borrowed a sum of Rs.4000/- and in discharge of that debt, he issued Ext.P1 cheque drawn on Indian Bank, Palai Branch. When it was presented for encashment, it was dishonoured for the reason of account closed. He issued a lawyer notice to the accused demanding the due amount. Even after acceptance of that notice, there was no payment. In the

circumstance, he filed a complaint under Section 420 IPC and under Section 138 of the Negotiable Instruments Act.

3. During trial, complainant examined PW1 and PW2 and produced Ext.P1 to P6 as documentary evidence. Ext.X-1 was marked through PW2. The incriminating circumstances brought out in evidence were denied by him while questioning. The revision petitioner examined DW1. The trial court after analysing the evidence convicted the accused. Against that, he preferred the above appeal, which was dismissed by the appellate court. Being aggrieved by that, he preferred this revision petition.

4. When the matter came up for hearing, this court directed the revision petitioner to issue notice by speed post to R1. There was no response from the side of revision petitioner. In the circumstance, this court issued a notice to the first respondent through Dy.S.P., Alappuzha and notice was served on the first respondent. Both parties appeared before court and submitted that they settled the case out of court. They filed a

compromise petition Crl.M.A.5108/15. The learned Public Prosecutor appearing for the second respondent identified the revision petitioner and first respondent.

5. According to Section 320 Cr.P.C., an offence under Section 420 I.P.C. is compoundable with the permission of the court. According to Section 320(2) Cr.P.C, the offence punishable under the sections of the Indian Penal Code specified in the first two columns of the table next following may, with the permission of the court before which any prosecution for such offence is pending be compounded by the persons mentioned in the third column of that table. The person mentioned in the third column of that table is present before court and identified. In the circumstance, no objection from the side of the court to grant permission to compound the offence. When the offence is compounded by the parties, the composition of an offence under this Section shall have an effect of the acquittal of the accused with whom the offence has been compounded as per Section 320(8) Cr.P.C. Both parties identified their signature in the

compounding petition and they were permitted to compound the matter. The compounding of the offence is admitted by this court.

In the result, the conviction and sentence passed by the Judicial First Class Magistrate-I, Alappuzha under Section 420 IPC is set aside and accused is acquitted and set at liberty. This revision petition is disposed of as above.

STK

//TRUE COPY//

P.A. TO JUDGE

Sd/-
P.D. RAJAN,
JUDGE