IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.D.RAJAN

THURSDAY, THE 3RD DAY OF SEPTEMBER 2015/12TH BHADRA, 1937

Crl.Rev.Pet.No. 1253 of 2005 ( )

AGAINST THE JUDGMENT IN CRA 594/2004 of
ADDL. SESSIONS COURT, ERNAKULAM

AGAINST THE JUDGMENT IN CC 322/1999 of
CHIEF JUDL.MAGISTRATE, ERNAKULAM

REVISION PETITIONER(S)/APPELLANT/ACCUSED::

FRANCIS STANLEY,
PROPRIETOR,
M/S. KRS OIL MILLS, PALLIPURAM P.O.
ERNAKULAM.

BY ADVS.SRI.SHAIJAN C.GEORGE
SRI.JOHN VIPIN

RESPONDENT(S)/RESPONDENT/COMPLAINANT::

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1. KERALA STATE CO-OPERATIVE MARKETING
FEDERATION LTD., GANDHI NAGAR, COCHIN.

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

R1 BY ADV. SRI.C.K.SAJEEV/PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 03-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

STK

P.D. RAJAN, J.

Crl.R.P.1253 of 2005

Dated this the 3rd day of September, 2015

ORDER

Revision petitioner is the appellant in Crl. Appeal 594/2004 on the file of Additional Sessions Court-V, Ernakulam challenges the judgment confirming the conviction under Section 138 of the Negotiable Instrument Act (hereinafter referred to as 'Act'). He was sentenced by the appellate court, simple imprisonment for three months and to pay compensation of Rs.6,50,000/- under Section 357(3) Cr.P.C., in default, simple imprisonment for 2 months, being aggrieved by that order he approached this court with this revision petition.

2. The complainant's case in the trial court was that, the revision petitioner was doing the business of oil extracting, the name M/s. KRS Oil Mills. There was an agreement between revision petitioner and first respondent regarding supply and crushing of copra. Towards the supply of copra, there was a liability of Rs.5,24,584.95 and in discharge of that liability, Ext.P3

cheque for Rs.5,00,000/- was given to the first respondent. When the cheque was presented for encashment, it was dishonoured for the reason for ‘payment stopped by the drawer'. In this circumstance, first respondent made a demand by giving a notice in writing to revision petitioner. Even after that notice, there was no payment. In this circumstance, the above complaint was filed in the trial court.

3. During trial, complainant examined PW1 and PW2 and marked Exts.P1 to P12. The incriminating circumstances brought out in evidence were denied by the accused. He examined DW1 and DW2 and marked Exts.D1 to D8. The trial court after sifting and weighing the evidence on record, convicted the accused under Section 138 of the Negotiable Instruments Act. Against that he preferred an appeal.

4. When this matter came up for hearing the learned counsel appearing for the revision petitioner and respondents submitted that the matter is settled out of court and the entire amount were paid to the first

respondent. Accordingly, both parties filed Crl.M.A.4790/15 under Section 320 of Code of Criminal Procedure. I have perused the petition in which, the Managing Director of the first respondent signed. The revision petitioner and both counsel were also signed in the compounding petition. When both parties settled the matter out of court, there is no meaning in retaining this case and parties are at liberty to compound the offence. In this circumstance, both parties are permitted to compound the matter under Section 320 Cr.P.C. and the composition of the offence shall have the effect of acquittal of the accused under Section 320(8) of Cr.P.C.

In the result, the conviction and sentence passed by the trial court under Section 138 of N.I. Act is set aside and the accused is acquitted and set at liberty.

Sd/-
P.D. RAJAN,
JUDGE

STK

//TRUE COPY//

P.A. TO JUDGE