

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.D.RAJAN

WEDNESDAY, THE 9TH DAY OF DECEMBER 2015/18TH AGRAHAYANA, 1937

Crl.Rev.Pet.No. 1158 of 2007 ()

AGAINST THE JUDGMENT IN CRL.APPEAL 261/2006 of ADDL.DISTRICT &
SESSIONS COURT (ADHOC)-1,KOTTAYAM DATED 18-09-2006
AGAINST THE JUDGMENT IN CC 179/2004 of JUDICIAL MAGISTRATE OF FIRST
CLASS,ERATTUPETTA DATED 05-04-2006

REVISION PETITIONERS/APPELLANTS:

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1. SUKAMI TEA PVT.LTD.,
REGISTERED OFFICE AT KMC VI/58, CATHOLIC TRUST BUILDING
MUTTAMBALAM P.O
KOTTAYAM.
 2. P.PRAKASH,HOUSE NO.VI/806,MADHAVA HOUSE
KARINILAM P.O., MUNDAKAYAM EAST, KOTTAYAM
MANAGING, DIRECTOR OF M/S.SUKAMI TEA PVT.LTD.
 3. SUNITHA PRAKASH,HOUSE NO.VI/806,
MADHAVA HOUSE, KARINILAM P.O, MUNDAKAYAM EAST
KOTTAYAM, DIRECTOR OF M/S.SUKAMI TEA PVT. LTD.
 4. P.PRABHAKARAN,KANIPPARAMBIL HOUSE,
KURATHYCADU KARA, THEKKEKARA VILLAGE, THEKKEKARA P.O
ALAPPUZHA DISTRICT, DIRECTOR OF M.S.SUKAMI TEA
PVT. LTD.

BY ADVS.SRI.GEORGE VARGHESE (PERUMPALLIKUTTIYIL)
SRI.A.R.DILEEP
SMT.KAVITHA GANGADHARAN

RESPONDENT(S)/STATE AND DEFACTO COMPLAINANT:

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1. ROBERT, PULICKATTU (VALAVI) HOUSE,
CHOLATHADOM P.O, POONJAR, THEKKEKARA VILLAGE.
 2. STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

R1 BY ADV. SRI.BABY THOMAS/PUBLIC PROSECUTOR
R1 BY ADV. SRI.GIGIMON ISSAC
R2 BY PUBLIC PROSECUTOR SRI. DHANESH MATHEW MANJOORAN

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 09-12-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

acd

P.D. RAJAN, J.

Crl.R.P.1158 of 2007

Dated this the 9th of December 2015

ORDER

Revision petitioners were accused in C.C.179/2004 on the file of the Judicial First Class Magistrate, Erattupetta for offence punishable under Section 138 of the Negotiable Instruments Act (hereinafter referred to as the 'N.I. Act'). The complainant's case in the trial court is that, the first accused is a Private Ltd. Company. The second accused is the Managing Director and accused 3 and 4 are Directors in-charge of the affairs of the Company. There was business transaction between the complainant and the accused in the year 2003-2004. They had supplied green leaves of tea and fire wood to the first accused. There was a debt of Rs.4 lakhs and in discharge of that debt, accused issued cheque for Rs.2,50,000/- (Ext.P1 cheque for Rs.1,50,000/- and Ext.P2 cheque for Rs.1,00,000/-). When the cheques were presented for encashment, it was dishonoured for the

reason of funds insufficient. The complainant demanded the amount by giving a notice in writing and no repayment thereafter. In the circumstance, a complaint was filed in the trial court.

2. During trial, complainant was examined as PW1 and his documents were marked Exts. P1 to P15. The accused produced Exts.D1 to D4 in the trial court in support of his defence evidence. The trial court convicted the accused. A1 was sentenced to pay fine of Rs.2,50,000/- and A2 to A4 were sentenced to simple imprisonment for 4 months, in default of payment of fine by the first accused, the second accused shall undergo simple imprisonment for a period of 3 months. Against that they preferred Criminal Appeal.261/06 before Addl. Sessions Judge, Adhoc-1, Kottayam, which was dismissed by the appellate court. Being aggrieved by that, they preferred this revision petition.

3. When the matter came up for hearing, the learned counsel appearing for the revision petitioners submitted that both parties settled the matter out of court due to the

intervention of the mediators and the entire cheque amount was paid to the first respondent. The learned counsel appearing for the first respondent admitted the receipt of the amount of Rs.2,50,000/-. Both parties filed Crl.M.A.No.7049/15. I have perused the Crl.M.A., in which revision petitioners and first respondent signed and both counsel have also signed. The learned Public Prosecutor has also no objection in compounding the matter. When both parties settled the matter out of court, there is no objection in compounding the case. According to Section 147 of the N.I. Act, notwithstanding anything contained in the Code of Criminal Procedure, every offence punishable under this Act shall be compoundable. When the matter is compounded, the revision petitioners in this case are entitled for an acquittal under Section 320(8) of the Cr.P.C. Hence, parties are permitted to compound the matter.

In the result, the conviction under Section 138 of the N.I. Act is set aside and accused are set at liberty. When the matter is compounded by the parties, as per the

decision of the apex court in **Damodar S. Prabhu V. Sayed Babalal H., (AIR 2010 SC 1907)** the revision petitioners are directed to pay a sum of Rs.1000/- in the High Court Legal Service Committee, Ernakulam. This revision petition is disposed of as above.

Post for reporting compliance on 14.12.15.

STK

//TRUE COPY//

PA. TO JUDGE

Sd/-
P.D. RAJAN,
JUDGE