

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.D.RAJAN

THURSDAY, THE 12TH DAY OF NOVEMBER 2015/21ST KARTHIKA, 1937

Crl.Rev.Pet.No. 1176 of 2007 ()

AGAINST THE JUDGMENT IN CRL.APPEAL NO.135/2006 of ADDL.SESIONS COURT
(ADHOC)-I, KOTTAYAM DATED 27-10-2006

AGAINST THE JUDGMENT IN CC 1092/2003 of JUDICIAL MAGISTRATE OF FIRST
CLASS-III, KOTTAYAM DATED 10-02-2006

REVISION PETITIONER(S)/APPELLANT/ACCUSED.:

K.L.HAKKIM, PROPRIETOR,
HINDUSTAN RUBBER PRODUCTS, 8/44 D MAIN ROAD, VAKILAMBLI
NAGERCOIL, TAMILNADU RESIDING AT 5/90, B-2
M.K.KUDIL, VARKILAMBIL, NAGERCOIL
KANYAKUMARI DISTRICT, TAMILNADU.

BY ADV. SRI.LIJI.J.VADAKEDOM

RESPONDENT(S)/RESPONDENTS/STATE & COMPLAINANT.:

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1. STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.
 2. MALAYA TRADE IMPEX PVT.LTD.,
RUBBER BHAVAN, MALAYA CORNER, M.C.ROAD
KODIMATHA, KOTTAYAM REPRESENTED BY ITS
AUTHORISED OFFICER, ROY JOSEPH.

R1 BY PUBLIC PROSECUTOR SRI. DHANESH MATHEW MANJOORAN
R2 BY ADV. SRI.ABRAHAM GEORGE JACOB

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 12-11-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

acd

P.D. RAJAN, J.

Crl.R.P.No.1176 of 2007

Dated this the 12th day of November, 2015

ORDER

Revision petitioner, who is the appellant in Crl.Appeal No.135/2006 on the file Additional Sessions Judge(Adhoc)-I, Kottayam challenges the concurrent conviction u/s.138 of the Negotiable Instruments Act (hereinafter referred to as the N.I. Act). He was the accused in C.C.No.1092/2003 of Judicial Magistrate of First Class, Kottayam for offence punishable u/s.138 of the N.I. ,Act. He was convicted and sentenced to simple imprisonment for four months and to pay compensation of ₹2,30,000/- u/s.357(3) Cr.P.C. Against that, he preferred the above appeal, which was dismissed by the appellate Court. Being aggrieved by that, he preferred this

revision petition.

2. The complainant is the 2nd respondent in this revision petition. His case is that the accused borrowed a sum of ₹ 2,30,000/- and in discharge of that debt, he issued Exts.P1 and P2 cheques. When both cheques were presented for encashment, they were dishonoured for the reason of funds insufficient. The complainant demanded the amount by giving a notice in writing. Even after receipt of notice, there was no payment. In the circumstances, the above complaint was filed in the trial Court. To prove the offence, the power of attorney holder of the complainant was examined as PW1. His documents were marked as Exts.P1 to P14. The incriminating circumstances brought out in evidence were denied by the accused, while questioning him. He examined DW1 and marked Exts.D1 to D3. The trial Court convicted him.

3. When the matter came up for hearing, the learned counsel for the revision petitioner and the 2nd respondent submitted that they have settled the matter out of Court and filed Crl.M.A.No.6322/2015 u/s.320 Cr.P.C. I have perused the Crl.M.A., in which both parties and both counsel have signed. According to Section 147 of the N.I. Act, the offence is compoundable.

Section 147 of N.I. Act reads thus:-

"Offences to be compoundable - Notwithstanding anything contained in the Code of Criminal Procedure, 1973(2 of 1974), every offence punishable under this Act shall be compoundable."

When an offence is compounded by the parties, it is advisable to drop the criminal proceedings according to the settlement between the accused and the victim. When offence is compounded, it has the effect of an acquittal as per Section 320(8) of Cr.P.C. with whom the offence has

been compounded. Accordingly, Crl.M.A.No. 6322/2015 is allowed.

In the result, the conviction u/s.138 of the N.I. Act is set aside. Accused is set at liberty, provided he shall pay ₹500/- to the High Court Legal Service Committee in the light of the decision of the Apex Court in Damodar S. Prabhu v. Sayed Babalal [2010 (2) KLT 587(SC)]. If the above conditions are not complied, revision petitioner has to undergo the sentence imposed by the trial Court.

Post on 16.11.2015 for reporting compliance.

P.D. RAJAN, JUDGE.

acd

