

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

FRIDAY, THE 21ST DAY OF AUGUST 2015/30TH SRAVANA, 1937

CrI.Rev.Pet.No. 2618 of 2004 (B2)

AGAINST THE JUDGMENT IN CRL.A 484/2002 of THE III ADDL.
SESSIONS JUDGE, ERNAKULAM DATED 29-07-2004

AGAINST THE JUDGMENT IN CC 544/1999 of CHIEF JUDL.MAGISTRATE,
ERNAKULAM DATED 20-6-2002

...

REVISION PETITIONERS/APELLANTS/ACCUSED 1,2&5:

1. M/S.VALLAMATTOM STONE AGGREGATE (P) LIMITED,
14/58-D7, VALLAMATTOM ESTATE,
MUVATTUPUZHA, ERNAKULAM, REPRESENTED BY ITS
MANAGING DIRECTOR, V.V. MANUEL.
2. V.V. MANUEL, VALLAMATTOM,
PANDAPPALLY, MUVATTUPUZHA, ERNAKULAM. (DIED)
3. V.M. JOSE, VALLAMATTOM, KAVUMPADY ROAD,
MUVATTUPUZHA.

*ADDL.REVISION PETITIONERS IMPLEADED:

- *4. SOORAJ M.VALLAMATTOM,S/O. LATE V.V. MANUEL,
VALLAMATTOM,PANDAPPALLY, MUVATTUPUZHA.
- *5. SINDHU M.VALLAMATTOM,D/O. LATE V.V. MANUEL,
VALLAMATTOM,PANDAPPALLY, MUVATTUPUZHA.
- *6. SOUMYA M.VALLAMATTOM,D/O. LATE V.V. MANUEL,
VALLAMATTOM,PANDAPPALLY, MUVATTUPUZHA.

(*IMPLEADED AS ADDL. REVISION PETITIONERS 4,5 & 6
AS PER ORDER DT.20.7.15 IN CrI.M.A.3178/15 IN
CRL.R.P.2618/04)

BY ADVS.SRI.M.M.SAIDU MUHAMMED
SRI.SHAJI SAMAD P.A.

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

1. KERALA STATE INDUSTRIAL DEVELOPMENT
CORPORATION LTD., CHOICE TOWERS, MANORAMA JUNCTION
KOCHI., REPRESENTED BY ITS ASSISTANT MANAGER (LEGAL)
MR. SANJAY.

(.....2)

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

R2 BY PUBLIC PROSECUTOR SRI.JUSTINE JACOB
R1 BY ADV. SRI.M.PATHROSE MATHAI (SR.)
R1 BY ADV. SRI.A.K.SRINIVASAN
R1 BY ADV. SRI.N.S.MOHAMMED USMAN
R1 BY ADV. SRI.A.S.BENOY

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY
HEARD ON 21-08-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

OKB

K.HARILAL, J.

Crl.M.Appl. No.4371 of 2015
in
Crl.R.P. No.2618 of 2004

Dated this the 21st day of August, 2015.

O R D E R

The Revision Petitioners are the accused in C.C. No.544/99 on the files of the Chief Judicial Magistrate's court, Ernakulam as well as the appellants in Criminal Appeal No.484/02 on the files of the III Additional Sessions Judge, Ernakulam. They were prosecuted for the offence punishable under Section 138 of the Negotiable Instruments Act (for short, 'N.I. Act') on a complaint filed by the respondents herein. After trial, the learned Magistrate found the Revision Petitioners 1, 2 and 5 guilty of the offence punishable under Section 138 of the N.I. Act and convicted thereunder. The accused 2 and 5 were sentenced to undergo simple imprisonment for one year each and the 1st accused was sentenced to pay a compensation of Rs.18 lakhs to the complainant under Section 357(3) of the Cr.P.C. Though the Revision Petitioners had preferred an appeal, the Appellate Court also confirmed the conviction; but modified the

sentence. The 1st accused was directed to pay an amount of Rs.9 lakhs as compensation to the 1st respondent under Section 357(3) of the Cr.P.C. The accused 2 and 5 were sentenced to undergo simple imprisonment for 6 months each and to pay Rs.4,50,000/- each as compensation to the 1st respondent under Section 357(3) of the Cr.P.C. and in default to undergo simple imprisonment for 6 months more. This Revision Petition is filed challenging the concurrent findings of conviction and modified sentence.

2. Now this Crl.M.A. under Section 147 of the N.I. Act read with Section 320 of the Cr.P.C., is filed and in the petition, it is specifically stated that the subject matter of the above Revision Petition has been settled between the Revision Petitioners and the 1st respondent out of court and now the 1st respondent is not desirous of prosecuting the case against the Revision Petitioners. They jointly sought for permission of the Court for compounding the offence.

3. The learned counsel for the 1st respondent also submits that the averments in the petition are true and correct to his knowledge and belief also. It is seen that the Revision Petitioners have deposited Rs.34,000/- as cost to Kerala State Legal Services Authority in compliance with the direction of the Supreme Court in the decision

Damodar S. Prabhu v. Sayed Babalal [2010(2) KLT 587(SC)].

As I am satisfied with the averments in the petition signed by both the parties and countersigned by the respective counsel appearing for the parties, permission is granted to compound the offence and composition is recorded.

Sd/—
(K. HARILAL, JUDGE)

okb.

K. HARILAL, J.

CrI.R.P. No.2618 of 2004

Dated this the 21st day of August, 2015.

ORDER

During the pendency of this revision filed against the conviction and sentence of the Revision Petitioners under Section 138 of the Negotiable Instruments Act, the parties have settled the matter and have filed CrI.M.A. No.4371/2015 to the effect that the matter has been compounded. The said petition has been signed by the Revision Petitioners as well as the 1st respondent and their respective counsel. In the light of this, CrI.R.P. is disposed of and the judgments under appeal are set aside and the composition of the offence is recorded.

2. It is needless to mention that this composition shall have the effect of acquittal of the Revision Petitioners of the offence punishable under Section 138 of the N.I. Act within the meaning of Section 320(8) Cr.P.C.

Sd/-

K. HARILAL, JUDGE

okb.