

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.D.RAJAN

TUESDAY, THE 8TH DAY OF DECEMBER 2015/17TH AGRAHAYANA, 1937

Crl.Rev.Pet.No. 3360 of 2004 (D)

AGAINST THE JUDGMENT IN CRL.APPEAL 130/2003 of SESIONS COURT, KALPETTA

AGAINST THE JUDGMENT IN STC 129/2001 of J.M.F.C.-II, MANANTHAVADY

REVISION PETITIONER(S):

**ABOOBACKER,
S/O. MOIDU, TURKEY VEEDU,
THENGUMUNDA P.O.,
PADINJARATHARA.**

BY ADV. SRI.P.CHANDRASEKHAR

RESPONDENT(S):

**STATE OF KERALA
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI. DHANESH MATHEW MANJOORAN

**THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON
08-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

STK

P.D. RAJAN, J.

Crl.R.P.3360 of 2004

Dated this the 8th of December 2015

ORDER

This revision petition is preferred against the concurrent conviction in Crl.Appeal 130/03 of the Sessions Judge, Wayanad. Revision petitioner was accused in S.T. 129/01 on the file of the Judicial First Class Magistrate-II, Mananthavady, he was convicted and sentenced to simple imprisonment for two months and fine of Rs.1000/- under Section 338 IPC, in default, simple imprisonment for one month.

2. The allegation against the accused is that on 2.3.00 at 2.30 pm he drove a Tractor KRQ8615 in a rash and negligent manner endangering human life near the gate of Musthafa's Food Industries at Padinjarekkara. PW1, who was standing near the gate was crushed with pillar thereby committed the offence under Section 279 and 338 IPC. The Sub Inspector of Police, Parinjarethara registered a crime after completing investigation and laid

final report before Judicial First Class Magistrate II, Mananthavady. Prosecution examined PW1 to PW11 and marked Exts.P1 to P6. The learned Judicial First Class magistrate convicted him. Against that he preferred Crl Appeal 130/2003, which was dismissed by the Sessions Court. Being aggrieved by that he preferred this revision.

When the matter came up for hearing, the learned counsel appearing for the revision petitioner submitted that they have settled the matter out of court through the intervention of mediators and no dispute subsisting between the revision petitioner and the injured. They filed Crl.M.A.7056/2015. Both parties appeared before court and learned Public Prosecutor identified the injured and the revision petitioner. It is true that the trial court acquitted the accused under Section 279 IPC. The conviction under Section 338 IPC was not modified. According to Section 320(8) of the Code of Criminal Procedure, the offence punishable under Section of the Indian Penal Code specified in the first column of the table next following may be compounded by the person

mentioned in the 3rd column of the table. Section 338 is compoundable with the permission of the court. Accordingly they filed the Crl.M.A.7056/15 and this court permit them to compound the offence. When offence is compounded, the compounding shall have the effect of acquittal of the accused with whom the offence has been compounded. In the result, this revision petition is disposed as compounded and the conviction under Section 338 IPC is set aside and accused is acquitted under Section 320(8) Cr.P.C and this revision petition is disposed of as above.

STK

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P.A. TO JUDGE

Sd/-
P.D. RAJAN,
JUDGE