

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.D.RAJAN

WEDNESDAY, THE 2ND DAY OF DECEMBER 2015/11TH AGRAHAYANA, 1937

Crl.Rev.Pet.No. 464 of 2008 ()

AGAINST THE JUDGMENT IN CRL.APPEAL NO.442/2006 of ADDL.DISTRICT &
SESSIONS JUDGE, FAST TRACK (ADHOC) MAVELIKKARA DATED 14-11-2007

AGAINST THE JUDGMENT IN CC 769/2004 of JUDICIAL FIRST CLASS
MAGISTRATE.-I, CHENGANNUR DATED 18-08-2006

REVISION PETITIONER(S)/APPELLANT/ACCUSED:

THULASI.A.V.
KARTHIKA HOUSE, KUTTOOR VILLAGE, OATHARA WEST MURI
THIRUVALLA.

BY ADV. SMT.ASHA ELIZABETH MATHEW

RESPONDENT(S)/COMPLAINANT AND STATE:

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1. SANTHOSH KUMAR
SANTHOSH BHAVAN,
PULIYOOR P.O., CHENGANOOR.
 2. STATE OF KERALA REP. BY ITS
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

R1 BY ADV. SMT.JISHAMOL CLEETUS
R2 BT PUBLIC PROSECUTOR SRI. N. SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 02-12-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

acd

P.D. RAJAN, J.

Crl.R.P.No.464 of 2008

Dated this the 2nd day of December, 2015

ORDER

Revision petitioner, who is the appellant in Crl.Appeal No.442/2006 on the file of Additional District & Sessions Judge, Fast Track (Adhoc), Mavelikara, 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.769/2004 on the file of Judicial First Class Magistrate-I, Chengannur, he was convicted and sentenced to simple imprisonment for three months and to pay compensation of ₹90,000/- to the complainant u/s.357(3) Cr.P.C., with a default sentence of two months simple imprisonment. Against that, he preferred the above appeal,

in which the conviction was confirmed and dismissed the appeal. Being aggrieved by that, he preferred this revision petition.

2. The complainant's case is that the accused borrowed a sum of ₹90,000/- from him and in discharge of that debt, he issued Ext.P1 cheque. When it was presented for encashment, it was dishonoured for the reason of funds insufficient. He issued a statutory notice and demanded the amount from the accused. But, there was no repayment. Hence, he filed the complaint. The complainant was examined as PW1 and his documents were marked as Exts.P1 to P7. The accused examined DW1 and marked Exts.D1 to D9. The trial Court convicted the accused.

3. When the matter came up for hearing, the learned counsel for the revision petitioner contended that

the parties have settled the matter out of Court for a total sum of ₹75,000/- with the involvement of close relatives and local respectable persons. As part of the settlement, the revision petitioner has paid ₹50,000/- to the complainant on 23.11.2015 and a sum of ₹25,000/- has been deposited in the trial Court as per the direction of this Court and they mutually agreed that ₹25,000/- deposited in the Judicial First Class Magistrate Court-I, Chengannur will be withdrawn and paid to the 1st respondent as final settlement.

4. 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 complainant. 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. 6834/2015 is allowed. The revision petitioner and the 1st respondent are permitted to compound the offence for a total sum of ₹75,000/- as full and final settlement. The revision petitioner already paid ₹50,000/- and the balance amount of ₹25,000/- can be adjusted with the amount deposited in the trial Court.

In the result, the conviction u/s.138 of the N.I. Act is set aside and the revision petitioner is set at liberty, provided he shall pay ₹1000/- to the High Court Legal Service Committee within two days in the light of the

decision of the Apex Court in Damodar S. Prabhu v. Sayed Babalal [2010 (2) KLT 587(SC)]. The learned Judicial First Class Magistrate -I, Chengannur is directed to disburse ₹25,000/- deposited by the revision petitioner to the 1st respondent according to the terms of the compromised entered between them.

Post on 04.12.2015 for reporting compliance.

P.D. RAJAN, JUDGE.

acd

