

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

THURSDAY, THE 9TH DAY OF APRIL 2015/19TH CHAITHRA, 1937

Crl.Rev.Pet.No. 3178 of 2005 ()

**AGAINST THE JUDGMENT IN CRL.A.NO.1215/2004 of VTH ADDL.SESIONS COURT,
ERNAKULAM, DATED 18.08.2005.**

**AGAINST THE JUDGMENT IN C.C.NO.25/2000 of JUDICIAL FIRST CLASS
MAGISTRATE COURT, PERUMBAVOOR DATED 08.12.2004.**

REVISION PETITIONER(S)/APPELLANT/ACCUSED:

**VARGHESE V.A., S/O.ANTHONY,
VEMBILY HOUSE, ANGAMALY.**

BY ADV. SRI.WILSON URMESSE

RESPONDENT(S)/COMPLAINANT:

- 1. P.D.JOSEPH, S/O.DEVASSY,
PUTHUSSERY HOUSE, THEVARMADOM, PIRAROOR,
KALADY.**
- 2. THE STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.**

**R1 BY ADV. SRI.DINESH MATHEW J.MURICKEN
R2 BY PUBLIC PROSECUTOR SMT.V.H.JASMINE.**

**THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 09-
04-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER'S ANNEXURES

- ANNEXURE A1 : TRUE COPY OF THE PLAINT IN O.S.NO.368/99 OF THE SUB COURT, NORTH PARAVUR.
- ANNEXURE A2 : TRUE COPY OF THE I.A.NO.3476/99 IN O.S.NO.368/99 OF THE SUB COURT, NORTH PARAVUR.
- ANNEXURE A3 : TRUE COPY OF THE COUNTER AFFIDAVIT IN I.A.NO.3476/99 IN O.S.NO.368/99 OF THE SUB COURT, NORTH PARAVUR.
- ANNEUXRE A4 : TRUE COPY OF THE PETITION DATED 08.12.2004 FILED BY THE PETITIONER HEREIN/ACCUSED UNDER SECS.311 & 315 CR.P.C.

RESPONDENT'S ANNEXURES

NIL

//True Copy//

P.A. To Judge

Bb

K. Ramakrishnan, J.

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Dated this, the 09th day of April, 2015.

ORDER

Accused in C.C.No.25/2000 on the file of the Judicial First Class Magistrate Court, Perumbavoor is the revision petitioner herein.

2. The above case was taken on file on the basis of a private complaint filed by the first respondent against the revision petitioner alleging offence under Section 138 of the Negotiable Instruments Act. The learned magistrate convicted and sentenced him and the conviction was confirmed by the appellate court in Crl.Appeal No.1215/2004, but, modified the sentence against which, the present revision has been filed.

3. The matter has been referred to Lok Adalath and the matter has been settled between the parties in the Lok Adalath by award dated 03.03.2015 recorded the settlement and acquitted the revision petitioner accepting the composition. Since the settlement was effected by the power of attorney holder before the Adalath, but, he was not represented by power of attorney before this court. The matter was posted before this court for consideration after the

matter was settled in the Adalath. Thereafter, the first respondent filed Crl.M.A.No.1887/2015 to represent through power of attorney which was produced by him before the Lok Adalath and that application was allowed. It is also seen from the proceedings paper of the Lok Adalath that another case as R.F.A.No.549/2005 was also pending between the parties and that was also referred to Adalath and that case was also settled in the Adalath. Both the sides submitted that the matter was settled by the complainant paying certain amount to the revision petitioner. That shows that offence under Section 138 has not been made out. But, there was some other dispute between them and that was also settled in the Adalath and both this and the civil case pending between the parties were settled and on that basis, award was passed by the Lok Adalath. So, under the circumstances, the dictum laid down in the decisions reported in **Damodar S. Prabhu Vs. Sayed Babalal H. [JT 2010 (4) SC 457]** and **Madhya Pradesh State Legal Services Authority Vs. Prateek Jain and Another [2014 (4) KHC 115 (SC)]** is not applicable to the facts of this case. Since the matter has been settled in the Adalath and the Lok Adalath has accepted the composition and

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acquitted the revision petitioner, the same is accepted and the revision petition is disposed of accordingly accepting the award of the Lok Adalath.

Office is directed to communicate this order to the court below at the earliest.

Sd/-
K.Ramakrishnan, Judge.

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[True copy]

P.A to Judge