

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

THURSDAY, THE 8TH DAY OF JANUARY 2015/18TH POUSHA, 1936

Crl.Rev.Pet.No. 35 of 2015 ()

**AGAINST THE JUDGMENT IN Crl. APPEAL 423/2011 of ADDITIONAL DIST. & SESSIONS
COURT, MUVATTUPUZHA, DATED 28-11-2011**

&

**AGAINST THE JUDGMENT IN ST 2111/2010 of J.M.F.C., KOLENCHERRY,
DATED 07-07-2011**

REVISION PETITIONER(S):

**P.K.MOHANDAS, AGED 55 YEARS,
PERUCHERIL HOUSE, CHITTADY P.O.,
PARATHODU PANCHAYATH, KANJIRAPPALLI,
KOTTAYAM DISTRICT.**

BY ADV. SRI.V.K.PEER MOHAMED KHAN

RESPONDENT(S):

- 1. VIAKKARA ENTERPRISES, SAYED MOHAMMED COMPLEX,
C.P. UMMAR ROAD, COCHIN-682 035,
ERNAKULAM VILLAGE, KANAYANNOOR TALUK,
REPRESENTED BY ITS PROPRIETOR BIJU VIAKKARA.**
- 2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.**

**R1 BY ADV. SRI.VINOD KUMAR.C
R2 BY PUBLIC PROSECUTOR SMT. SEENA RAMAKRISHNAN.**

**THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON
08-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

K. RAMAKRISHNAN, J.

Crl. R.P.35 of 2015

Dated this the 8th day of January, 2015

ORDER

Accused in S.T.No.2111/2010 of Judicial First Class Magistrate Court, Kolencherry, is the revision petitioner herein. The case was taken on file on the basis of a private complaint filed by the first respondent alleging offence under Section 138 of the Negotiable Instruments Act (hereinafter called 'the Act').

2. After evidence, the revision petitioner was found guilty under Section 138 of the Negotiable Instruments Act and he was convicted thereunder and sentenced to undergo simple imprisonment for three months and also to pay a fine of ₹55,000/-, in default to undergo simple imprisonment for one month. Though he filed Crl. Appeal No.423/2011 before the Sessions Court, Ernakulam, which was made over to Additional District and Sessions Court, Muvattupuzha, for disposal and the learned Additional Sessions Judge dismissed the appeal, confirming

the order of conviction and sentence passed by the court below. Aggrieved by the same the present revision has been filed.

3. After the disposal of the Crl. Appeal the matter has been settled between the parties and along with the revision they filed Crl.M.A.No.125/2015 for record compounding and the same was allowed today on payment of cost of ₹3,000/- and the permission was granted to compound the case and compounding was recorded. Once the compounding is recorded, it will have the effect of deemed acquittal under Section 320(8) of the Code of Criminal Procedure and that benefit must be given to the revision petitioner.

So the revision is allowed and the order of conviction and sentence passed by the Judicial First Class Magistrate Court, Kolencherry, in S.T.No.2111/2010 and confirmed in Crl.Appeal No.423/2011 of Additional Sessions Court, Muvattupuzha, under Section 138 of the Negotiable

Instruments Act is set aside and the revision petitioner is acquitted of the charge giving him the benefit of deemed acquittal under Section 320(8) of the Code of Criminal Procedure on recording composition entered into between the parties. He is set at liberty. Since he is in custody in District Jail, Kakkanadu, the jail authorities are directed to release him forth with, if his custody is not required in other cases. Office is directed to communicate this order to the jail authorities, immediately and serve a copy of this order to the court below at the earliest.

Sd/-

K. RAMAKRISHNAN, (Judge)

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P.A. to Judge

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