

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR

MONDAY, THE 19TH DAY OF JANUARY 2015/29TH POUSHA, 1936

Crl.Rev.Pet.No. 74 of 2015 ()

AGAINST THE JUDGMENT IN CRA 232/2010 of COURT OF SESIONS, WAYANAD,
KALPETTA DATED 20-12-2010

AGAINST THE JUDGMENT IN CC 87/2009 of J.M.F.C, KALPETTA
DATED 31-03-2010

REVISION PETITIONER(S):

ABDUL RAZAK A.K. AGED 39 YEARS
S/O.ABDUL RAHIMAN, AVARIKUNNU HOUSE,
THAZATHOOR P.O., CHEERAL (VIA),
S. BATHERY TALUK, WAYANAD DISTRICT.

BY ADV. SRI.S.M.PRASANTH

RESPONDENTS:

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1. M/S.KALPETTA JANAKSHEMA MARUTHI CHITS (P) LTD.,
KALPETTA, REPRESENTED BY ITS MANAGER SHANUGHADAS V Y
S/O.YESODHARAN, SHEEJABHAVANAM, KUNNUMBETTA,
CHUNDEL, WAYANAD DISTRICT-670120.
 2. STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

R1 BY ADV. SRI.P.VINODKUMAR
R2 BY PUBLIC PROSECUTOR SRI.SURESH.N.

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 19-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C.T.RAVIKUMAR, J.

Crl.R.P.No.74 of 2015

Dated 19th January, 2015

ORDER

The revision petitioner- accused in C.C.No.87 of 2009 on the files of the Court of Judicial First Class Magistrate, Kalpetta, was tried for an offence under Section 138 of the Negotiable Instruments Act and he was found guilty and convicted thereunder. Upon such conviction he was sentenced to undergo simple imprisonment for three months and to pay a fine of ₹ 55,000 and in default of payment of fine to undergo simple imprisonment for three months. The accused took up the matter in appeal as Crl.A.No.232 of 2010 before the Court of Sessions, Wayanad, Kalpetta with an application to condone the delay in filing the appeal. However, the appellate court dismissed the application for condoning the delay in filing the appeal and consequently, the appeal was also dismissed. It is against the said judgment that the captioned criminal revision petition has been filed. Pending the revision petition the revision petitioner and the first respondent who are respectively the accused and the complainant in C.C.No.87 of 2009 amicably settled the matter and filed Crl.M.A.No.276 of 2015 seeking permission to

compound the offence under section 147 of the Negotiable Instruments Act. True that in terms of Section 147, N.I. Act the offence under Section 138, N.I.Act is compoundable and the question whether an offence under Section 138, N.I.Act could be compounded at the appellate stage or thereafter is also no more *res integra* in the light of the decision of the Hon'ble Apex Court in **K.M.Ibrahim v. K.P.Mohammed (Justice Altamas Kabir & Justice Cyriac Joseph) (AIR 2010 SC 276)**. In the light of the dictum laid down by the Hon'ble Apex Court in the aforesaid decision there cannot be any doubt with respect to the position that even at the stage of revision compounding of an offence under Section 138 of the Negotiable Instruments Act is possible and permissible. The learned counsel on both sides endorsed the statement in Crl.M.A.No.276 of 2015 to the effect that the issues involved in this proceedings have been settled amicably between the complainant and the accused. The compromise duly verified by the parties is brought on record and it is noticed. In the circumstances, I do not find any reason to decline permission to the parties to compound the aforesaid offence and accordingly, imbibing the spirit of Section 147 of the Negotiable Instruments Act I allow the parties to compound the offence in terms of the settlement arrived at between them. Consequently, the judgments

of the courts below are set aside and the revision petitioner is acquitted of the charge under Section 138 of the Negotiable Instruments Act.

The revision petition is allowed as above.

Sd/-
C.T.RAVIKUMAR
Judge

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