

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

Crl.Rev.Pet.No. 1095 of 2008 ()

**AGAINST THE JUDGMENT IN CRL.A.NO.173/2006 of II ADDL. SESSIONS COURT,
PALAKKAD DATED 12-02-2008**

**AGAINST THE JUDGMENT IN C.C.NO.288/2002 of JUDICIAL FIRST CLASS
MAGISTRATE COURT - III, PALAKKAD DATED 08.02.2006**

REVISION PETITIONER(S)/APPELLANT/ACCUSED:

**SUKUMARAN JOSEPH, AGED 43 YEARS,
S/O.JOSEPH, CHIRAKKAL, KUNNATHURMEDU,
PALAKKAD.**

**BY ADVS.SRI.P.VIJAYA BHANU
SMT.P.MAYA
SRI.VIPIN NARAYAN**

RESPONDENT(S)/COMPLAINANT:

- 1. STATE OF KERALA REP. BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.**

***ADDL.R2 IMPEADED**

- 2. SURENDRA BABU,
S/O.GOPALAN, CHERAYAVEEDU,
KARIMPUZHA PANCHAYATH,
OTTAPALAM TALUK,
PALAKKAD.**

***ADDL.R2 IMPEADED AS PER ORDER DATED 31.03.2015 IN CRL.M.A.NO.1702/2015 IN
CRL.R.P.NO.1095/2008.**

**R1 BY PUBLIC PROSECUTOR SMT.V.H.JASMINE.
ADDL.R2 BY ADV. SRI.VIVEK.JOY.K**

**THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 31-
03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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K. Ramakrishnan, J.

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Crl.R.P.No.1095 of 2008

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Dated this, the 31st day of March, 2015.

O R D E R

Accused in C.C.No.288/2002 on the file of the Judicial First Class Magistrate Court - III, Palakkad is the revision petitioner herein.

2. The revision petitioner was charge sheeted by the Sub Inspector of Police, Hemambika Nagar police station in Crime No.56/2002 of that police station under Section 420 of Indian Penal Code. After investigation, final report was filed and it was taken on file as C.C.No.288/2002 on the file of the Judicial First Class Magistrate Court - III, Palakkad. After trial, the learned magistrate found the revision petitioner not guilty under Section 420 of Indian Penal Code and acquitted him of that charge, but, found him guilty under Section 417 of Indian Penal Code and convicted him thereunder and sentenced him to undergo rigorous imprisonment for one year and also to pay a compensation of Rs.50,000/- to PW1 in default to undergo rigorous imprisonment for three months under Section 357(3) of Code of Criminal Procedure. Though he filed Crl.Appeal

No.173/2006 before the Sessions Court, Palakkad which was made over to II Additional Sessions Court, Palakkad for disposal, the learned Additional Sessions Judge, by the impugned judgment, dismissed the appeal, confirming the order of conviction and sentence passed by the court below. Aggrieved by the same, the above revision has been filed by the revision petitioner - accused before the court below.

3. During the pendency of the revision, the matter has been settled between the parties and they filed Crl.M.A.No.1764/2015 for leave to compound and also to record compounding and that application was allowed by this court by a separate order today. In view of allowing the application and recording compounding, it will have the effect of deemed acquittal under Section 320(8) of Code of Criminal Procedure and that benefit must be given to the revision petitioner.

So, the revision is allowed. Order of conviction and sentence passed by the Judicial First Class Magistrate - III, Palakkad in C.C.No.288/2002 and confirmed in Crl.Appeal No. 173/2006 of II additional Sessions Court, Palakkad are hereby set aside and the revision petitioner is acquitted of the charge

levelled against him giving him the benefit of deemed acquittal under Section 320(8) of Code of Criminal Procedure. He is set at liberty. The bail bond executed by him will stand cancelled. If any amount has been deposited by the revision petitioner, the lower court is directed to refund the same to the revision petitioner on making an application for that purpose before that court.

Office is directed to communicate this order to the concerned court immediately.

Sd/-
K.Ramakrishnan, Judge.

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[True copy]

P.A to Judge