

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR

THURSDAY, THE 5TH DAY OF FEBRUARY 2015/16TH MAGHA, 1936

Crl.Rev.Pet.No.171 of 2015

**Crl.A No.253/2013 OF THE V ADDITIONAL SESSIONS COURT,KOLLAM.
CC No.80/2008 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-III,
KOTTARAKAKARA.**

..

REVISION PETITIONER/APPELLANT/ACCUSED:

**ABDUL RAHMAN,S/O.ABDUL HAMEED,AGED 61 YEARS,
PROPRIETOR,THUNDUVILA GLASS HOUSE,
KADAKKAL TOWN,KADAKKAL PO, KOLLAM.**

**BY ADVS.SRI.LIJU. M.P
SRI.V.MOHAN KUMAR**

RESPONDENTS/RESPONDENTS/NON-PARTY & COMPLAINANT:

- 1. STATE OF KERALA,REP.BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,ERNAKULAM.**
- 2. VADANA RAJU,S/O.BHASKARAN,CHARUVILA VEEDU,
VELLARVATTOM,ELAMPAZHANNOOR,KADAKKAL,
KOLLAM-691 536.**

**R1 BY PUBLIC PROSECUTOR SMT.SEENA RAMAKRISHNAN
R2 BY ADV. SRI.JOSEPH SEBASTIAN (KOLLAM)**

**THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 05-02-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

pk

C.T.RAVIKUMAR, J

Crl.R.P. No.171 of 2015

Dated this the 5th day of February, 2015

ORDER

The revision petitioner-accused in C.C.No.80 of 2008 on the files of the Court of the Judicial First Class Magistrate-III, Kottarakkara 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 two months and to pay a fine of RS.1,00,000/ and in default of payment of fine to undergo simple imprisonment for a further period of 15 days. The accused took up the matter in appeal as Crl.A.No.253/2013. The Court of the Additional Sessions Judge-V, Kollam dismissed the appeal confirming the conviction and also the sentence. It is against the said judgment that the captioned revision petition has been filed. Pending the revision petition the revision petitioner and the second respondent who are respectively the accused and the complainant in C.C.No. 80/2008 amicably settled matter and filed Crl.M.A No.690/2015 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 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** reported in 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, N.I.Act is possible and permissible. The learned counsel on both sides endorsed the statement in Crl.M.A.No.690/2015 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. Consequently, the judgment of the Court of the Additional Sessions Judge-V, Kollam in Crl.A.No.253/2013 and the judgment of the Court of the Judicial First Class Magistrate-III, Kottarakkara are set aside. It is made

clear that the composition will have the effect of acquittal of the charge under section 138 of the Negotiable Instruments Act.

The revision petition is allowed as above.

Sd/-

C.T.RAVIKUMAR,JUDGE.

dlk