

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR

FRIDAY, THE 27TH DAY OF FEBRUARY 2015/8TH PHALGUNA, 1936

Crl.Rev.Pet.No. 173 of 2015 ()

AGAINST THE JUDGMENT IN CRA 180/2013 of THE COURT OF ADDL.SESIONS
JUDGE-IV, THODUPUZHA DATED 1.10.2014

AGAINST THE JUDGMENT IN ST 1129/2009 of THE COURT OF J.M.F.C., ADIMALI
DATED 29.10.2013.

REVISION PETITIONER(S)/APPELLANT/ACCUSED:

SAJI PAULOSE, AGED 39 YEARS
S/O.PAULOSE, KARIYELIL HOUE, MAMATTIKANNAM KARA
RAJAKKADU VILLAGE.

BY ADV. SMT.C.S.SHEEJA

RESPONDENTS/RESPONDENTS/COMPLAINANT AND STATE:

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1. BABY VARGHESE
S/O.VARGHESE, KALEEKKAL HOUSE,
RAJAKKAD VILLAGE-685 566.
 2. STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM - 682031.

R1 BY ADV. SMT.MABLE.C.KURIAN
R1 BY ADV. SRI.ABLE C.KURIAN
R2 BY PUBLIC PROSECUTOR SMT.SEENA RAMAKRISHNAN.

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 27-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C.T.RAVIKUMAR, J.

Crl.R.P.No.173 of 2015

Dated 27th February, 2015

ORDER

This revision petition is filed against the conviction concurrently entered against the revision petitioner for the offence under Section 138 of the Negotiable Instruments Act. Upon such conviction the revision petitioner was sentenced to undergo imprisonment till the rising of the court and to pay a compensation of ₹ 3,50,000/- to the complainant under Section 357(2) of the Code of Criminal Procedure. In default of payment of compensation he was directed to undergo simple imprisonment for a period of one month. The appellate court confirmed the conviction and also the sentence imposed for the conviction under Section 138 of N.I. Act by the trial court. In this revision petition notice was ordered and served on the first respondent/the complainant. Crl.M.Appl.No.701 of 2015 has been filed in this revision petition by the parties seeking permission of this court to compound the offence under Section 147 of the Negotiable Instruments Act read with Section 320 of the Code of Criminal Procedure. There cannot be any doubt with respect to the position that the offence under Section 138 of N.I. Act is compoundable in view of

the provisions under Section 147 of the said Act. At the same time, a bare perusal of Section 320 Cr.P.C. would reveal that the provisions for compounding would be applicable only in respect of offences punishable under the Indian Penal Code which would specifically fall under either Table 1 or 2 thereunder. At the same time, while acting upon a petition for permission to compound the offence under Section 138 of N.I. Act 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) it is only appropriate, in the interest of justice, to acquit the accused of the charge under Section 138 of N.I.Act when once the permission sought for, has been granted. Having perused the petition filed under Section 147 of N.I. Act and having heard the learned counsel for the revision petitioner and also the learned counsel appearing for the first respondent-complainant revealing the position that the matter has been amicably settled I am of the view that the aforesaid Crl.M. Appl.No.701 of 2015 is only to be allowed. Hence, permission is granted to compound the offence under Section 138 of N.I.Act. against the revision petitioner. Consequently, the judgment dated 29.10.2013 in S.T.No.1129 of 2009 of the Court of Judicial First Class Magistrate, Adimali and the judgment dated 1.10.2014 in Crl.A.No.180 of 2013 of

the Court of Additional Sessions Judge-IV, Thodupuzha are set aside and the revision petitioner is acquitted of the charge under Section 138 of N.I. Act.

The revision petition is allowed to the above extent.

Sd/-
C.T.RAVIKUMAR
Judge

TKS

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P.S. to Judge