

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

Crl.Rev.Pet.No. 290 of 2015 ()

AGAINST THE JUDGMENT IN CRA 687/2001 of II ADDL.SESIONS COURT,
ERNAKULAM DATED 23.11.2002
AGAINST THE JUDGMENT IN CC 296/1998 of J.M.F.C.,KOLENCHERRY

REVISION PETITIONER(S)/APPELLANT/ACCUSED:

P.M.SHAMSU
MATHRAKATTU HOUSE, BRAHMAPURAM P.O.

BY ADVS.SRI.MATHEWS K.PHILIP
SMT.T.MANASY

RESPONDENT(S)/RESPONDENTS/COMPLAINANT:

1. MANOJ BABU
S/O.K.P.GEEVARGHESE, KARAKKATTU HOUSE,
KANINADU P.O.
PUTHENCROUZ, PIN-683542.

2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, PIN-682031.

R2 BY PUBLIC PROSECUTOR SRI.N.SURESH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON
09-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C.T. RAVIKUMAR, J.

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CRL.R.P. No.290 OF 2015

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Dated this the 9th day of March, 2015

ORDER

This revision petition is filed against the concurrent conviction entered against the petitioner under section 138 of the Negotiable Instruments Act. Upon conviction under section 138 NI Act, the trial court sentenced the petitioner to undergo simple imprisonment for a period of one year and he was also directed to pay an amount of ₹ 125000/- as compensation to the complainant under section 357(3) Cr.P.C. In default of payment of compensation, he was directed to undergo simple imprisonment for a further period of two months. The petitioner took up the matter in CrI.A.687 of 2001. In the appeal, the conviction was confirmed but the substantive sentence was reduced to simple imprisonment for six months. The direction to pay compensation was retained. However, no default sentence was imposed. This revision petition has been filed against the said

judgment.

2. This revision petition is filed with an inordinate delay. However, after hearing the revision petitioner and the complainant/first respondent, delay was condoned on terms especially taking into account the fact that the parties have arrived at an amicable settlement of the issues involved. Now, Crl.M.A.No.1193 of 2015 has been filed by the parties under section 147 of the Negotiable Instruments Act seeking permission to compound the offence under section 138 NI Act. The first respondent appeared in person pursuant to the receipt of notice in this proceedings at the stage of consideration of the application for condoning the delay and he would admit that he had received the amount pursuant to the settlement arrived at between the parties. In the light of the provisions under section 147 NI Act, the offence under section 138 NI Act is compoundable and evidently, the parties have amicably settled the matter and now, Crl.M.A.No.1193 of 2015 has been filed seeking

permission to compound the offence. Taking into account the fact that the matter is amicably settled, I am inclined to permit the parties to compound the offence under section 138 NI Act by virtue of the provisions under section 147 NI Act. Accordingly, permission is granted as sought for and in the light of the same, judgment dated 23.11.2002 in Crl.A.No.687 of 2001 on the files of the Court of II Additional Sessions Judge, Ernakulam and the judgment dated 5.10.2001 in C.C.No.296 of 1998 on the files of the Court of Judicial First Class Magistrate, Kolenchery are set aside. The petitioner is acquitted of the offence under section 138 NI Act.

This revision petition is allowed as above.

Sd/-
C.T. RAVIKUMAR
(JUDGE)

spc/

C.T. RAVIKUMAR, J.

JUDGMENT

September, 2010