

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR

TUESDAY, THE 3RD DAY OF MARCH 2015/12TH PHALGUNA, 1936

Crl.Rev.Pet.No. 292 of 2015

JUDGMENT DATED 29-09-2008 IN CRA 491/2007 OF ADDITIONAL DISTRICT COURT
(ADHOC-I), PALAKKAD

JUDGMENT DATED 07-09-2007 IN ST 979/2005 OF JUDICIAL FIRST CLASS
MAGISTRATE-II, PALAKKAD

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REVISION PETITIONER(S)/APPELLANT/ACCUSED:

P.V.RAMANARAYANAN @ RASAPPAN,
S/O. LATE P.R. VENKITASUBBAN, RESIDING AT CHIRAMADOM,
PAYINGATTERY, NELLUMAD.P.O, MANANTHAVADY VIA,
WAYANAD DISTRICT.

BY ADV. SRI.V.N.RAMESAN NAMBISAN

RESPONDENT(S)/RESPONDENTS/COMPLAINANT:

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1. K.N.SIVADASAN, S/O.SESHA IYER,
RESIDING AT CHOKKANATHPURAM, PALAKKAD.
 2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

R1 BY ADV. SRI.R.DIVAKARAN
R2 BY PUBLIC PROSECUTOR SRI.N.SURESH

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

msv/

C.T.RAVIKUMAR, J

Crl.R.P.No. 292 of 2015

Dated this the 3rd day of March, 2015

ORDER

This revision petition has been filed against the conviction concurrently entered against the petitioner for the offence under section 138 of the Negotiable Instruments Act. The first respondent/the complainant filed the complaint stating that the revision petitioner borrowed an amount of Rs.5,00,000/- and in discharge of the said legally enforceable debt issued Ext.P1 cheque. It was alleged therein that the said cheque on its presentation for encashment got dishonoured owing to the paucity of fund in the account maintained by the revision petitioner and further that the revision petitioner failed to pay the amount due despite the receipt of statutory notice intimating him of the dishonour of the cheque and calling upon him to pay the amount due, within the statutory permissible period. The trial court after considering the evidence of the complainant consisting of his oral testimony as PW1 and Exts.P1 to P5 found that the complainant has succeeded in establishing the

commission of offence under section 138 of the N.I. Act by the revision petitioner. Consequently, the revision petitioner was convicted and sentenced to undergo simple imprisonment for a period of six months besides directing him to pay a compensation of Rs.5,00,000/- to the complainant under section 357(3) of the Code of Criminal Procedure. In default of payment of compensation the revision petitioner/accused was directed to undergo simple imprisonment for a period of two months. In Crl.A.No.491/2007 filed against the said judgment the appellate court confirmed the conviction but modified the substantive sentence to imprisonment till rising of the court and the order for payment of compensation and the default sentences were maintained. This revision petition has been filed in the said circumstances. During the pendency of the revision petition the parties have amicably settled the issues involved and filed Crl.M.A.No.1070/2015 seeking permission to compound the offence under section 147 of the N.I.Act. It is stated therein that the parties have settled the dispute and the first respondent/ the complainant has received the amount covered by the cheque with interest. The learned counsel for the revision

petitioner and the first respondent endorsed the same. An offence under section 138 of the N.I.Act is compoundable in the light of the provisions under section 147 of the N.I.Act. In such circumstances, I do not find any reason to decline the permission sought for to compound the offence. In the result, taking note of the settlement arrived at between the petitioner and the first respondent permission sought for compounding the offence under section 147 of the N.I.Act is allowed. Consequently, the judgment in Crl.A.No.491/2007 of the Court of the Additional Sessions Judge (Adhoc-I), Palakkad and the judgment in S.T.No.979/2005 of the Court of the Judicial First Class Magistrate-II, Palakkad are set aside. The composition will have the effect of acquittal of the revision petitioner of the charge under section 138 of the N.I.Act.

This revision petition is allowed as above.

Sd/-

C.T.RAVIKUMAR,JUDGE.

dlk