

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

FRIDAY, THE 6TH DAY OF MARCH 2015/15TH PHALGUNA, 1936

Crl.Rev.Pet.No. 310 of 2015 ()

**AGAINST THE JUDGMENT IN Crl. APPEAL 404/2006 of ADDITIONAL SESSIONS
COURT (ADHOC)-I, MANJERI, DATED 18-07-2008.**

&

**AGAINST THE JUDGMENT IN CC 627/2002 of MUNI-MAGI.COURT,
PONNANI, DATED 04-10-2006**

REVISION PETITIONER(S)/PETITIONER:

**VISALAKSHI K.T., W/o. SUNDAR RAJ,
KAKKAMPULLY THARAYIL HOUSE,
EASWARAMANGALAM AMSOM DESOM, EASWARAMANGALAM P.O.,
PONANI, MALAPPURAM DISTRICT.**

BY ADV. SRI. P.CHANDRASEKHAR.

RESPONDENT(S)/ACCUSED & STATE:

**1. THE STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.**

**2. A.P. BALAKRISHNAN, S/O.CHATHU,
ANGADIPARAMBIL HOUSE, EZHUVATHIRUTHY AMSOM DESOM,
P.O. EASWARAMANGALAM, PONANI, MALAPPURAM DISTRICT.**

R1 BY PUBLIC PROSECUTOR SRI. N. SURESH.

R2 BY ADV. SRI.T.S.SARATH.

**THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON
06-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

SS

K. RAMAKRISHNAN, J.

Crl. R.P.No.310 of 2015

Dated this the 6th day of March, 2015

ORDER

Revision petitioner is the accused in C.C.No.627/2002 of Munsiff Magistrate Court, Ponnani, which was taken on file on the basis of a private complaint filed by the second respondent/complainant herein, alleging offence under Section 138 of Negotiable Instruments Act (hereinafter called the 'Act').

2. After evidence, she was found guilty and convicted for the offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo simple imprisonment for three months and also to pay a compensation of ₹45,000/-, to the complainant under Section 357(3) of the Code of Criminal Procedure. Aggrieved by the same, she filed Crl. Appeal No.404/2006 before the Sessions Court, Manjeri, which was made over to Additional Sessions Court (Adhoc-I), Manjeri, for disposal and the learned Additional Sessions Judge allowed the

appeal in part, confirming the order of conviction, but modified the sentence by reducing the substantive sentence of imprisonment, till rising of the court and imposing default sentence of two months for non-payment of compensation. Aggrieved by the same, the present revision has been filed by the revision petitioner/ accused before the court below.

3. After the disposal of the appeal and before filing the revision, the matter has been settled between the parties and they filed Crl.M.A.1273/2015 for record compounding and permission to compound, that was allowed on payment of cost, relying on the decisions reported in **(2010(4) JT (S.C.) 457) Damodar S. Prabhu v. Sayed Babalal H.**, followed in **[2014(4) KHC 115 (SC)] Madhya Pradesh State Legal Service Authority v. Prateek Jain and another**, permission was granted and compounding was recorded.

4. Once the compounding is recorded, it will have the effect of deemed acquittal under Section 320(8) of the Code of Criminal Procedure and that benefit must be

given to the revision petitioner.

So the revision is allowed and the order of conviction and sentence passed by the Munsiff Magistrate Court, Ponnani, in C.C.No.627/2002 and modified by the Additional Sessions Court, Manjeri, in Crl. Appeal No.404/2006 are set aside and the revision petitioner is acquitted of the charge levelled against her giving her the benefit of deemed acquittal under Section 320(8) of the Code of Criminal Procedure, on account of recording of the composition entered into between the parties. She is set at liberty and the bail bond if any executed by her will stand cancelled. If she had deposited any amount as directed by the Sessions Court, then, lower court is directed to refund the same to her.

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

Sd/-

K. RAMAKRISHNAN, (Judge)

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P.A. to Judge