

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR

TUESDAY, THE 24TH DAY OF MARCH 2015/3RD CHAITHRA, 1937

Crl.Rev.Pet.No. 385 of 2015 ()

AGAINST THE JUDGMENT IN CRA 650/2008 of ADDITIONAL SESSIONS JUDGE,
IRINJALAKUDA DATED 24-03-2014

AGAINST THE JUDGMENT IN CC 231/2008 of J.M.F.C., KODUNGALLUR
DATED 26-08-2008

REVISION PETITIONER(S):

RAJAN @ SANALKUMAR
AGED 36 YEARS, S/O.SAHADEVAN
KOYIPPILLY HOUSE
MUNAMBAM, KUZHUPPILLY, KOCHI

BY ADVS.SRI.P.T.SEBASTIAN TOMY

RESPONDENT(S):

1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM
2. GANGADHARAN, AGED 54 YEARS
S/O.AYYAPPAN, KALLUPURAKKAL HOUSE
ANAPUZHA, METHALA, KODUNGALLUR

R2 BY ADV. SRI.K.P.ANTONY BINU
R1 BY PUBLIC PROSECUTOR SMT.SEENA RAMAKRISHNAN

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 24-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C.T. RAVIKUMAR, J.

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CRL.R.P. No.385 OF 2015

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Dated this the 24th day of March, 2015

ORDER

The revision petitioner is the accused in C.C.No.231 of 2008 on the files of the Court of Judicial First Class Magistrate, Kodungallur. The petitioner was tried for an offence under Section 138 of the Negotiable Instruments Act and he was found guilty and convicted thereunder and sentenced to undergo simple imprisonment for one year. He was also directed to pay ₹2,25,000/- (Rupees two lakhs twenty five thousand) to the complainant as compensation under section 357(3) Cr.P.C. No default clause was incorporated. The accused took up the matter in appeal as CrI.A.No.650 of 2008 before the Court of Additional Sessions Judge, Irinjalakuda. The appellate court confirmed the conviction and modified the sentence. The substantive sentence was reduced to simple imprisonment for three

months. The order for payment of compensation was maintained and in default of payment of compensation, he was directed to undergo simple imprisonment for three months. It is against the said judgment that the captioned criminal revision petition has been filed. Pending the revision petition the revision petitioner and the second respondent who are respectively the accused and the complainant, amicably settled the issues and a joint petition under section 147 of the Negotiable Instruments Act has been filed. True that in terms of Section 147, N.I.Act, the offence under Section 138, N.I.Act is compoundable and the question whether an 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** (AIR 2010 SC 276). In the light of the dictum laid down by the Hon'ble Apex Court in the aforesaid decision and also in view of the provisions of law, there cannot be any doubt with respect to the position that even at the stage of revision, compounding of an offence under Section 138 of the

Negotiable Instruments Act is possible and permissible. In the circumstances, I do not find any reason to decline permission to the parties to compound the aforesaid offence. Since the parties have already settled the issues in terms of Section 147 of the Negotiable Instruments Act, I allow the parties to compound the offence in terms of the settlement arrived at between them. Consequently, the judgment of the Court of Additional Sessions Judge, Irinjalakuda in Crl.A.No.650 of 2008 and the judgment of the Court of the Judicial First Class Magistrate, Kodungallur in C.C.No.231 of 2008 are set aside. It is made clear that the composition of offence will have the effect of acquittal of the revision petitioner of the charge under Section 138 of the Negotiable Instruments Act.

The revision petition is allowed to the above extent.

Sd/-
C.T. RAVIKUMAR
(JUDGE)

spc/

C.T. RAVIKUMAR, J.

JUDGMENT

September, 2010