

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR

THURSDAY, THE 26TH DAY OF MARCH 2015/5TH CHAITHRA, 1937

Crl.Rev.Pet.No. 398 of 2015 ()

AGAINST THE JUDGMENT IN CRA 273/2011 of ADDL.SESIONS COURT (ADHOC-
III), NORTH PARAVUR DATED 10-01-2012

AGAINST THE JUDGMENT IN ST 260/2010 of J.M.F.C. - II, NORTH PARAVUR
DATED 06-05-2011

REVISION PETITIONER(S)/APPELLANT/ACCUSED:

ARSHAD, AGED 44 YEARS
S/O. PAREED, VATTAKUNNEL HOUSE, AMR BODY BUILDERS
MUVATTUPUZHA, ERNAKULAM.

BY ADVS.SRI.GEO PAUL
SRI.SANU MATHEW
SRI.RADHIKA RAJASEKHARAN P.
SRI.C.R.PRAMOD
SRI.S.ASHOK KUMAR.
SRI.LENIN P. SUKUMARAN
SRI.JERRY VARGHESE

RESPONDENT(S)/RESPONDENT NO.1 & STATE/COMPLAINANT:

1.RAMAKRISHNAN
S/O. VELAYUDHAN, THANICKAL HOUSE, VALLUVALLY KARA
KODUVALLY VILLAGE, PARAVOOR-683515.

2.STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA,

R1 BY ADV. SRI.K.S.SREENATH
R2 BY PUBLIC PROSECUTOR SMT.SEENA RAMAKRISHNAN

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON
26-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C.T. RAVIKUMAR, J.

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CRL.R.P. No.398 OF 2015

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Dated this the 26th day of March, 2015

ORDER

The revision petitioner is the accused in S.T.No.260 of 2010 on the files of the Court of Judicial First Class Magistrate-II, N.Paravur. 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 month and to pay a fine of ₹2,50,000/- (Rupees two lakhs fifty thousand only) which on realisation was directed to be paid to the complainant as compensation under section 357(1) Cr.P.C. and in default of payment of fine, to undergo simple imprisonment for a further period of four months. The accused took up the matter in appeal as Crl.A.No.273 of 2011 before the Court of Additional Sessions Judge (Ad hoc-III), N.Paravur. The appellate court confirmed the conviction and the sentence. It is against the said

judgment that the captioned criminal revision petition has been filed. Pending the revision petition the revision petitioner and the first 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 imbibing the spirit 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 (Ad hoc-III), North Paravur in Crl.A.No.273 of 2011 and the judgment in S.T.No.260 of 2010 of the Court of Judicial First Class Magistrate-II, N.Paravur 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 as above.

Sd/-
C.T. RAVIKUMAR
(JUDGE)

spc/

C.T. RAVIKUMAR, J.

JUDGMENT

September, 2010

