

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. 408 of 2015 ()

AGAINST THE JUDGMENT IN CRA 238/2012 of ENQUIRY COMMISSIONER &
SPECIAL JUDGE/ ADDITIONAL SESSIONS JUDGE-III, KOTTAYAM

AGAINST THE JUDGMENT IN ST 129/2011 of J.M.F.C-III, KANJIRAPPALLY
DATED 05-07-2012

REVISION PETITIONER(S)/APPELLANT/ACCUSED :

SASI M.K
HEALTH INSPECTOR, HEALTH QUARTERS
PRESENTLY RESIDING AT THIRUMALAKKUNNU HOUSE
ERUMELY P.O., CHERALA, KOTTAYAM DISTRICT.

BY ADV. SRI.LIJI.J.VADAKEDOM

RESPONDENT(S)/RESPONDENTS/STATE AND COMPLAINANT:

1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682 031.

2. ANIL K.
S/O. UNNIKRISHNAN NAIR, KOCHUKANKODIL,
ERUMELY P.O.-686509

R2 BY ADV. SRI.D.KISHORE
R1 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.408 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.129 of 2011 on the files of the Court of Judicial First Class Magistrate-III, Kanjirappally. The petitioner was tried for an offence under Section 138 of the Negotiable Instruments Act and he was found guilty and convicted thereunder. He was sentenced to undergo simple imprisonment for six months and was directed to pay a compensation of ₹30,000/- (Rupees thirty thousand only) to the complainant under section 357(3) Cr.P.C. and in default of payment of compensation to undergo simple imprisonment for a further period of one month. The accused took up the matter in appeal as CrI.A.No.238 of 2012 before the Court of the Additional Sessions Judge-III, Kottayam. 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 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 the Additional Sessions Judge-III, Kottayam in Crl.A.No.238 of 2012 and the judgment of the Court of Judicial First Class Magistrate-III, Kanjirappally in S.T.No.129 of 2011 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