

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

MONDAY, THE 1ST DAY OF JUNE 2015/11TH JYAISHTA, 1937

Crl.Rev.Pet.No. 629 of 2015 (C2)  
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AGAINST THE JUDGMENT IN CRL.A 244/2010 of I ADDL.SESIONS  
COURT,THALASSERY DATED 25-11-2013

AGAINST THE JUDGMENT IN ST 1809/2007 of J.M.F.C.,TALIPARAMBA  
DATED 19-05-2010

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REVISION PETITIONER/APPELLANT/ACCUSED:  
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JOSE EMMANUAL,  
S/O KURIAKOSE, VELLAPPALLIL, NELLIPPARA,  
ALAKODE, KANNUR DISTRICT.

BY ADVS.SRI.K.S.MADHUSOODANAN  
SRI.THOMAS CHAZHUKKARAN  
SRI.M.M.VINOD KUMAR  
SMT.K.M.RAMYA  
SRI.P.K.RAKESH KUMAR  
SRI.K.S.MIZVER

RESPONDENT(S)/RESPONDENTS/COMPLAINANT AND FORMAL PARTY:  
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1. STATE OF KERALA  
REPRESENTED BY THE PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM-682031.

2. T.T.JAMES  
S/O THOMAS, THONDATTUPARAMBIL HOSUE,  
VAYATTUPARAMBA, P.O. THUVAKKUNNU-670123.

R2 BY ADV. SRI.S.K.BALACHANDRAN  
R1 BY PUBLIC PROSECUTOR SRI.JIBU P.THOMAS

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR  
ADMISSION ON 01-06-2015, THE COURT ON THE SAME DAY PASSED  
THE FOLLOWING:

OKB

K.HARILAL, J.

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Crl.R.P. No.629 of 2015  
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Dated this the 1<sup>st</sup> day of June, 2015

O R D E R

During the pendency of this revision filed against the conviction and sentence of the revision petitioner under Section 138 of the Negotiable Instruments Act, the parties have settled the matter and have filed Crl.M.A. No.2766/2015 to the effect that the matter has been compounded. The said petition has been signed by the revision petitioner as well as the second respondent and their respective counsel. In the light of this, Crl.R.P. is disposed of and the judgments under appeal are set aside and the composition of the offence is recorded.

2.It is needless to mention that this composition shall have the effect of acquittal of the revision

petitioner of the offence punishable under Section 138 of the N.I. Act within the meaning of Section 320(8) Cr.P.C.

Sd/—  
K. HARILAL, JUDGE

okb.

K.HARILAL, J.

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Crl.M.Appl. No.2766 of 2015  
in  
Crl.R.P. No.629 of 2015

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Dated this the 1<sup>st</sup> day of June, 2015

O R D E R

The Revision Petitioner is the accused in S.T.C. No.1809/2007 on the files of the Judicial First Class Magistrate's Court, Taliparamba as well as the appellant in Criminal Appeal No.244/2010 on the files of the court of the Sessions Judge, Thalassery. He was prosecuted for the offence punishable under Section 138 of the Negotiable Instruments Act (for short, the 'N.I. Act') on a complaint filed by the second respondent herein. After trial, the learned Magistrate found the Revision Petitioner guilty of the offence punishable under Section 138 of the N.I. Act and convicted thereunder. He was sentenced to undergo simple imprisonment for six months and

also directed to pay a fine of 2,10,000/–, which, if recovered, shall be given to the second respondent as compensation. In default, to undergo simple imprisonment for a period of three months. Though the Revision Petitioner had preferred an appeal, the Appellate Court also confirmed the conviction and modified the sentence of imprisonment alone as simple imprisonment for one day till rising of the court. This Revision Petition is filed challenging the concurrent findings of conviction and modified sentence.

2. Now the Revision Petitioner along with the second respondent filed this Crl.M.A. under Section 147 of the N.I. Act read with Section 320 of the Cr.P.C. In this petition, it is specifically stated that the subject matter of the above Revision Petition has been settled between the Revision Petitioner and the second respondent out of court and now the second

respondent is not desirous of prosecuting the case against the Revision Petitioner. They jointly sought for permission of the Court for compounding the offence.

3.The learned counsel for the second respondent also submits that the averments in the petition are true and correct to his knowledge and belief also. It is seen that the Revision Petitioner has deposited Rs.2,500/-as cost to Kerala State Legal Services Authority in compliance with the direction of the Supreme Court in the decision Damodar S. Prabhu v. Sayed Babalal [2010(2) KLT 587 (SC)].

As I am satisfied with the averments in the petition signed by both parties and countersigned by the respective counsel appearing for the parties, permission is granted to compound the offence and composition is recorded.

Crl.R.P.629/15

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Sd/–  
K. HARILAL, JUDGE

okb.