

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

FRIDAY, THE 10TH DAY OF JULY 2015/19TH ASHADHA, 1937

Crl.Rev.Pet.No. 672 of 2015 ()

Crl.A 502/2012 of ADDL. DISTRICT & SESSIONS COURT - II, NORTH
PARAVUR

ST 19/2011 of J.M.F.C. - II, NORTH PARAVUR

REVISION PETITIONER/APPELLANT/ACCUSED :

V.R. SEBASTIAN, S/o.RAPPA,
VALIYAPARAMBIL HOUSE, PANJIPALLA,
PUTHENVELIKKARA.

BY ADVS.SRI.S.RAJEEV

SRI.K.K.DHEERENDRA KRISHNAN
SRI.V.VINAY

RESPONDENT(S) /RESPONDENTS/STATE/COMPLAINANTS:

1. STATE OF KERALA, REP.BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.
2. ST.PAULS PARISH WELFARE & CHARITABLE TRUST,
PUTHENVELIKKARA, REP. BY ITS PRESIDENT.
3. PRESIDENT, K.C.THOMAS, AGED 60 YEARS,
S/o.CHEEKU, KALLARACKAL HOUSE,
MANANCHERIKUNNU, PUTHENVELIKARA.
4. SECRETARY, JOSE K.A., AGED 62 YEARS,
S/o.ANTONY, KURISINKAL HOUSE,
MANANCHERIKUNNU, PUTHENVELIKARA.
5. TREASURER, P.T.PAUL, AGED 45 YEARS,
S/o.THOMAS, POTHEETHU HOUSE,
MANANCHERIKUNNU, PUTHENVELIKARA.

R4 BY ADV. SRI.B.RAMACHANDRAN

R1 BY PUBLIC PROSECUTOR SRI.JIBU.P.THOMAS.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY
HEARD ON 10-07-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE-I - COPIES OF THE RECEIPTS ISSUED BY THE COUNSEL
FOR SECOND RESPONDENT DATED 20.03.2014, 08.10.2014,
23.02.2015 AND 29.04.2015.

RESPONDENTS' ANNEXURES : NIL

//True copy//

P.A to Judge

STU

K.HARILAL, J.

=====

Crl.R.P.No. 672 of 2015

=====

Dated this the 10th day of July, 2015

ORDER

The revision petitioner is the accused in S.T.No. 19/2011 on the files of the Judicial First Class Magistrate's Court-II, N.Paravur as well as the appellant in Crl.Appeal No.502/2012 on the files of the Additional District & Sessions Judge-II, N.Paravur. He was prosecuted for the offence punishable under Section 138 of the Negotiable Instruments Act on a complaint filed by respondents 2 to 5. After trial, the learned Magistrate found the revision petitioner guilty of the said offence and convicted thereunder. He was sentenced to undergo simple imprisonment for three months and to pay a fine of Rs.52,650/- and in default, to undergo simple imprisonment for one month. If the fine amount is realised, the whole amount shall be given to the complainants as compensation

under Section 357(1) of the Cr.P.C. Though he had preferred the above Crl. Appeal, the appellate court also concurred with the verdict of guilty and confirmed the conviction and sentence as such without any interference. The legality and propriety of the concurrent findings of conviction and sentence are under challenge in this revision petition.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondents. The learned counsel for the petitioner submits that, in fact, before the passing of the impugned judgment in appeal, the matter was settled between the parties and in performance to the terms and conditions, the petitioner had paid ₹31,500/- to the counsel, who appeared for the respondents in the appellate court and while the case was pending for paying the balance amount, the appeal was taken for hearing and the learned Additional District and Sessions Judge-II, N.Paravur passed the impugned judgment without considering the terms of settlement which was going on. The learned counsel for respondents agrees with the said submission and admitted

that the complainants had received ₹31,500/- as part payment of compensation from the revision petitioner and when the matter was pending for balance payment, the matter was heard by the appellate court and the impugned judgment was passed.

3. The learned counsel for the petitioner submits that he is ready to pay the balance amount also within a period of six months. The learned counsel for the respondents submits that a reasonable time can be given for the balance payment. In view of the submissions at the Bar and the payment of compensation in part, the substantive sentence of simple imprisonment for three months will stand reduced to one day till rising of the court and the petitioner is given '4' months time to pay the balance amount of ₹21,150/- as compensation. Consequently, in supersession of the sentence imposed by the trial court and confirmed by the appellate court, the revision petitioner will stand sentenced as follows:

i. The Revision Petitioner shall undergo simple imprisonment for one day till rising of the court.

ii. The Revision Petitioner shall pay a compensation of Rs.21,150/- (Rupees Twenty One thousand One hundred and Fifty only) to respondents 2 to 5/complainants within a period of '4' months from today.

iii. The Revision Petitioner shall appear before the Trial Court to suffer substantive sentence of simple imprisonment as ordered above on or before 11th November, 2015 with sufficient proof to show payment of compensation.

iv. In default, the Revision Petitioner shall undergo simple imprisonment for a period of one month.

The Criminal Revision Petition is disposed of accordingly.

Sd/-
K.HARILAL, JUDGE.

stu

//True copy//

P.A to Judge