

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

THURSDAY, THE 2ND DAY OF JULY 2015/11TH ASHADHA, 1937

Crl.Rev.Pet.No. 172 of 2014 ()

AGAINST THE JUDGMENT IN CRL.A.NO. 478/2012 of ADDITIONAL
SESSIONS COURT - V, PALAKKAD DATED 30-10-2013

AGAINST THE JUDGMENT IN ST 2196/2010 of J.M.F.C.-I,
PALAKKAD DATED 07-12-2012

REVISION PETITIONER/APPELLANT/ACCUSED:

JAYAKUMAR. K, AGED 50 YEARS,
S/O.KUNHIKRISHNAN, 3/195, GOKULAM,
PUDUSSERY, PALAKKAD DISTRICT

BY ADVS.SRI.SANTHEEP ANKARATH
SRI.ARUN MATHEW VADAKKAN

RESPONDENT(S)/RESPONDENTS/COMPLAINANT & STATE:

1. SREE GOKULAM CHIT AND
FINANCE CO. PVT. LTD., SANJOS TOWERS,OPP.KSRTC BUS
STAND,SHORNUR ROAD, PALAKKAD-678 001, REPRESENTED BY
ITS LEGAL CLERK K.K. SUBHASH KUMAR,
S/O.KRISHNAN,PULINELLI, KOTTAYI,PALAKKAD.

2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCH-682 031.

R1 BY ADV. SRI.MAHESH V RAMAKRISHNAN
R2 BY PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY
HEARD ON 02-07-2015, THE COURT ON THE SAME DAY PASSED
THE FOLLOWING:

K. HARILAL, J.

Crl.R.P. No. 172 of 2014

Dated this the 2nd day of July, 2015

ORDER

The revision petitioner is the accused in S.T. No.2196 of 2010 on the files of the Judicial Magistrate of the First Class-I, Palakkad, as well as the appellant in Crl. Appeal No.478 of 2012 on the files of the Additional Sessions Judge-V, Palakkad. He was prosecuted for the offence punishable under Sec.138 of Negotiable Instruments Act, 1881 (for short 'the N.I. Act') and convicted thereunder. He was sentenced to undergo simple imprisonment for one month and to pay a compensation of ₹1,18,529/- to the complainant under Sec.357(3) of the Cr.P.C. and in default, to undergo simple imprisonment for two months. Though he had preferred the above Crl. Appeal, the

appellate court also confirmed; but modified the sentence. The substantive sentence of simple imprisonment for one month was reduced to simple imprisonment for one day till rising of the court and sustained the direction to pay compensation with default sentence, as such, and thereby allowed the appeal in part. This revision petition is filed challenging the concurrent findings of conviction and the modified sentence.

2. During the course of proceedings in this revision petition, on the request of both parties, the matter was referred to the Ernakulam Mediation Centre for mediation and now the Mediator appointed by the Mediation Centre filed a report stating that the matter in issue is settled amicably and the terms and conditions of the settlement are also attached along with the said report. As per the settlement, 8 months' time, starting from 20/8/2014 and ending on 20/4/2015 was given to pay the compensation and the learned counsel for the revision petitioner submits

that as per the terms of settlement, the entire amount has been paid to the complainant/1st respondent and no amount is due to the complainant/1st respondent under the impugned judgment under challenge.

3. The learned counsel for the 1st respondent/complainant submits that the 1st respondent has received the entire amount promised to be paid under the terms of settlement from the revision petitioner and no amount is due from the revision petitioner to the 1st respondent. In view of the payment of compensation, in full, the learned counsel for the revision petitioner urged for modifying the substantive sentence also.

4. Having regard to the fact that the entire amount directed to be paid as compensation has been paid to the 1st respondent/complainant, the revision petitioner is allowed to undergo simple imprisonment for one day till rising of the court. Consequently, the sentence imposed on the revision petitioner by the trial court and modified by the appellate court will

stand modified to simple imprisonment for one day till rising of the court only and it is made clear that the default sentence will not come into operation. The revision petitioner is directed to appear before the trial court to suffer the aforesaid sentence within a period of two months from today.

This revision petition is disposed of accordingly.

Sd/-

(K. HARILAL, JUDGE)

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P.S. to Judge