

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

FRIDAY, THE 26TH DAY OF JUNE 2015/5TH ASHADHA, 1937

Crl.Rev.Pet.No. 797 of 2015 ()

AGAINST THE JUDGMENT IN CRA 84/2014 of ADDL.DISTRICT COURT,KOTTAYAM
DATED 05-11-2014

AGAINST THE JUDGMENT IN ST 37/2013 of J.M.F.C. - II, ETTUMANOOR DATED
22-02-2014

REVISION PETITIONER:

K.C.THOMAS, AGED 50 YEARS,
S/O. CHACKO, KARUKAMALAYIL HOUSE,
PARAMPUZHA P.O., KOTTAYAM.

BY ADVS.SRI.A.BALAGOPALAN
SRI.A.RAJAGOPALAN
SRI.M.S.IMTHIYAZ AHAMED
SMT.P.SEENA

RESPONDENTS:

1. GIREESH KUMAR T.R.,
S/O. RADHAKRISHNAN, NAMBIAR,
SREEVARDHAN HOUSE,
KUMARANALLOOR P.O., KOTTAYAM.
2. STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA. PIN: 682 031

R1 BY ADV. SRI.SHIRAZ ABDULLA
R BY PUBLIC PROSECUTOR: SRI.JUSTINE JACOB

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON
26-06-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.HARILAL, J.

Crl.R.P. No. 797 of 2015

Dated this the 26th day of June, 2015

ORDER

The revision petitioner is the accused in S.T.No. 37/2013 on the files of the Judicial First Class Magistrate's Court-II, Ettumanoor, as well as the appellant in Crl. Appeal No. 84/2014, on the files of the Additional Sessions Judge, Kottayam Division. This revision petition is filed challenging the concurrent findings of conviction entered and the modified sentence imposed on the revision petitioner. According to the modified sentence imposed by the appellate court, now the petitioner stands sentenced to pay a fine of Rs. 1,76,000/- and in default of payment of fine, to undergo simple imprisonment for a period of three months. If the fine amount is realised, the same shall be paid to the complainant as compensation under section 357(1) of the Criminal Procedure Code. The revision petitioner is granted time till 31/01/2015 to deposit the fine amount in the lower court. The concurrent findings of conviction and the modified sentence imposed, as above, are under challenge in this revision petition.

2. Heard the learned counsel for the petitioner and the learned counsel for the 1st respondent.

3. Though this revision petition is filled on various grounds challenging the concurrent findings of conviction and the modified sentence, on merits the learned counsel for the petitioner submits that subsequent to the passing of the judgment in appeal, the petitioner has paid the entire amount, which is directed to be paid as fine payable to the complainant as compensation, directly to the complainant, instead of depositing before the court below. In that context, the learned counsel urged for converting the fine to compensation payable directly to the complainant. The learned counsel for the complainant submits that the complainant has received the entire fine amount payable as compensation directly from the petitioner and, at present, he has no subsisting grievance at all.

4. Having regard to nature and gravity of the offence under Section 138 of Negotiable Instruments Act, the direction to pay fine will stand converted to compensation payable directly to the complainant. Since the petitioner has paid the entire compensation, there is no need to pay the fine amount. The trial court is directed to make corrections in the fine register accordingly.

5. What remains to be considered is the operation of the default sentence. In view of the payment of compensation, it is made clear that the default sentence will not come into operation.

6. The learned counsel for the petitioner further submits that in compliance with the interim order of the appellate court, the petitioner had deposited Rs. 29,000/- on 11/04/2014 and he may be allowed to withdraw the said amount. Considering the fact that the entire fine amount has been paid directly to the complainant, the revision petitioner is allowed to withdraw Rs. 29,000/- which was deposited on 11/04/2014.

This revision petition is disposed of accordingly.

Sd/-

**K.HARILAL
JUDGE**