

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

THURSDAY, THE 1ST DAY OF OCTOBER 2015/9TH ASWINA, 1937

Cr1.Rev.Pet.No. 329 of 2014 ()

AGAINST THE JUDGMENT IN CRA 411/2012 of ADDITIONAL
SESSIONS COURT, MOOVATTUPUZHA DATED 02-08-2013

AGAINST THE JUDGMENT IN CC 3/2011 of J.M.F.C.-II,
MUVATTUPZHA DATED 30-04-2012

REVISION PETITIONER(S)/RESPONDENTS/ACCUSED:

P.G. RAJU, AGED 47 YEARS,
S/O.GEORGE, PEEDIKAYIL HOUSE, MALAKKA CENTRE
KARUMATHRA, PO MANALITHRA, THEKKUMKARA VIA
THRISSUR DISTRICT.

BY ADV. SRI.SHOBY K.FRANCIS

RESPONDENT(S)/RESPONDENTS/COMPLAINANT & STATE:

1. K.K. MADHAVAN, AGED 51 YEARS
KANJAMPURATH HOUSE, NAGAPUZHAKKARA
KALLOORKADAVU VILLAGE, MUVATTUPUZHAKARA TALUK
ERNAKULAM DISTRICT.

2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM, COCHIN-682031.

R1 BY ADVS. M/S. BABU MATHEW & AJU MATHEW
R2 BY PUBLIC PROSECUTOR SRI. V.S. SREEJITH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY
HEARD ON 01-10-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

B. SUDHEENDRA KUMAR, J.

.....
Crl.R.P. No. 329 of 2014
.....

Dated this the 1st day of October, 2015

ORDER

Crl.M.A. No. 5442 of 2015

This Petition has been filed for exempting the petitioner from depositing the 15% of the cheque amount as held by the Apex Court in *Damodar S. Prabhu v. Sayed Babalal* [2010 (2) KLT 587 (SC)] as a condition precedent to compound the offence. Eventhough no specific reason has been stated in the petition, the learned counsel for the first respondent Adv. Sri. Aju Mathew has submitted that the revision petitioner is laid up as one of his legs had been amputated due to diabetic disease and hence he is not in a position to move. His physical condition is very pathetic and it was only due to the said reason that the first

Crl.R.P. No. 329 of 2014

respondent/complainant settled the matter with the revision petitioner for a smaller amount. Considering the submission of the learned counsel for the first respondent, I am of the view that this case can be taken as an exceptional case and permission for exemption from payment of deposit of money can be granted.

2. In the result, this Petition stands allowed exempting the revision petitioner from payment of deposit as a condition precedent to compound the offence.

Crl.R.P. No. 329 of 2014

3. Crl.M.A. No. 5371 2015 has been filed jointly by the revision petitioner and the 1st respondent herein, who is the complainant before the trial court praying for recording the composition. As per order in **Crl.M.A. No. 5442 of 2015**, this Court has exempted the revision petitioner from depositing any amount as a condition precedent to compound the offence as held by the Apex Court in *Damodar S. Prabhu v. Sayed Babalal* [2010 (2)

KLT 587 (SC)]. Since the offence under Sec. 138 of the N.I.Act is compoundable under Sec. 147 of the N.I.Act, I am of the view that permission can be granted to compound the offence and accordingly, permission stands granted and the composition stands recorded which is having the effect of acquittal under Section 320 (8) Cr.P.C.

2. In the result, this Revision Petition stands allowed acquitting the revision petitioner under section 320(8) Cr.P.C.

Sd/-B. SUDHEENDRA KUMAR,
JUDGE.

Ani/

/truecopy/

P.S. To Judge