

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

THURSDAY, THE 8TH DAY OF JANUARY 2015/18TH POUSHA, 1936

Crl.Rev.Pet.No. 537 of 2014 ()

**AGAINST THE JUDGMENT IN Crl. APPEAL 157/2011 of ADDL. SESSIONS COURT,
ALAPPUZHA, DATED 27-02-2013**

&

**AGAINST THE JUDGMENT IN CC 1361/2008 of J.M.F.C.-I,
CHERTHALA, DATED 19-03-2011**

**REVISION PETITIONER(S)/(APPELLANT IN THE COURT BELOW AND ACCUSED IN THE
TRIAL COURT):**

**RAJESH KUMAR, AGED 40 YEARS,
S/O.CHANDRASEKHARAN NAIR, ABHINAVAM, PATTANAKKAD.P.O.,
CHERTHALA TALUK, ALAPPUZHA DISTRICT.**

**BY ADVS.DR.V.N.SANKARJEE
SRI.S.SIDHARDHAN
SRI.V.N.MADHUSUDANAN
SMT. R.UDAYA JYOTHI
SRI.JAYAKRISHNAN.C.H
SMT. C.K.LEKHAMMA**

**RESPONDENT(S)/(RESPONDENTS IN THE COURT BELOW AND COMPLAINANT & STATE
IN THE TRIAL COURT):**

**1. K.BABU,
S/O.KESAVAN, GRAND VILLA, VAIKAPRAYAR.P.O.,
KOTTAYAM TALUK, KOTTAYAM DISTRICT. PIN-686 146.**

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

**R1 BY ADVS. SRI. A.T.ANILKUMAR
SMT.V.SHYLAJA**

R2 BY PUBLIC PROSECUTOR SMT. SEENA RAMAKRISHNAN

**THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON
08-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

K. RAMAKRISHNAN, J.

Crl. R.P.No. 537 of 2014

Dated this the 8th day of January, 2015

ORDER

Accused in C.C.No.1361/2008 on the file of the Judicial First Class Magistrate Court-I, Cherthala, is the revision petitioner herein. The case was taken on file on the basis of a private complaint filed by the first respondent herein against the revision petitioner alleging offence under Section 138 of the Negotiable Instruments Act (hereinafter called 'the Act').

2. After trial, the revision petitioner was convicted and sentenced by the trial court for the offence under Section 138 of the Negotiable Instruments Act and he filed Crl. Appeal No.157/2011 before the Sessions Court, Alappuzha, which was made over to Additional Sessions Court, Alappuzha, for disposal and the learned Additional Sessions Judge allowed the appeal in part, confirming the order of conviction, but modified the sentence alone. Aggrieved by the same, the present revision has been filed.

3. After disposal of the appeal and before filing of the revision, the matter has been settled between the parties and they filed Crl.M.A.No.7502/2014 for record compounding and permission to compound the case and the same was allowed on payment of cost relying on the decision reported in **(2010(4) JT (S.C.) 457) Damodar S. Prabhu v. Sayed Babalal H.** followed in **[2014(4) KHC 115 (SC)] Madhya Pradesh State Legal Service Authority v. Prateek Jain and another.**

4. The cost was paid today as permitted by this court and the application was allowed and compounding was recorded. Once compounding is recorded, then it will have the effect of deemed acquittal under Section 320(8) of the Code of Criminal Procedure and that benefit must be given to the revision petitioner. So the revision petition is allowed and the order of conviction and sentence passed by the Judicial First Class Magistrate-I, Cherthala, in C.C.No.1361/2008 as modified in Crl. Appeal 157/2011 of

Additional Sessions Court, Alappuzha, as against the revision petitioner is set aside and he is acquitted of the charge levelled against him, giving him the benefit of deemed acquittal under Section 320(8) of the Code of Criminal Procedure on account of recording of composition entered into between the parties. He is set at liberty and the bail bond executed by him will stand cancelled.

Office is directed to communicate this order to the concerned court, immediately.

Sd/-

K. RAMAKRISHNAN, (Judge)

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P.A. to Judge

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