

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

WEDNESDAY, THE 1ST DAY OF JULY 2015/10TH ASHADHA, 1937

Crl.Rev.Pet.No. 1833 of 2014 ()

AGAINST THE JUDGMENT IN CRL.A 25/2013 of ADDL.DISTRICT &
SESSIONS COURT - III, PATHANAMTHITTA DATED 09-04-2014

AGAINST THE JUDGMENT IN CC 293/2009 of J.M.F.C.-II, ADOOR
DATED 22-12-2012

REVISION PETITIONER/1ST RESPONDENT/ACCUSED:

S.P.SATHEESH, AGED 50 YEARS,
S/O.SUKUMARAN, CHAITHANYA VEEDU, PACHALLOOR P.O.,
THIRUVANANTHAPURAM-27.

BY ADVS.SRI.D.KISHORE
SMT.MINI GOPINATH

RESPONDENTS/APPELLANT/COMPLAINANT & 2ND RESPONDENT STATE:

1. SIBI STEPHEN,
S/O.STEPHEN, OLICKAL HOUSE, ANANDAPPALLY,
PANNIVIZHA MURI, ADOOR VILLAGE,
PATHANAMTHITTA DISTRICT-689645.

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

R2 BY PUBLIC PROSECUTOR SRI.JUSTINE JACOB

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY
HEARD ON 01-07-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

OKB

K.HARILAL, J.

Crl.R.P. No.1833 of 2014

Dated this the 1st day of July, 2015.

O R D E R

Revision petitioner is the accused in C.C.No.293/2009 on the files of the Judicial First Class Magistrate's Court-II, Adoor as well as the appellant in Crl.A.No.25/2013 on the files of the III Additional District and Sessions Court, Pathanamthitta. He was prosecuted for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the N.I. Act') and convicted thereunder. He was found not guilty of the said offence and acquitted of. Aggrieved by the acquittal the first respondent herein preferred the above appeal before the appellate court. After re-appreciating the evidence on record, the learned Sessions Judge reversed the findings of the trial court and allowed the appeal. The accused was convicted and sentenced to undergo

simple imprisonment for one day till the rising of the court and to pay a compensation of Rs.1,50,000/- under Section 357(3) of the Cr.P.C. and in default to undergo simple imprisonment for 3 months. Aggrieved by the conviction and sentence, this revision is filed on various grounds.

2. Heard the learned counsel for the revision petitioner. Though this revision has been preferred challenging the legality and propriety of the conviction and sentence on various grounds, apparently it is seen that the impugned judgment under challenge was passed without jurisdiction. An appeal against the acquittal on a private complaint ought to have been filed under Section 378 of the Cr.P.C. before this court after obtaining special leave. Therefore, the appellate court ought not have entertained and heard the appeal, which was filed erroneously on a mistaken understating of law. Needless to say, the impugned judgment under challenge is seen passed without jurisdiction.

3. Consequently, the impugned judgment passed in

appeal will stand set aside and the first respondent/accused is acquitted of the offence under Section 138 of the N.I. Act.

In the result, this criminal revision petition is allowed.

Sd/-
K. HARILAL, JUDGE

okb.