

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR

TUESDAY, THE 7TH DAY OF APRIL 2015/17TH CHAITHRA, 1937

Crl.Rev.Pet.No. 2173 of 2014 ()

AGAINST THE JUDGMENT IN CRL.APPEAL 644/2006 of ADDITIONAL SESSIONS
JUDGE-IV, ERNAKULAM DATED 22-05-2007

AGAINST THE JUDGMENT IN CC NO. 312/2003 of JUDICIAL FIRST CLASS
MAGISTRATE COURT-I MUVATUPUZHA DATED 31.7.2006

REVISION PETITIONER(S)/APPELLANT/ACCUSED:

SHAJI M.KURIAKOSE, AGED 45 YEARS
S/O.K.P.KURIAKOSE,
MUNDAKKAL HOUSE, VAMBILLY KARA,
KUNNATHUNADU VILLAGE

BY ADV. SRI.DENY JOSEPH

RESPONDENT(S)/COMPLAINANT/STATE:

1. N.K. JORDY, S/O.KURIAKOSE
AGED 45 YEARS, NADUVILEDATHIL HOUSE,
ONAKKUR VILLAGE
(PARTNER A R K FINANCE & KURIES, T.B.ROAD,
MOOVATTUPUZHA)
2. STATE FO KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
ERNAKULAM 682031

R1 BY ADV. SRI.DOMSON J.VATTAKUZH
R2 BY PUBLIC PROSECUTOR SMT. SEENA RAMAKRISHNAN

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON
07-04-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

dlk

C.T.RAVIKUMAR, J

Crl.R.P. No.2173 of 2014

Dated this the 7th day of April, 2015

ORDER

The revisionist was the accused in C.C.No.312/2003 on the files of the court of the Judicial First Class Magistrate, Muvattupuzha. He was tried for the offence under section 138 of the Negotiable Instruments Act. Upon finding guilty he was convicted thereunder and sentenced to undergo simple imprisonment for a period of three months. He was also directed to pay compensation of ₹76,000/- and in default of payment to undergo simple imprisonment for 20 days. The amount, if realised was directed to be released to the complainant. The revision petitioner took up the matter in appeal as Crl.A.644/2006. The appeal was allowed in part. The appellate court confirmed the conviction of the revision petitioner under section 138 of the N.I.Act but, modified the sentence. The substantive sentence was reduced to imprisonment till the rising of the court and the direction to pay compensation and the

default clause were maintained. This revision petition is filed in the said circumstances against the judgment in Crl.A.No.644/2006.

In this revision petition Crl.M.A.No.7985/2014 has been filed jointly by the revision petitioner and the first respondent under section 147 of the N.I.Act for compounding the offence under section 138 of the N.I.Act. In the light of the said circumstances I do not think it necessary to consider the contentions on merits as an offence under section 138 of the N.I.Act is compoundable under section 147 of the N.I.Act. The aforementioned miscellaneous application would reveal that the revision petitioner and the first respondent/complainant have settled the issues between them and it is thereafter that they filed the aforementioned application seeking permission to compound the offence under section 147 of the N.I.Act. Taking into account the fact that the parties have settled the matter amicably and that the offence under section 138 is compoundable under section 147 of the N.I.Act I do not find any reason to decline the permission sought for. In the result the permission

sought for is granted. The judgment of the court of the Additional Sessions Judge-IV, Ernakulam in CrI.A.No.644/06 and the judgment of the court of the Judicial First Class Magistrate, Muvattupuzha in C.C.No.312//2003 are set aside. It is made clear that the composition will have the effect of the acquittal of the revision petitioner for the offence under section 138 of the N.I.Act.

The revision petition is allowed as above.

Sd/-

C.T.RAVIKUMAR,JUDGE.

dlk