

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

THURSDAY, THE 3RD DAY OF DECEMBER 2015/12TH AGRAHAYANA, 1937

OP(Crl.).No. 330 of 2015 (Q)

**AGAINST THE ORDER/JUDGMENT IN CRA 453/2014 OF ADDITIONAL SESSIONS COURT,
MUVATTUPUZHA**

PETITIONER/ACCUSED:

**AJI P JOHN, AGED 36 YEARS
S/O. JOHN P.P, M/S. IMPERIAL COMMUNICATIONS
SHOP NO.B 20, PENTA MENAKA, SHANMUGHAM ROAD
KOCHI 31, ERNAKULAM**

**BY ADVS.SRI.T.K.VIPINDAS
SRI.K.V.SREE VINAYAKAN
SRI.K.M.MUHAMMED HUSSAIN**

RESPONDENTS/COMPLAINANT & STATE:

**1. P.S.CHANDRAN
PROPRIETOR, ASWATHY TRADERS, VINAYAKA BUILDING
M.C ROAD, PERUMBAVOOR, ERNAKULAM DISTRICT
PIN 683 542**

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

**R1 BY ADV. SRI.D.BIJU
R2 BY PUBLIC PROSECUTOR SMT. SEENA RAMAKRISHNAN**

**THIS OP (CRIMINAL) HAVING COME UP FOR ADMISSION ON 03-12-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

shg/

OP(Crl.).No. 330 of 2015 (Q)

APPENDIX

PETITIONER'S EXHIBITS

**EXHIBIT P1 TRUE COPY OF THE CRL.A NO 453/2014 PENDING BEFORE THE COURT OF
ADDITIONAL SESSIONS JUDGE, MUVATTUPUZHA**

**EXHIBIT P2 THE TRUE COPY OF THE COMPOUNDING PETITION JOINTLY FILED BY THE
PETITIONER AND THE 1ST RESPONDENT AS CRL.M.A NO 116/2015 IN CRL.A NO 453/2014**

**EXHIBIT P3 THE TRUE COPY OF THE AFFIDAVIT SWORN BY THE 1ST RESPONDENT IN
LIEU OF STATEMENT ON OATH**

**EXHIBIT P4 THE TRUE COPY OF THE JUDGMENT DATED 24-03-2015 PASSED BY THIS
HONOURABLE COURT IN O.P (CRL.) NO 81/2015**

RESPONDENTS' EXHIBITS

NIL

//True copy//

P.A. TO JUDGE

shg/

K.P. JYOTHINDRANATH, J.

O.P.(Crl.) No.330 of 2015

Dated this the 3rd day of December, 2015

J U D G M E N T

This petition is filed by the appellant in Crl.A.No.453/2014 on the file of the Additional District and Sessions Court, Muvattupuzha.

2. When the petition came up for hearing, the counsel for the appellant submitted before me that the above said appeal is against the conviction and sentence under Section 138 of the Negotiable Instruments Act.

3. It is the submission that the parties to the appeal arrived at a settlement and filed a petition under Section 147 of the N.I. Act before the appellate court. The appellate court insisted the appearance of the original complainant, who is the 1st respondent in the appeal, before the court. It is the submission that even though the matter was settled the respondent/complainant may not be able to come and endorse the same by giving a statement before the court that the matter is settled.

4. The counsel who is appearing for the respondent/complainant before this court also submitted that the matter is actually settled. It is also brought to my notice that in a similar case i.e. O.P.(Crl.) No.81/2015 in respect of Crl.A.No.349/2014 pending before the same court between the same parties it was ordered that a proper affidavit can be sworn before the proper authority which can be accepted in lieu of statement on oath by the appellate court. The submission made before me is that the very same procedure can be adopted in this case also. Thus, in the very same line, it is ordered that, if a proper affidavit is sworn before a proper authority is produced, it can be accepted in lieu of statement on oath.

Accordingly, this petition is disposed of as stated above.

Sd/-
K.P. JYOTHINDRANATH
JUDGE

//True copy//

P.A. TO JUDGE

shg/