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Subhash Kumar Vs. State

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Court : Kerala

Decided On : Oct-07-2013

Judge : Honourable Mr.Justice K.Harilal

Appellant : Subhash Kumar

Respondent : State

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE K.HARILAL MONDAY, THE7H DAY OF OCTOBER201315TH ASWINA, 1935 Crl.Rev.Pet.No. 1915 of 2013 () ---------- CRL.A6342010 of ADDL. SESSIONS COURT-I, MAVELIKKARA CC822010 of J.M.F.C.-II, CHENGANNUR REVISION PETITIONER/APPELLANT/ACCUSED: ---------- SUBHASH KUMAR VALIYAVILAYIL PUTHENVEEDU, PALLICKAL EAST THEKKEKARA P.O. BY ADV. SRI.S.HARIKRISHNAN RESPONDENTS/ RESPONDENTS/ COMPLAINANT: ---------- 1. STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR HIGH COURT OF KERALA.

2. B.S. KUMAR SREEVILASOM, PERINGALIPURAM THEKKUM MURI ENNAKADU - 689 624. R2 BY ADV. SRI.S.SUDHEESHKAR R2 BY PUBLIC PROSECUTOR SRI.LIJU V. STEPHEN. THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON0710-2013, THE COURT ON THE

SAME DAY PASSED THE FOLLOWING: OKB K. HARILAL,J.

---------- Crl.M.Appl. No.7068 of 2013 in Crl.R.P. No.1915 of 2013 ---------- Dated this the 7 th day of October, 2013

ORDER

The Revision Petitioner is the accused in C.C. No.82/2010 on the files of the Judicial First Class Magistrate-II, Chengannur as well as the appellant in Criminal Appeal No.634/2010 on the files of the I Additional Sessions Judge, Mavelikkara. He was prosecuted for the offence punishable under Section 138 of the Negotiable Instruments Act (for short, 'N.I. Act') on a complaint filed by the 2nd respondent herein. After trial, the learned Magistrate found the Revision Petitioner guilty of the offence punishable under Section 138 of the N.I. Act and convicted thereunder. He was sentenced to undergo simple imprisonment for 6 months and also directed to pay Rs.75,000/- to the 2nd respondent/complainant as compensation. In default, to undergo simple imprisonment for a period of 3 months. Though the Revision Petitioner had preferred an appeal, the Appellate Court also confirmed the conviction; but modified the sentence to imprisonment for one day till the rising of the court and to pay a compensation of Rs.40,000/- to the complainant and, in default, Crl.M.A.7068/13 in Crl.R.P.1915/13 :2: to undergo simple imprisonment for 2 months. This Revision Petition is filed challenging the concurrent findings of conviction and modified sentence.

2. Now the Revision Petitioner along with the 2nd respondent filed this Crl.M.A. under Section 147 of the N.I. Act read with Section 320 of the Cr.P.C. In the petition, it is specifically stated that the subject matter of the above Revision Petition has been settled between the Revision Petitioner and the 2nd respondent out of court and now the 2nd respondent is not desirous of prosecuting the case against the Revision Petitioner. They jointly sought for permission of the Court for compounding the offence.

3. The learned counsel for the 2nd respondent also submits that the averments in the petition are true and correct to his knowledge and belief also. It is seen that the

Revision Petitioner has deposited Rs.1,750/- as cost to Kerala State Legal Services Authority in compliance with the direction of the Supreme Court in the decision Damodar S Prabhu v. Sayed Babalal [2010 (2) KLT587SC)]. As I am satisfied with the averments in the petition signed by both the parties and countersigned by the respective counsel Crl.M.A.7068/13 in Crl.R.P.1915/13 :3: appearing for the parties, permission is granted to compound the offence and composition is recorded. Sd/- (K. HARILAL, JUDGE) okb. Crl.M.A.7068/13 in Crl.R.P.1915/13 :4: K. HARILAL, J.

---------- Crl.R.P. No.1915 of 2013 ---------- Dated this the 7 th day of October, 2013

ORDER

During the pendency of this revision filed against the conviction and sentence of the Revision Petitioner under Section 138 of the Negotiable Instruments Act, the parties have settled the matter and have filed Crl.M.A. No.7068/2013 to the effect that the matter has been compounded. The said petition has been signed by the Revision Petitioner as well as the 2nd respondent and their respective counsel. In the light of this, Crl.R.P. is disposed of and the judgments under appeal are set aside and the composition of the offence is recorded.

2. It is needless to mention that this composition shall have the effect of acquittal of the Revision Petitioner of the offence punishable under Section 138 of the N.I. Act within the meaning of Section 320(8) Cr.P.C. Sd/- (K. HARILAL, JUDGE) okb.

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