

Sidharthan.K.P Vs. State

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Court : Kerala

Decided On : Oct-30-2013

Judge : Honourable Mr.Justice K.Harilal

Appellant : Sidharthan.K.P

Respondent : State

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE K.HARILAL WEDNESDAY, THE 30TH DAY OF OCTOBER 2013 8TH KARTHIKA, 1935 Crl.Rev.Pet.No. 2118 of 2013 ()
----- AGAINST THE

JUDGMENT

IN CRL.A. 797/2007 of ADDITIONAL SESSIONS COURT (ADHOC-I), ERNAKULAM DATED 11-07-2008 AGAINST THE

JUDGMENT

IN CC 3211994 of CHIEF JUDL.MAGISTRATE, ERNAKULAM DATED 28-11-2007
REVISION PETITIONER/APPELLANT/ACCUSED: -----
SIDHARTHAN.K.P, AGED 54 YEARS, S/O. PADMANABHAN, KOOVAPILLIL HOUSE, AROOR.P.O., ALAPUZHA DISTRICT. BY ADV. SRI.K.BINNI
RESPONDENTS/RESPONDENTS/COMPLAINANT: ----- 1.
STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH

COURT OF KERALA, ERNAKULAM-682031.

2. SRI. REJI ISSAC, HOUSE NO. 12G, 50, GANDHI NAGAR, KADAVANTHRA-682017. R2 BY ADV. SRI.JAMES ABRAHAM (VILAYAKATTU) R1 BY PUBLIC PROSECUTOR SMT. SEEMA RAMAKRISHNAN THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 30/10-2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: K. HARILAL, J.

----- Crl.R.P. No. 2118 of 2013

----- Dated this the 30th day of October, 2013

ORDER

The revision petitioner is the accused in C.C.No.321/94 on the files of the Chief Judicial Magistrate's Court, Ernakulam. He was prosecuted for the offence punishable under Sec.138 of the Negotiable Instruments Act, 1881 (for short 'the N.I. Act') on a complaint filed by the 2nd respondent herein. After trial, the learned Magistrate found the revision petitioner guilty of the said offence and convicted thereunder. He was sentenced to undergo simple imprisonment for one year and to pay a fine of Rs.2,30,000/-. In default of payment of fine, the accused shall undergo simple imprisonment for six months. If the fine amount is realised, an amount of Rs.2,20,000/- shall be given to the Crl.R.P. No. 2118 of 2013 :-

2. :- complainant by way of compensation under Sec.357(1) of the Cr.P.C. Feeling aggrieved, though he had preferred Crl. Appeal No.797/07 before the Additional Sessions Judge (Ad hoc-I), Ernakulam, after re-appreciating the entire evidence on record, the learned Sessions Judge also confirmed the verdict of guilty and conviction; but modified the sentence. The substantive sentence of imprisonment was set aside and the fine amount was modified to Rs.2,00,000/- and default sentence was also reduced to one month. This revision petition is filed challenging the concurrent findings of conviction and sentence on various grounds.

2. Though this revision petition has been filed on various grounds challenging the concurrent findings of conviction, the learned counsel for the revision petitioner submits that, after the pronouncement of the judgment in appeal, the entire amount directed to be paid as fine has been paid directly to the 2nd

respondent/complainant and no amount is due from the revision petitioner to the Crl.R.P. No. 2118 of 2013 -:

3. :- complainant/2nd respondent.

3. The learned counsel for the 2nd respondent/ complainant submits that the entire amount directed to be paid as compensation had been received by the complainant and at present, no amount is due from the revision petitioner in the transaction involved in this revision petition.

4. The learned counsel for the revision petitioner urged for considering the payment of compensation directly to the complainant as substantial compliance with the order to pay the said amount as fine before the trial court.

5. Having regard to the fact that though the revision petitioner had paid the compensation directly to the complainant/2nd respondent, instead of paying before the court, considering the fact of payment, the said payment shall be deemed to have been made in compliance with the impugned order under challenge. Consequently, the default sentence will not come into operation. If the revision petitioner had deposited any amount towards fine or Crl.R.P. No. 2118 of 2013 -:

4. :- compensation under the impugned judgment, the same shall be released to the revision petitioner. This revision petition is allowed in part. Sd/- (K. HARILAL, JUDGE) Nan/ //true copy// P.S. to Judge

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