

Sunil Vs. State of Kerala

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Court : Kerala

Decided On : Oct-31-2013

Judge : Honourable Mr.Justice K.Harilal

Appellant : Sunil

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE K.HARILAL THURSDAY, THE 31ST DAY OF OCTOBER 2013 9TH KARTHIKA, 1935 CrI.Rev.Pet.No. 2160 of 2013 ----- CRL.A6062006 of I ADDL. SESSIONS COURT, KOLLAM CC4182001 of J.M.F.C.-II, KOTTARAKKARA REVISION PETITIONER(S)/APPELLANT/ACCUSED/ADDL.REVN.PETITIONERS2- 4: ----- 1. SUNIL, AGED 50 YEARS (DIED) W/O. LATE NALINAKSHAN VAIDYAN, VRINDAVAN VEEDU KADAKKAL MURI, KADAKKAL VILLAGE, KOTTARAKKARA TALUK KOLLAM DISTRICT. *ADDL. REVN. PETITIONERS2 LIZY, W/O. LATE SUNIL, VRINDAVAN VEEDU, KADAKKAL MURI, KADAKKAL VILLAGE, KOTTARAKKARA TALUK, KOLLAM DISTRICT.

3. ANANTHA PADMANABHAN, AGED 19 YEARS, S/O. LATE SUNIL, VRINDAVAN VEEDU, KADAKKAL MURI, KADAKKAL VILLAGE, KOTTARAKKARA TALUK, KOLLAM DISTRICT.

4. AKHILESWARA NATH, AGED14YEARS, S/O. LATE SUNIL, VRINDAVAN VEEDU, KADAKKAL MURI, KADAKKAL VILLAGE, KOTTARAKKARA TALUK KOLLAM DISTRICT. (MINOR REP. BY MOTHER) (*IMPLEADED AS ADDL. REVN. PETITIONERS2TO4VIDE

ORDER

DT.31.10.2013 IN CRL.M.A.NO.7781/13 IN CRL.R.P.NO.2160/13) BY ADV. SMT.MINI GANGADHARAN COMPLAINANT(S)/RESPONDENTS:

----- 1. STATE OF KERALA REP BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA ERNAKULAM2 RADHAMONI, AGED65YEARS D/O.KESAVAN, PRINCE HOUSE, MISSION KUNNU,KADAKKAL P. O KOTTARAKKARA TALUK(REPRESENTATIVE OF DECEASED P N SIVARAJAN PRINCE HOUSE, MISSION KUNNU, PULLUPANA KADAKKAL VILLAGE, KOTTARAKKARA TALUK R2 BYADV. SRI.S.R.SREEJITH R1 BY PUBLIC PROSECUTOR SMT.SEENA RAMAKRISHNAN. THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON3110-2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: CrI.Rev.Pet.No. 2160 of 2013 APPENDIX REVN. PETITIONER'S EXHIBITS: ANNEXURE-A1: AFFIDAVIT EXECUTED AND SIGNED BY THE R2 ACCEPTING RS.1,25,000/- AND EXPRESSING HER INTENTION NOT TO PURSUE AGAINST THE PETITIONER. ANNEXURE-A2: TRUE COPY OF THE DEATH CERTIFICATE IN HINDI ISSUED FROM THE REGISTRAR OF BIRTHS AND DEATHS, BANKA, BIHAR. ANNEXURE-A3: TRUE COPY OF OBITUARY PUBLISHED IN MALAYALA MANORAMA DAILY DTD.3.8.2013 RESPONDENT'S EXHIBITS: NIL OKB. TRUE COPY P.A. TO JUDGE . K. HARILAL,J.

----- CrI.M.Appl. No.7950 of 2013 in CrI.R.P. No.2160 of 2013 ----- Dated this the 31st day of October, 2013

ORDER

The Revision Petitioner is the accused in C.C. No.418/01 on the files of the Judicial First Class Magistrate Court-II, Kottarakkara as well as the appellant in Criminal Appeal No.606/06 on the files of the I Addl. Sessions Judge, Kollam. 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 3 months and also directed to pay a compensation of Rs.3 lakhs to the complainant under Section 357(3) of the Cr.P.C. and 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 as to undergo simple imprisonment for 2 months and to pay a compensation of Rs.3 lakhs to the complainant under Section CrI.M.A.7950/13 in CrI.R.P.2160/13 :2:

357. 3) of the Cr.P.C. and in default to undergo simple imprisonment for 2 months. This Revision Petition is filed challenging the concurrent findings of conviction and the modified sentence.

2. Now the Revision Petitioner along with the 2nd respondent filed this CrI.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. 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. As I am satisfied with the averments in the petition signed by both the parties and countersigned by the respective counsel appearing for the parties, permission is granted to compound the offence and composition is recorded. Sd/- (K. HARILAL, JUDGE) okb. CrI.M.A.7950/13 in CrI.R.P.2160/13 :3: K. HARILAL, J.

----- CrI.R.P. No.2160 of 2013
----- Dated this the 31st 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 CrI.M.A. No.7950/2013 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, CrI.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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