

Gopalan Master and 2 Others vs K.Radhakrishnan Nair and Another

Gopalan Master and 2 Others vs K.Radhakrishnan Nair and Another

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Court : Kerala

Decided On : Oct-16-2023

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Crl.Rev.Pet/686/2011

Appellant : Gopalan Master and 2 Others

Respondent : K.Radhakrishnan Nair and Another

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS MONDAY, THE 16TH DAY OF OCTOBER 2023 / 24TH ASWINA, 1945 AGAINST THE ORDER/JUDGMENT CC 335/2005 OF JUDICIAL MAGISTRATE OF FIRST CLASS -II, KASARAGOD CRA 104/2007 OF ADDITIONAL DISTRICT COURT (ADHOC), KASARAGOD REVISION PETITIONER/S: 1 GOPALAN MASTER,S/O.LATE PAPPU, HINDU, RETIRED,

TEACHER,RESIDING AT 'SAKETHAM',, NELLITHAVE, P.O.KUTTIKOLE, (VIA.CHENGALA),, KASARAGOD TALUK AND DISTRICT. 2 SATHEESH KUMAR.K. SO. K.P.SREEDHARAN NAIR,

HINDU, BUSINESSMAN BY PROFESSION,, RESIDING AT 'KRISHNA NIVAS', P.O.BEKAL-671318,, KASARAGOD DISTRICT. 3 V.KRISHNAN SO. LATE P.V.KANNAN, HINDU,BUSINESSMAN AND FILM DIRECTOR BY, PROFESSION, RESIDING AT PERINGANAM, P.O.MUNNAD, (VIA.CHENGALA), KASARAGOD DISTRICT. BY ADVS. SRI.ALAN PAPALI SMT.ANITHA MATHAI MUTHIRENTHY SMT.DHANYA P.ASHOKAN SRI.GILBERT GEORGE CORREYA SRI.SOJAN MICHEAL

RESPONDENT/S: 1 K.RADHAKRISHNAN NAIR, S/O.M.NARAYANAN NAIR, HINDU, AGRICULTURIST, RESIDING AT, NEYYANGAYAM IN MULIYAR VILLAGE, KASARAGOD TALUK, AND DISTRICT, P.O.KANATHUR, PIN-671 318. 2 STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,, ERNAKULAM. BY ADVS. SRI.M.V.AMARESAN SRI.V.N.RAMESAN NAMBISAN

OTHER PRESENT: SR PP SR PP SMT PUSHPALATHA M K THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 16.10.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: (Dated this the 16th day of October, 2023)

ORDER

The revision petition is filed challenging the

correctness and legality of the judgment in Cr.A No.104/2007 of the Court of the Additional Sessions Judge (Adhoc-I), Kasaragod (Appellate Court) confirming the conviction and sentence passed in C.C.No.335/2005 by the Court of the Judicial First Class Magistrate-II, Kasaragod finding the revision petitioners guilty for the offence under Section 138 of the Negotiable Instruments Act (in short, N.I.Act).

The facts in brief:

2. The 1st respondent had filed the complaint against the revision petitioners alleging them to have committed the offences under Section 138 of the N.I.Act.

3. The learned Magistrate, after analysing the

materials on record, convicted the revision petitioners for the above offence and sentenced them to undergo simple imprisonment for a period of one month each and pay a compensation of Rs.10,000/- each to the 1st respondent under Section 357(3) of the Code of Criminal Procedure (in short, 'Code') and in default to undergo simple imprisonment for a period of one month.

4. The Appellate Court dismissed the appeal filed by the revision petitioners, confirming the conviction and sentence passed by the Trial Court.

5. It is aggrieved by the concurrent judgments passed by the courts below, the present revision petition is filed.

6. Heard; Sri.Gilbert George Correya, the learned Counsel appearing for the revision petitioners; Sri.M.V.Amaresh, the learned Senior Counsel appearing for the 1st respondent-bank and Smt.S.Seetha, the learned Public Prosecutor, appearing for the 2nd respondent.

7. When the revision petition was taken up for

consideration, the learned Counsel appearing for the parties in unison submitted that the subject matter in dispute between the parties has been settled out of Court. Consequently, the 1st revision petitioner and the 1st respondent have filed Criminal M.A.No.1/2023 to compound the offence under Section 147 of the N.I.Act.

8. I have gone through the compounding petition filed by the parties, which is counter signed by the respective counsel, and have found the same to be bonafide, genuine and in accordance with law.

9. Having considered the facts and circumstances of

the case, the submissions made across the Bar and after perusing Criminal M.A. No.1/2023, I am of the view that the offence committed by the revision petitioners can be compounded by invoking the powers of this Court under Section 147 of the N.I.Act read with Section 320(8) of the Code of Criminal Procedure (Cr.P.C.).

Hence, I am inclined to allow the revision petition by way of composition.

10. In the result:

(i) The revision petition is allowed;

(ii) The conviction and sentence passed in Criminal

Appeal No.104/2007 by the Court of the Additional Sessions Judge, (Adhoc-I), Kasaragod and in C.C.No.335/2005 by the Court of the Judicial First Class Magistrate-II, Kasaragod as against the revision petitioners are set aside by way of composition under Section 147 of the N.I.Act read with Section 320 (8) of the Cr.P.C.

(iii) The bail bonds executed by the revision

petitioners and their sureties shall stand hereby cancelled. Sd/- C.S.DIAS JUDGE
rkc/16.10.23 APPENDIX OF CRL.REV.PET 686/2011 PETITIONER ANNEXURES
Annexure A A TRUE COPY OF THE JUDGMENT DATED 20.12.2018 OF THIS
HON'BLE COURT IN CRL RP NO. 488 OF 2011

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