

(2015) 03 KL CK 0270
In the High Court Of Kerala
Case No : Criminal Rev.Pet. No. 310 of 2015

Visalakshi K.T.

APPELLANT

Vs

The State of Kerala and Others

RESPONDENT

Date of Decision : 06-03-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320(8), 357(3)
Negotiable Instruments Act, 1881 (NI) — Section 138

Citation : (2015) 03 KL CK 0270

Hon'ble Judges : K. Ramakrishnan, J

Bench : Single Bench

Advocate : P. Chandrasekhar, for the Appellant; N. Suresh, Public Prosecutor, Advocates for the Respondent

Final Decision : Allowed

Judgement

K. Ramakrishnan, J—Revision petitioner is the accused in C.C. No. 627/2002 of Munsiff Magistrate Court, Ponnani, which was taken on file on the basis of a private complaint filed by the second respondent/complainant herein, alleging offence under Section 138 of Negotiable Instruments Act (hereinafter called the "Act").

2. After evidence, she was found guilty and convicted for the offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo simple imprisonment for three months and also to pay a compensation of Rs. 45,000/-, to the complainant under Section 357(3) of the Code of Criminal Procedure. Aggrieved by the same, she filed CrI. Appeal No. 404/2006 before the Sessions Court, Manjeri, which was made over to Additional Sessions Court (Adhoc-I), Manjeri, for disposal and the learned Additional Sessions Judge allowed the appeal in part, confirming the order of conviction, but modified the sentence by reducing the substantive sentence of imprisonment, till rising of the court and imposing default sentence of two months for non-payment of compensation. Aggrieved by the same, the present revision has been filed by the revision

petitioner/accused before the court below.

3. After the disposal of the appeal and before filing the revision, the matter has been settled between the parties and they filed CrI.M.A.1273/2015 for record compounding and permission to compound, that was allowed on payment of cost, relying on the decisions reported in (2010(4) JT (S.C.) 457) Damodar S. Prabhu v. Sayed Babalal H., followed in [2014(4) KHC 115 (SC)] Madhya Pradesh State Legal Service Authority v. Prateek Jain and another, permission was granted and compounding was recorded.

4. Once the compounding is recorded, it will have the effect of deemed acquittal under Section 320(8) of the Code of Criminal Procedure and that benefit must be given to the revision petitioner.

So the revision is allowed and the order of conviction and sentence passed by the Munsiff Magistrate Court, Ponnani, in C.C. No. 627/2002 and modified by the Additional Sessions Court, Manjeri, in CrI. Appeal No. 404/2006 are set aside and the revision petitioner is acquitted of the charge levelled against her giving her the benefit of deemed acquittal under Section 320(8) of the Code of Criminal Procedure, on account of recording of the composition entered into between the parties. She is set at liberty and the bail bond if any executed by her will stand cancelled. If she had deposited any amount as directed by the Sessions Court, then, lower court is directed to refund the same to her.

Office is directed to communicate this order to the concerned court, immediately.