

SUPREME COURT OF INDIA

P.G. Sebastian

Vs.

State of Kerala

Crl.A.Nos.565-566 of 2009

(B.N. Agrawal and G.S. Singhvi JJ.)

27.03.2009

ORDER

1. Leave granted.
2. Heard learned counsel for the parties.
3. Appellant No.1 was convicted by the Trial Court under Section 138 of the *Negotiable Instruments Act, 1881* [hereinafter referred to as "the Act"] and sentenced him to pay fine of Rs.40,000/-; in default, to undergo simple imprisonment for a period of six months. The appeal preferred by the appellant No.1 was partly allowed by Sessions Judge, Thrissur, who upheld the verdict of guilty and conviction of appellant No.1 but set aside the sentence imposed on him and remanded the case to the Trial Court to continue the proceedings and imposed an appropriate sentence and an appropriate direction under Section 357(3) Cr.P.C. coupled with an appropriate default sentence.
4. Appellant No.1 challenged the judgment of Sessions Judge, Thrissur in Criminal Revision Petition No.316 of 2000.
5. Although, the complainant did not challenge the appellate judgment, by an order dated 26.9.2007 the High Court imposed substantive sentence of one week on appellant No.1 and directed him to pay compensation of Rs.40,000/-. Thereafter, appellant No.1 and complainant jointly filed a petition, which was registered as Crl. M.C. No.695 of 2008 for permission to compound the offence by stating that complainant has already received the amount of compensation. The same was dismissed by the High Court vide order dated 22.2.2008.
6. Admittedly, neither the complainant filed revision challenging the order of the Trial Court nor the High Court issued any rule for enhancement of sentence in the revision petition filed by appellant No.1. This being the position, the High Court was not justified in enhancing the sentence and directing the appellant to suffer imprisonment for a period of one week.

7. Accordingly, the appeals are allowed, order dated 3.3.2000, passed by the Sessions Judge, Thrissur in Criminal Appeal No.404 of 1999 and orders dated 26.9.2007 and 22.2.2008 passed by the High Court in Criminal Revision Petition No. 316 of 2000 and Criminal M.C. No. 695 of 2008, are set aside.