

SUPREME COURT OF INDIA

Rajendran

Vs.

N.Mohanan

Crl.A.No.679 of 2009

(D.K. Jain and R.M. Lodha JJ.)

06.04.2009

ORDER

Delay condoned.

Leave granted.

This appeal is directed against final order dated 26th May, 2008 passed by a learned Judge of the High Court of Kerala at Ernakulam in Criminal Revision Petition No. 1609 of 2008.

By the impugned order, the learned Judge, while upholding the conviction of the appellant for an offence punishable under Section 138 of Negotiable Instruments Act, 1881 (for short "the Act"), has modified the sentence awarded to the appellant and he has been sentenced to pay a fine of Rs.2.00 lakhs as compensation under Section 357(1) of the Code of Criminal Procedure.

The appellant has been permitted either to deposit the said fine amount before the trial Court or pay directly the compensation amount to the espondent/complainant within six months of the date of the order. It has been further directed that if the appellant fails to deposit or pay the said amount within the time granted, he shall suffer simple imprisonment for three months by way of default sentence.

Learned counsel for the parties submit that during the pendency of this appeal, the parties have entered into a compromise and in terms of the said compromise, entire amount has been received by the respondent. Learned counsel appearing on behalf of respondent No.1/complainant affirms the stand taken by learned counsel for the appellant and states that the respondent has no claim against the appellant. Learned counsel pray that in view of the said compromise, the offence under Section 138 of the Act may be compounded and the conviction of the appellant be set aside.

Having regard to the statement made by the learned counsel for both the parties, we are of the view that there is no reason not to accept the compromise entered into between the parties. The offence under Section 138 of the Act being compoundable, we allow the prayer made on behalf of the contesting parties and dispose of the appeal on the basis of the said settlement.

Accordingly the appeal is allowed by holding that since the matter has been compromised between

the parties and the amount in terms of the said compromise is said to have been paid towards full and final settlement of complainant's demand, the appellant is entitled to acquittal.

The order of conviction and sentence recorded by the Courts below is set aside and the appellant is acquitted of the charge under Section 138 of the Act.

It appears from the surrender certificate filed on behalf of the appellant that the appellant is lodged in Sub Jail, Peermade, Idukki District, Kerala State since 19th March, 2009 as convict No. 918. If that be so, the appellant shall be released forthwith.

The appeal stands disposed of in the above terms.