

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE S.S.SATHEESACHANDRAN**

**WEDNESDAY, THE 31ST AUGUST 2011 / 9TH BHADRA 1933**

**Crl.Rev.Pet.No. 1083 of 2006()**

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**CRA.297/2004 of ADDL. SESSIONS COURT, ALAPPUZHA**  
**CC.411/2001 of JUDL.MAGISTRATE OF FIRST CLASS COURT -I, ALAPPUZHA**  
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**REVISION PETITIONER(S): APPELLANT/ACCUSED:**  
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**A.K. MALLIKAMMA, AGED 50 YEARS,**  
**W/O. SOMA NATHAN, TELEPHONE BHAVAN,**  
**SOUTH PICHU IYER JN., ALAPPUZHA.**

**BY ADVS. SRI.C.V.MANUVILSAN,**  
**SRI.G.B.PANICKER,**  
**SRI.G.SUDHEER (THURAVOOR),**  
**SRI.T.K.SUJITH.**

**RESPONDENT(S): RESPONDENTS/COMPLAINANT:**  
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**1. P.V. VARGHESE,**  
**PALLIPPARAMBIL, PALACE WARD, ALAPPUZHA.**

**2. STATE OF KERALA,**  
**REP. BY THE PUBLIC PROSECUTOR,**  
**HIGH COURT OF KERALA, ERNAKULAM.**

**R1 BY ADVS. SRI.S.SANAL KUMAR,**  
**SMT.BHAVANA VELAYUDHAN.**  
**R2 BY PUBLIC PROSECUTOR SRI. SABU SREEDHARAN**

**THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD**  
**ON 31/08/2011, THE COURT ON THE SAME DAY PASSED THE**  
**FOLLOWING:**

**Kss**

**CRRP.NO.1083/2006**

**APPENDIX**

**PETITIONERS' ANNEXURE:**

**ANNEX.A1: COPY OF THE PETITION FILED BY THE PETITIONER UNDER  
SECTION 315OF THE CR.PC.**

**RESPONDENT'S ANNEXURES: N I L**

**/TRUE COPY/**

**P.A.TO JUDGE**

**Kss**



**S.S.SATHEESACHANDRAN, J**

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**Crl.R.P No.1083 OF 2006 AND  
Crl.M.A No.7362 OF 2011**  
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**Dated this the 31<sup>st</sup> day of August 2011**

**ORDER**

The above petition has been filed jointly by the parties, the revision petitioner/accused and the 1<sup>st</sup> respondent/complainant, submitting, they have settled the disputes arising from the cheque issued by the accused, dishonour of which led to the prosecution and ultimately the conviction of the accused for the offence under Section 138 of the Negotiable Instruments Act (for short, NI Act). On such settlement, the amount covered by the cheque has been paid, and received, is the submission of the counsel on both sides. I find no reason to doubt the settlement effected by the parties in the light of the petition jointly filed by them and also the submissions made by their respective counsel. However, composition of the offence under Section 138 of the Negotiable Instruments Act as under Section 147 thereof can be entertained only subject to the guidelines given by the apex court in “Damodhar S Prabhu v Sayed Babalal” (2010(2) KLT 587(SC)). Revision petitioner/accused has to pay 15% of the cheque amount as cost to the KELSA, as a condition precedent for accepting the composition. Cheque amount involved in the case is ₹.50,000/-. That being so, the petitioner has to

pay ₹.7,500/- as cost to the KELSA. The learned counsel for the petitioner submits that the aforesaid sum has already been paid as cost. Receipt issued by the KELSA accepting such payment towards cost also handed over by the counsel. As cost has already been paid, composition effected by the parties is accepted. Conviction and sentence imposed against the petitioner/accused are set aside and he is acquitted of the offence under Section 138 of the N I Act.

Revision is disposed of.

vdv

**S.S.SATHEESACHANDRAN, JUDGE**