

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

FRIDAY, THE 30TH DAY OF DECEMBER 2022 / 9TH POUSHA, 1944

CRL.REV.PET NO. 926 OF 2022

AGAINST THE ORDER/JUDGMENTCC 165/1997 OF CHIEF JUDICIAL

MAGISTRATE ,KOLLAM

CRA 95/2001 OF DISTRICT COURT & SESSIONS COURT,KOLLAM

REVISION PETITIONER/S:

SHARAFUDEEN
AGED 66 YEARS
S/O.ABDUAL SATHAR AGED 66 YEARS,
STAR HOTEL, BEACH ROAD, KOLLAM. , PIN - 691001

BY ADVS.
B.MOHANLAL
ABIJITH M.

RESPONDENT/S:

- 1 STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM., PIN - 682031
- 2 SURESH KUMAR
S/O.SUBRAMANIAN PILLAI, SREEHRI, POST OFFICE ROAD,
THEVALLY.P.O.,KOLLAM.(DIED) ., PIN - 691009
- 3 S. NEELAVATHI
W/O LATE SURESH KUMAR, AGED 60, SUDARSAN, AMMAN
NAGAR-190,PATTATHANAM,P.O.
KOLLAM-691 021, PIN - 691021
- 4 KARTHIKA SURESH
D/O LATE SURESH KUMAR,
SUDARSAN, AMMAN NAGAR-190,PATTATHANAM,P.O.

KOLLAM., PIN - 691021

BY ADV SHINE N.S

OTHER PRESENT:

PP SEENA C

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR
ADMISSION ON 30.12.2022, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

P.V.KUNHIKRISHNAN, J

Crl.Rev. Petition No.926 of 2022

Dated this the 30th day of December, 2022

O R D E R

This Criminal Revision is filed challenging the conviction and sentence imposed on the revision petitioner as per the judgment dated 7.5.2001 in CC No. 165/1997 on the file of the Chief Judicial Magistrate, Kollam which is confirmed by the Sessions Judge, Kollam in Crl.Appeal No. 95/2001. The offence alleged against the petitioner was under Sec. 138 of the Negotiable Instrument Act.

2. This revision was filed with a delay condonation petition to condone the delay of 6397 days. This Court was pleased to condone the delay as per order dated 27.12.2022. The petitioner is in custody from 22.12.2022 onwards.

3. Today, when this revision petition came up for consideration, the learned counsel for the petitioner and the

learned counsel appearing for respondents 2 to 4 submitted that the entire dispute between the petitioner and the deceased complainant is settled. The counsel appearing for respondent Nos. 2 to 4 submitted that they have no objection in setting aside the conviction and sentence. An application is also filed to compound the offence under Sec.147 of the Negotiable Instruments Act. Another petition is also filed to exempt the revision petitioner from paying 15% of the cheque amount.

4. Considering the facts and circumstances of this case, I think the applications can be allowed and the conviction and sentence imposed on the petitioner can be set aside.

Therefore, this Criminal Rev. Petition is allowed in the following manner :

- 1) Crl.M.A. No. 3/2022 is allowed.
- 2) Crl.M.A. No. 2/2022 is allowed.
- 3) The conviction and sentence imposed on the revision petitioner as per the judgment dated 7.5.2001 in CC No. 165/1997 which is confirmed by judgment dated 31.3.2003 in Crl.Appeal No. 95/2001 by the Sessions

Judge, Kollam is set aside.

- 1) The Registry will issue a release order of the petitioner forthwith, if the petitioner is not involved in any other case, to the Superintendent, District Jail, Kollam forthwith.

**SD/-
P.V.KUNHIKRISHNAN
JUDGE**

SKS

APPENDIX OF CRL.REV.PET 926/2022

PETITIONER ANNEXURES

Annexure.1 in Delay THE TRUE COPY OF THE RECEIPT FOR MONEY
Petition. ISSUED FROM THE CHIEF JUDICIAL MAGISTRATE
COURT, KOLLAM DATED 22.12.2022.