



CRL.MC NO. 11063 OF 2025

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"C.R"

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.S.DIAS

FRIDAY, THE 5TH DAY OF DECEMBER 2025 / 14TH AGRAHAYANA, 1947

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AGAINST THE ORDER/JUDGMENT DATED IN CC NO.1322 OF 1998 OF
JUDICIAL MAGISTRATE OF FIRST CLASS-I, ERNAKULAM

PETITIONERS/ACCUSED:

- 1 FIFA BUILDERS PVT LTD
PB NO 801 XIII/1035D 1ST FLOOR KARUALIPADY KOCHI -
REPS BY ITS MANAGING DIRECTOR, PIN - 682005

- 2 C.A. NASSAR
AGED 62 YEARS
MANAGING DIRECTOR OF FIFA BUILDERS PVT LTD S/O C.A.
ABOO 6C MASION, MATHER APARTMENT PANAMPILLY NAGAR
ERNAKULAM, KERALA-, PIN - 682036

BY ADVS.
SRI.S.RAJEEV
SRI.V.VINAY
SRI.M.S.ANEER
SHRI.SARATH K.P.
SHRI.ANILKUMAR C.R.
SHRI.K.S.KIRAN KRISHNAN
SMT.DIPA V.
SHRI.AKASH CHERIAN THOMAS
SHRI.AZAD SUNIL
SHRI.T.P.ARAVIND
SHRI.MAHESWAR P.
SMT.AKSHARA S.



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RESPONDENTS/STATE & COMPLAINANT:

- 1 STATE OF KERALA
 REPRESENTED BY BY PUBLIC PROSECUTOR HIGH COURT OF
 KERALA - 682031.

- 2 M/S.RDS PROJECT LTD
 SUMIT GOYAL, AGED 70 YEARS, S/O. LATE MADAN LAL
 GOYAL, RESIDING AT PH2, RDS RHYTHM, PADAMUGAL ,
 KAKKANAD P.O.EMAKUAM -, PIN - 682021

BY ADV SMT.ASHA BABU

OTHER PRESENT:

SR PP SMT SEETHA S

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
05.12.2025, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:



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“C.R”

C.S.DIAS, J.**-----
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-----****Dated this the 5th day of December, 2025****ORDER**

The question that arises for consideration is whether a conviction and sentence can be quashed at the post-revisional stage.

2. The petitioners were convicted and sentenced for committing an offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (in short, ‘N.I. Act’) by the Court of the Judicial Magistrate of the First Class-I, Ernakulam in C.C.No.1322/1998. The said conviction and sentence stand concurrently confirmed by the Additional Sessions Court, Ernakulam, in Crl. Appeal No.463/2003 and this Court in Crl. Rev. Pet. No.488/2005.

3. The petitioners are back before this Court, invoking the inherent jurisdiction under Section 528 of the



Bharatiya Nagarik Suraksha Sanhita, to quash the conviction and sentence on the grounds that they were unaware of the dismissal of the revision petition and the dispute that led to the filing of the complaint has been amicably settled between the parties. According to the petitioners, it was only when the 2nd petitioner was arrested and remanded to judicial custody that they learnt that the revision petition was dismissed. Immediately, the 2nd petitioner settled the dispute with the 2nd respondent, who has executed an affidavit stating that he has no objection to the conviction and sentence being set aside. Placing reliance on the decision of this Court in **Mubasheer v. State of Kerala** [2025 (1) KLT 438], the petitioners contend that, this Court has quashed the conviction and sentence under Section 138 of the NI Act even after the post-revisional stage. Therefore, the Crl.M.C. may be allowed.

4. I have heard Sri. M.S. Aneer, the learned counsel for



the petitioners and Sri. C.S. Hrithwik, the learned Senior Public Prosecutor.

5. The learned counsel for the petitioners, by drawing sustenance from the decisions of Hon'ble Supreme Court in **Gian Chand Garg v. Harpal Singh and Another** [2025 LiveLaw (SC) 865] and **Mubasheer**'s case (supra), contend that there is no statutory fetter to exercise the inherent powers of this Court to set aside the conviction and sentence passed against the petitioners, even at the post-revisional stage, in view of the settlement arrived at between the parties.

6. In an identical situation, a single Judge of this Court in **Sabu George v. Home Secretary** [2007 (1) KLT 982], had taken the view that there was no legal prohibition for this Court to exercise its inherent powers to set aside the conviction and sentence even after the post-conviction stage.

7. However, doubting the correctness of the above



judgment, the matter was referred to the Division Bench; and in **Sudheer Kumar @ Sudheer v. Manakkandi M.K. KunhIRaman and another** [2008 (1) KHC 127], it was held as follows:

"15. Once High Court confirms the conviction in revision, it cannot be interfered with by the High Court in view of the subsequent compounding out of Court. There is no provision under S.320 or any in the NI Act enabling the Court to accept or permit the compounding after conviction has become final and no appeal or revision is pending against the conviction. In *P. Damodaran and Others v. State*, 1992 KHC 319 this Court held as follows:

"3. The question that arises for consideration is as to whether compounding of offences could be done when conviction and sentence against the accused have become final. Admittedly the conviction and sentence entered against the accused have become final in view of the dismissal of Crl R 694 of 1991. As the conviction and sentence entered against the accused have become final, this Court cannot have any jurisdiction to compound the offences even if both parties to the dispute agree for such a course of action."

"5. Compounding of offences can be done when the case is pending before the Trial Court or the Appellate Court or the revisional Court. S.320(5) provides that when an accused has been convicted and an appeal is pending no composition of the offence shall be allowed without the leave of the Court before which the appeal is to be heard. S.320(6) enables compounding of offences even during the revisional stage."

Finally it was held as follows:

"Though compounding of offences can be done during the pendency of the revision before the High Court, it cannot be done at any time after the revision petition has been disposed of. S.320(6) states that the High Court or Court of Session acting in the exercise of its powers of revision under S.401 may allow any person to compound any offence. This would clearly indicate that after disposal of the Criminal Revision Petition the Court becomes function officio (sic functus officio) to allow the request of the parties for compounding of the offences."

16. S.362 of CrPC prohibits the Court after it has signed its



judgment and final order is passed from altering or reviewing the same except to correct a clerical or arithmetical error. In *Tanveer Aquil v. State of Madhya Pradesh and Another*, 1990 Supp SCC 63 considered the issue. In that case, in appeal, Court confirmed the conviction. After judgment was pronounced, parties compromised the matter and filed a petition to compound the matter. It was dismissed as High Court cannot entertain such a petition in view of the bar under S.362. Apex Court confirmed the same as once judgment is pronounced, High Court has no jurisdiction to entertain an application for grant of permission to compound the offence. In such case proper case is to file appeal or SLP as the case may be and get necessary relief from the Supreme Court.....”

8. In **Sreedharan v. Bharathan** [2014 KHC 2522], another Division Bench of this Court, while considering the question whether this Court would be justified in enlarging the time already fixed for payment of fine while disposing of a Criminal Revision Petition, by exercising its inherent powers under S.482 of the Cr.P.C., has observed thus:

“15. We have also no doubt in our mind that post-revisional composition is not permissible even by invoking S. 482 CrPC, for that will have the effect of setting aside the conviction and sentence passed by the Court, confirmed or modified in revision and would invite the interdiction contained in S. 362 CrPC”.

9. The same view was followed by this Court in **Beena v. Balakrishnan Nair and Another** [2010 (2) KHC 851], placing reliance on the decision in **Sudheer Kumar @ Sudheer’s case** (supra), holding that once this Court has



disposed a revision petition, composition between the accused and the complainant under Section 147 of the NI Act cannot be permitted under Section 482 of the Cr.P.C.

10. However, in **Mubasheer's case** (supra), this Court has held that the inherent powers of this Court can be invoked to quash all further proceedings in an offence under Section 138 of the NI Act, even at the post-revisional stage. The decision has been rendered without advertence to the principles laid down in the earlier decisions of this Court on the point; therefore, according to me, it has been rendered in the peculiar facts and circumstances of the case.

11. The decision in **Gian Chand Garg's case** (supra), relied on by the learned Counsel for the petitioners, permits composition of the offence in a disposed criminal revision petition. Hence, the said decision does not help the petitioners.

In light of the authoritative pronouncements settling



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the legal question, there is no doubt that, once this Court finally decides a criminal revision petition, the inherent powers cannot be invoked to set aside the conviction and sentence. Consequently, the Crl.M.C. is dismissed as not maintainable, but without prejudice to the rights of the petitioners to pursue their remedies as are permissible under the law.

Sd/-**C.S.DIAS, JUDGE**

SCB/dkr



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APPENDIX OF CRL.MC NO. 11063 OF 2025

PETITIONER ANNEXURES

| | |
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| Annexure I | A TRUE COPY OF THE AFFIDAVIT SWORN BY THE 2ND RESPONDENT BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE I ERNAKULAM |
| Annexure II | TRUE COPY OF THE JUDGEMENT PASSED BY THIS HON'BLE COURT IN CRL APPEAL NO 1795/2006 |