

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

THURSDAY, THE 1ST DAY OF OCTOBER 2015/9TH ASWINA, 1937

Cr1.Rev.Pet.No. 2122 of 2003 ()

AGAINST THE JUDGMENT IN CRA NO.190/1997 of ADDL. SESSIONS JUDGE II & MAVELIKKARA DATED 30-05-2003

AGAINST THE JUDGMENT IN S.T.NO. 1517/1996 of JUDICIAL FIRST CLASS MAGISTRATE-1, HARIPAD DATED 30-09-1997

REVISION PETITIONER/APPELLANT/ACCUSED:

PADMAKARAN,
KADESSERI MANNEL VEEDU,
KANDALLOOR THEKKU, KANDALLOOR P.O.

BY ADV.SRI.GEORGE VARGHESE (PERUMPALLIKUTTIYIL)

RESPONDENTS/RESPONDENTS IN CRL.APPEAL 190/1997/COMPLAINANT & STATE:

1. M.K.VASUDEVAN, ANANDAVADI,
PATTOLI MARKET P.O.
2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

R2 BY PUBLIC PROSECUTOR SRI.R.GITHESH

R1 BY ADVS. SRI.P.B.SAHASRANAMAN

SRI.K.JAGADEESH

SRI.T.S.HARIKUMAR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 01-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P. No. 2122 of 2003

Dated this the 1st day of October, 2015

ORDER

The revision petitioner is the accused in ST No. 1517/1996 on the files of the court of the Judicial Magistrate of First Class-I, Haripad.

2. The trial court convicted the revision petitioner under Section 138 of the Negotiable Instruments Act and sentenced him thereunder to simple imprisonment for one month and a fine of Rs.30,000/- with a default clause for simple imprisonment for two months. The appeal filed against the said conviction and sentence was dismissed by the appellate court as per judgment in Crl.Appeal 190/1997. Aggrieved by the said conviction and sentence, the revision petitioner has approached this Court with this revision petition.

3. Heard.

4. The prosecution allegation is that on 20.05.1996,

the revision petitioner issued Ext.P1 cheque in favour of the complainant towards the discharge of the liability of the revision petitioner, to the complainant. The complainant presented the said cheque for encashment. However, the same was dishonoured due to insufficiency of funds in the account of the revision petitioner. Statutory notice was issued to the revision petitioner which was received by the revision petitioner. However, the revision petitioner did not make payment of the cheque amount within the statutory period or thereafter.

5. Before the trial court, PW1 to PW3 were examined and Exts. P1 to P8 series were marked for the complainant. No evidence was adduced by the defence. After evaluating the oral and documentary evidence adduced by the complainant, the courts below concurrently found that the revision petitioner executed Ext.P1 cheque as contemplated under Section 138 of the N.I Act. Since there is concurrent finding on facts, this Court will not be justified in interfering with the same, unless the finding is perverse or incorrect.

No circumstance has been brought to my notice to indicate that the concurrent finding by the courts below is perverse or incorrect. In the said circumstances, the concurrent finding by the courts below that the revision petitioner committed the offence under Section 138 of N.I Act does not warrant any interference by this court.

6. As regards the sentence, the learned counsel for the revision petitioner submitted that the revision petitioner had already undergone the sentence awarded by the trial court, as confirmed by the appellate court. Since the sentence has been already undergone by the revision petitioner, I find no reason to interfere with the sentence as well.

In the result, this revision petition stands dismissed.

Sd/-
B.SUDHEENDRA KUMAR
JUDGE

//TRUE COPY//

P.A.TO JUDGE

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