

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.K.MOHANAN

THURSDAY, THE 26TH DAY OF MARCH 2015/5TH CHAITHRA, 1937

Crl.Rev.Pet.No. 50 of 2007 ()

AGAINST THE JUDGMENT IN CRA 394/2004 of ADDL.SESIONS JUDGE,
FAST TRACK COURT-1, ALAPPUZHA, DATED 13-02-2006

AGAINST THE JUDGMENT IN CC 415/2001 of J.M.F.C.-II, CHERTHALA
DATED 21-06-2004

REVISION PETITIONER(S)/APPELLANT/ACCUSED:

C.R.BABU, CHULLANAYIL VEEDU,
WARD NO.9, PERUMTHURUTHU MURI,
MUHAMMA (P.O.), ALAPPUZHA.

BY ADV. SRI.R.BINDU (SASTHAMANGALAM)

RESPONDENT(S):

1.ANIL KUMAR, NEELAMBARIYIL VEEDU,
MUHAMMA (P.O.), ALAPPUZHA.

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

BY PUBLIC PROSECUTOR SRI.JUSTINE JACOB

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON
26-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ami/

V.K.MOHANAN, J.

Crl.R.P.No.50 of 2007

Dated this the 26th day of March, 2015.

O R D E R

Challenging the concurrent findings of the trial court as well as the lower appellate court, the accused in a prosecution for the offence under section 138 of the NI Act, preferred the above revision petition.

2. The case of the complainant is that the complainant and the accused belonged to the same locality and are known to each other and on 4.8.2000, the accused borrowed a sum of Rs.25,000/- from the complainant agreeing to re-pay the amount within 2 months and issued Ext.P1 cheque dated 4.10.2000 for an amount of Rs.25,000/-, which when presented for encashment, dishonoured for the reason, "full cover not received" and the accused has not paid the amount in spite of the legal notice served on him. So, according to the complainant,

the accused has committed the offence under section 138 of the NI Act. During the trial of the case, the complainant was examined as PW1 and Exts.P1 to P6 documents were marked. From the side of the defence, Dws.1 and 2 were examined. However, no document was produced from the defence side. The trial court finally found that the accused is guilty of the offence under section 138 of the NI Act and accordingly he is convicted thereunder and sentenced to undergo simple imprisonment for 6 months and he is also directed to pay Rs.25,000/- to the complainant as compensation under section 357(3) of Cr.P.C. Aggrieved by the above order of conviction and sentence, the accused preferred Crl.A.No.394/04 and the learned Judge of the court of Additional Sessions Judge, Fast Track court-1, Alappuzha, by judgment dated 13.2.2006, allowed the appeal in part and accordingly while confirming the conviction of the accused for the offence under section 138 of the NI Act,

the sentence is modified and the accused is sentenced to undergo imprisonment till the raising of the court and directed to pay a fine of Rs.30,000/- and in default to undergo simple imprisonment for 2 months. It is the above findings of the courts below and order of conviction and sentence that are challenged in this revision petition.

3. Heard Sri.Bindu Sasthamangalam, the learned counsel appearing for the revision petitioner.

4. Though notice was served on the respondent, nobody has turned up and the revision petition is not resisted.

4. The learned counsel for the petitioner submitted that the petitioner has no contention on merit but he requires some time to comply with the modified sentence and the order to pay compensation. The above submission of the learned counsel is recorded. As no contention of merit is advanced, I am of the view that, this revision petition can be disposed of confirming the conviction

recorded by the trial court as well as the appellate court and while confirming the order to pay compensation, the time fixed by the lower appellate court can be extended.

In the result, this revision petition is disposed of confirming the conviction recorded by the trial court as well as the lower appellate court against the revision petitioner under section 138 of the NI Act. While confirming the substantial sentence imposed by the lower appellate court, the petitioner is directed to pay Rs.30,000/- to the 1st respondent as compensation under section 357(3) of Cr.P.C. within 2 months from today, failing which, the revision petitioner is directed to undergo simple imprisonment for 2 months. Accordingly, the court below is directed to issue revised warrant against the accused/revision petitioner.

Thus, the revision petitioner is directed to appear before the trial court on **26.5.2015**, to receive the sentence and pay the compensation amount, failing which,

the trial court is free to issue coercive steps to execute the above order of sentence and to pay the compensation.

Sd/-
V.K.MOHANAN,
Judge.

ami/

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P.A.to Judge