

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

WEDNESDAY, THE 18TH DAY OF NOVEMBER 2015/27TH KARTHIKA, 1937

Crl.Rev.Pet.No. 91 of 2009 ()

AGAINST THE JUDGMENT IN CRA 669/2005 of IIND ADDITIONAL SESSIONS
JUDGE, TRIVANDRUM DATED 15-01-2008
AGAINST THE JUDGMENT IN ST NO.2262/2005 of JUDICIAL FIRST CLASS MAGISTRAT
COURT-IV (MOBILE), TVM. DATED 22.08.2005

REVISION PETITIONER/APPELLANT/ACCUSED :

K.JAYAKUMAR, S/O.KARUNAKARAN NAIR,
PADMAJA MANDIRAM, VENGANOOR
THIRUVANANTHAPURAM.

BY ADVS.SRI.S.M.PREM
SMT.K.P.SANTHI
SRI.P.K.NIJOY

RESPONDENT(S)/COMPLAINANT & STATE :

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- 1. A.SURESH, POLLARKUDI MELEDATH PUTHEN VEEDU,**
NEMOM, THIRUVANANTHAPURAM.
 - 2. STATE OF KERALA,**
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

R2 BY SRI.SREEJITH.V.S., PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 18-11-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

AMV

B.SUDHEENDRA KUMAR, J.

.....
Crl.R.P.No. 91 of 2009
.....

Dated this the 18th day of November, 2015

ORDER

The accused in S.T.No.2262 of 2005 on the files of the Court of the Judicial Magistrate of First Class-IV (Mobile Court), Thiruvananthapuram, has filed this revision petition challenging the concurrent finding of conviction and sentence passed by the courts below under Section 138 of the N.I.Act.

2. Heard both sides.

3. The prosecution allegation is that the revision petitioner issued Ext.P1 cheque in favour of the complainant towards the discharge of the liability 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 on behalf of the complainant to the revision petitioner, which was received by the revision petitioner. However, the revision petitioner did not pay the cheque amount within the statutory period or thereafter.

4. Before the trial court, PW1 was examined and Exts.P1 to P8 were marked for the complainant. DW1 was examined and Exts.D1 series were marked for the revision petitioner.

5. The courts below, after evaluating the oral and documentary evidence adduced by the parties, concurrently found that the revision petitioner executed Ext.P1 cheque as contemplated under Section 138 of the N.I Act. The defence set up by the revision petitioner through DW1 was also repelled by the courts below. 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. The appellate court had taken a very lenient view in the matter of sentence. Therefore, the sentence awarded by the appellate court also does not warrant any interference by this Court.

In the result, this revision petition stands dismissed. However, the revision petitioner is granted six months to pay the fine as ordered by the appellate court.

The amount, if any, deposited by the revision petitioner before the trial court in connection with this case will be treated as part payment of the fine awarded by the appellate court.

sd/-
B.SUDHEENDRA KUMAR
JUDGE

AMV/20/11/15

/TRUE COPY/

P.A.TO JUDGE