

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

TUESDAY, THE 15TH DAY OF DECEMBER 2015/24TH AGRAHAYANA, 1937

Crl.Rev.Pet.No. 95 of 2009 ()

Crl.A 25/2006 of ADDL.SESIONS COURT (ADHOC)-II, KOTTAYAM
ST 424/2004 of J.M.F.C.-II, KANJIRAPPALLY

REVISION PETITIONER/REVISION PETITIONER/2ND RESPONDENT/COMPL:

ABDUL LATHEEF, S/O.MUHAMMED KHAN,
KARIMPARAMBIL HOUSE, THEERTHAPADAPURAM
VAZHOOR VILLAGE.

BY ADV. SRI.LIJI.J.VADAKEDOM

RESPONDENTS/APPELLANT AND IST RESPONDENT ACCUSED & STATE:

1. BINU, S/O.KRISHNAN NAIR,
BINU MANDIRAM (THAKIDIKKAL), THEERTHAPADAPURAM
VAZHOOR VILLAGE.
2. STATE OF KERALA, REPRESENTED BY ITS
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

R2 BY PUBLIC PROSECUTOR, SHRI.V.S.SREEJITH
R1 BY ADV. SRI.SAIGI JACOB PALATTY

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON
15-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P.No.95 of 2009

Dated this the 15th day of December 2015

ORDER

The complainant in S.T.No.424 of 2004 on the files of the Court of the Judicial Magistrate of First Class-II, Kanjirappally has filed this revision petition, challenging the inadequacy of sentence awarded by the appellate court in Crl.A.No.25 of 2006. The first respondent was convicted by the trial court under Section 138 of the Negotiable Instruments Act and sentenced him to simple imprisonment for six months and a compensation of Rs.25,000/-. In the appeal, the sentence was modified and reduced to imprisonment till the rising of the court,

retaining the compensation ordered by the trial court. Aggrieved by the said order of the appellate court, this revision petition has been filed.

2. Heard both sides.

3. It appears that the appellate court had reduced the sentence of imprisonment for six months to imprisonment till the rising of the court. At the same time, the court below retained the compensation ordered by the court below disregarding the amount covered by Ext.P1 cheque. The court below ought to have awarded compensation at least to the extent of the amount covered by Ext.P1 cheque while reducing the quantum of sentence of imprisonment awarded by the trial court. The learned counsel for the first respondent has submitted that the first respondent is

prepared to pay the cheque amount as compensation. The amount covered by Ext.P1 is Rs.75,000/-. Considering the facts and circumstances of the case, I am of the view that the sentence awarded by the appellate court can be modified and reduced to imprisonment till the rising of the court and a fine of Rs.75,000/-, to secure the ends of justice. Accordingly, I order so. In default of payment of fine, the revision petitioner shall undergo simple imprisonment for one month. If the amount is paid, the entire amount shall be given to the complainant under section 357(1)(b) of the Code.

In the result, this revision petition stands allowed as above.

I make it clear that the amount, if any, already

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deposited by the first respondent herein will be treated as part payment of the fine ordered by this court.

The revision petitioner is granted four months to pay the fine.

Sd/-

**B.SUDHEENDRA KUMAR,
JUDGE**

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PA to Judge