

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.D.RAJAN

MONDAY, THE 12TH DAY OF OCTOBER 2015/20TH ASWINA, 1937

Crl.Rev.Pet.No. 938 of 2009 ()

AGAINST THE JUDGMENT IN CC 426/2002 of C.J.M., PALAKKAD

REVISION PETITIONER(S):

**NARAYANAN, S/O. VELAYA, AGED 75YEARS,
PARASSERY HOUSE, SHREYAS,
PUZHACKAL, KANNADI, PALAKKAD.**

**BY ADVS.SRI.JACOB SEBASTIAN
SRI.S.SANTHOSH KUMAR (BALARAMAPURAM)**

RESPONDENT(S):

- 1. SUNIL KUMAR, S/O. VISWANATHAN,
AGED 32 YEARS, KADAMBIDI HOUSE, DHONI,
PALAKKAD.**
- 2. VISWANATHAN, S/O. APPU, AGED 61 YEARS,
KADAMBIDI HOUSE, DHONI, PALAKKAD.**
- 3. STATE OF KERALA, REP. BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.**

R3 BY PUBLIC PROSECUTOR SRI. N. SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 12-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

STK

P.D. RAJAN, J.

Crl.R.P.938 of 2009

Dated this the 12th of October, 2015

ORDER

The revision petitioner, who is the complainant in C.C.426/02 on the file of Chief Judicial Magistrate, Palakkad Challenges the judgment of acquittal of the accused under Section 420 read with 34 IPC. The complainant's case in the trial court is that accused borrowed a sum of Rs.55,000/- from him and in discharge of that debt, he handed over a signed cheque. The complainant assured that, cheque leaf belonged to the second accused and it was signed by the second accused. The accused assured that, if the cheque is presented, it will be honoured. The complainant's case is that, the cheque was issued in order to cheat him. The first accused had signed the cheque and both of them committed the offence under Section 420 read with 34 IPC. In the circumstance, he filed a complaint in the court which was forwarded to the Palakkad Town South Police Station under Section 156(3) Cr.P.C. for investigation

where they registered a Crime 274/02 and after completing investigation, laid charge before court.

2. During trial, prosecution examined PW1 to PW6 and marked Exts.P1 and P2 in evidence. The incriminating circumstances brought out in evidence were denied by the first accused while questioning him. The trial court after analyzing the evidence on record acquitted both accused. Being aggrieved by that, he preferred this appeal.

3. The learned counsel appearing for the revision petitioner contended that the lower court erroneously acquitted the accused. Therefore, the revisional jurisdiction is to be invoked to rectify the illegality.

4. The revisional jurisdiction is supervisory jurisdiction to find out the illegality, irregularity in the order or sentence or proceedings of the Court below. The object of conferring revisional power to the High Court is to correct failure of justice arising from erroneous or defective orders. While exercising this power, it is justified only to set right grave miscarriage of justice and not merely to rectify every error. The fact that the lower

court has taken a wrong view of law or misapprehended the evidence on record cannot be a reason to interfere unless it has resulted in grave miscarriage of justice.

I have gone through the judgment of the trial court. No documents were produced by the revision petitioner to show that he has borrowed a sum of Rs.55,000/- as alleged. Ext.P1 is the complaint and Ext.P2 is the FIR marked in the trial court. Even though PW1 to PW6 were examined, no evidence has been adduced by the petitioner to show that they committed cheating as stated in the complaint. *Prima facie* no materials are available to proceed against the accused. In the circumstance, the trial court acquitted the accused, I find no illegality in the judgment of the trial court. There is no merit in this revision and it is dismissed accordingly.

STK

//TRUE COPY//

P.A. TO JUDGE

Sd/-
P.D. RAJAN,
JUDGE