

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.D.RAJAN

WEDNESDAY, THE 19TH DAY OF AUGUST 2015/28TH SRAVANA, 1937

Crl.Rev.Pet.No. 1412 of 2007 ()

**AGAINST THE JUDGMENT IN CRA 305/2000 of ADDL.SESIONS COURT (ADHOC)-II,
THALASSERY**

AGAINST THE JUDGMENT IN CC 658/1996 of J.M.F.C.,THALASSERY

REVISION PETITIONER(S):

**THE CANNORE DISTRICT CO-OPERATIVE
BANK LTD., THALASSERY BRANCH REPRESENTED BY
ITS SENIOR MANAGER.**

BY ADV. SRI.K.M.MOHAMMED KUNHI

RESPONDENT(S):

- 1. THE STATE OF KERALA THROUGH THE
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. M/S.WINGS, A.V.K.NAIR ROAD,
THALASSERY REPRESENTED BY ITS MANAGING PARTNER
P.C.RAVEENDRAN, S/O.BHASKARAN, A.V.K. NAIR ROAD
THALASSERY.**
- 3. P.C.RAVEENDRAN, S/O.BHASKARAN,
MANAGING PARTNER, P.C.RAVEENDRAN, S/O.BHASKARAN
A.V.K. NAIR ROAD, THALASSERY.**
- 4. SMT. P.K.SHALINI, W/o.RAVINDRAN, PARTNER,
M/S. WINGS, A.V.K.NAIR ROAD, THALASSERY.**

R1 BY PUBLIC PROSECUTOR SMT.SEENA RAMAKRISHNAN

**THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 19-
08-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

STK

P.D. RAJAN, J.

Crl. R. P. No.1412 of 2007

Dated this the 19th day of August, 2015

ORDER

The revision petitioner challenges the judgment of conviction for offence punishable under Section 420 IPC on the file of Crl.Appeal 305/2000 of the Additional Sessions Judge (Adhoc-II), Thalassery. The revision petitioner is the de-facto complainant in CC 658/96, which was filed against 4 persons alleging offences under Section 420 read with 34 IPC. The learned Magistrate convicted the 2nd and 3rd accused and sentenced to undergo rigorous imprisonment for one year under Section 420 IPC and first accused was sentenced to a fine of Rs.5000/- under Section 420 r/w 34 IPC. Against that accused approached the Additional Sessions Court Thalassery, where the conviction was set aside by the appellate court.

2. To prove the facts given rise to the complaint in the trial court was that, the first accused is a partnership firm and the de-facto complainant is conducting the banking business all over branches in Kannur district

which was constituted under the Kerala Co-operative Societies' Act. While second accused was acting as the Managing Partner, the first accused and the other accused obtained a loan of Rs.10,000/- on 24.06.95 by hypothecating the stocks of the firm. After sanctioning the loan by accepting hypothecation of the stock, on 31.07.95 he received a letter from the Senior Manager, Nedungadi Bank Ltd., Thalassery that the accused had already hypothecated the stocks to their bank as security for taking credit facility. Thus, the accused persons dishonestly induced the bank to accept the goods already hypothecated to another bank as security and thereby obtained wrongful gain and wrongful loss to the complainant. In the circumstance, they filed the above complaint in the trial court.

3. To prove the offence, prosecution examined PW1 to PW4 and Exts.P1 to P17, P12(a) and P13(a) were also marked. The incriminating circumstances brought out in evidence were denied by the revision petitioner while questioning him. The trial court after analyzing the oral

and documentary evidence, convicted the accused. Hence, he filed Appeal 305/2000 before Sessions Court Thalassery.

4. After filing this revision petition this court directed the revision petitioner to take steps against the first respondent. Even after specific directions, steps were not taken, which shows that the revision petitioner is not interested in prosecuting the matter further.

5. The object of conferring revisional power is to clothe the High Court with a jurisdiction of the general supervision in order to correct grave miscarriage or failure of justice arising from erroneous or defective orders. While exercising this power, it is justified only to set right grave failure 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 justice. The revisional jurisdiction is supervisory jurisdiction to find out the illegality, irregularity in the order or sentence or proceedings of the Court below.

The appellate court appreciated the evidence in the correct perspective. I find no illegality in the judgment of the appellate court. There is no merit in this revision and it is dismissed accordingly.

Sd/-

**P.D. RAJAN,
JUDGE**

STK

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P.A. TO JUDGE