

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

FRIDAY, THE 11TH DAY OF DECEMBER 2015/20TH AGRAHAYANA, 1937

Crl.Rev.Pet.No. 791 of 2012 ()

Crl.A 241/2010 of ADDL. DIST. & SESSIONS COURT (ADHOC)III, PATHANAMTHITTA
ST 928/2009 of J.M.F.C.-II,PATHANAMTHITTA

REVISION PETITIONER(S)/APPELLANT/ACCUSED:

SHIBU K.S.
KULATHUNKAL HOUSE, ELANTHOOR.P.O.
PATHANAMTHITTA-689 643.

BY ADVS.SRI.PHILIP J.VETTICKATTU
SRI.B.PREMNATH (E)

RESPONDENT(S)/RESPONDENTS/COMPLAINANT AND STATE:

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1. K.K.SUNNY, AGED 49 YEARS
S/O.K.T.KUNJUKUNJU, KANJIPUZHA HOUSE, PRAKKANAM.P.O.
CHENNEERKARA VILLAGE, ELANTHOOR (VIA)
PATHANAMTHITTA-689 643.
 2. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

R1 BY ADV. SRI.V.VINAY
R2 BY PUBLIC PROSECUTOR, SHRI.V.S.SREEJITH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON
11-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P. No.791 of 2012

Dated this the 11th day of December 2015

ORDER

The accused in S.T.No.928 of 2009 on the files of the Court of the Judicial Magistrate of First Class - II, Pathanamthitta has filed this revision petition challenging the concurrent finding of conviction and sentence passed by the courts below under Section 138 of the Negotiable Instruments Act (for short 'the N.I. Act).

2. Heard.

3. The prosecution allegation is that towards the discharge of the liability, the revision petitioner issued Ext.P1 cheque in favour of 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 received by the revision petitioner.

4. Before the trial court, PW1 was examined and Exts.P1 to P6 were marked for the complainant. No evidence was adduced on the side of the defence.

5. The courts below, relying on the documentary as well as oral evidence adduced by the parties, concurrently found that the revision petitioner had executed Ext.P1 cheque as contemplated under Section 138 of the N.I. Act and committed the offence under Section 138 of the N.I. Act, repelling the contentions of the revision petitioner. Since there is concurrent finding on facts, this Court will not be justified in interfering with the same unless the

finding by the courts below is perverse or incorrect. No circumstance has been brought to my notice to indicate that the appreciation of evidence by the courts below was 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 the N.I. Act does not warrant any interference by this court.

6. The sentence awarded by the appellate court also does not call for any interference by this court.

In the result, this revision petition stands dismissed.

The revision petitioner is granted ten months to pay the fine, as requested by the learned counsel for the revision petitioner.

**Sd/
B.SUDHEENDRA KUMAR,
JUDGE**

dl/14.12...2015

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PA to Judge