

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

TUESDAY, THE 1ST DAY OF DECEMBER 2015/10TH AGRAHAYANA, 1937

Crl.Rev.Pet.No. 2194 of 2009 ()

CRL.A 658/2008 of ADDITIONAL SESSS COURT (ADHOC-1), ERNAKULAM
CC 1452/2004 of J.M.F.C.-I MUVATUPUZHA

REVISION PETITIONER(S):

SOOSAN SANTHOSH, W/O. SANTHOSH,
AGED 44, KOZHIPLACKIL HOUSE, KOOTATTUKULAM VILLAGE

BY ADV. SRI.SUNU P.JOHN

RESPONDENT(S):

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1. SIBY S/O. SEBASTIAN,
AGED 35, PUTHENPURACKAL HOUSE, MARKET ROAD
KOOTHATTUKULAM P.O, ERNAKULAM DIST.
 2. STATE OF KERALA, REP. BY THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA.

R2 BY PUBLIC PROSECUTOR, SHRI.R.GITHESH
R1 BY ADV. SRI.PEYUS A.KOTTAM

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON
01-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P. No.2194 of 2009

Dated this the 1st day of December 2015

ORDER

The revision petitioner is the complainant in C.C. No. 1452 of 2004 on the files of the court of the Judicial Magistrate of First Class -1, Muvattupuzha. The trial court convicted the accused court under Section 138 of the Negotiable Instruments Act (for short 'the N.I.Act') and sentenced him thereunder to simple imprisonment for three months and to pay a compensation of Rs.60,000/-. In the appeal, the sentence was modified and reduced to imprisonment till the rising of the court and a compensation of Rs.60,000/-. Aggrieved by the

inadequacy of compensation, this revision petition has been filed by the complainant before the court below.

2. Heard.

3. The accused had a consistent contention that the accused had issued the cheque in question, as a blank signed cheque when he borrowed Rs.10,000/- from the complainant and the said cheque had been mis-utilised to file the present complaint. Two witnesses were also examined by the accused to substantiate the contention of the accused. However, after evaluating the evidence, the courts below concurrently found that the accused could not establish his case by the yardstick of preponderance of probabilities and possibilities. The said finding is not challenged before me. The courts below after considering

the facts and circumstances of the case and the evidence available, awarded a compensation of Rs.60,000/- to the complainant. Having gone through the relevant inputs, I do not find any reason to enhance the compensation awarded by the courts below. However, in default of payment of compensation as directed by the trial court the revision petitioner shall undergo simple imprisonment for one month.

In the result, this revision petition stands disposed of as above.

Sd/-
B.SUDHEENDRA KUMAR,
JUDGE

dl/4.12.2015

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PA to Judge

The word “revision petitioner” occurring in the last sentence of paragraph 3 of the order dated 01/02/2015 in Crl.R.P. No.2194/2009 is corrected and substituted as “first

Crl.R.P.2194/2015

: 4 :

respondent/accused” as per order dated 06/01/2016 in
Crl.R.P. No.2194/2009.

Sd/-Registrar(Judicial)