

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

FRIDAY, THE 9TH DAY OF OCTOBER 2015/17TH ASWINA, 1937

Crl.Rev.Pet.No. 2521 of 2009 ()

CRA 375/2005 of ADDITIONAL SESSIONS COURT (ADHOC), THIRUVANANTHAPURAM
ST 362/2001 of J.M.F.C.-II, THIRUVANANTHAPURAM

REVISION PETITIONER/APPELLANT/ACCUSED:

PUSHPA SASIDHARAN,
W/O.SASIDHARAN, CUSTOMS QUARTERS, 7TH CROSS ROAD
WELLINGTON ISLAND, KOCHI, AT PRESENT RESIDING AT
GPRA OFFICERS, COLONY, QUARTERS NO.12
TYPE-V, MELATHUMMALA, VATTIYURKAVU P.O.
THIRUVANANTHAPURAM

BY ADVS.SRI.R.SUDHEESH KUMAR
SRI.SUNIL KUMAR A.G

RESPONDENTS/COMPLAINANT AND STATE:

1. C.S.SAJADH,
RADHAS, T.C.41/266, MANACAUD P.O.
THIRUVANANTHAPURAM.
2. STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM.

R1 BY ADV. SRI.DILEEP P.PILLAI
R2 BY PUBLIC PROSECUTOR, SHRI.V.S.SREEJITH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 09-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P. No.2521 of 2009

Dated this the 9th day of October 2015

ORDER

The revision petitioner is the accused in S.T. No.362 of 2001 on the files of the Court of the Judicial Magistrate of First Class-II, Thiruvananthapuram.

2. The trial court convicted the revision petitioner under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the N.I.Act') and sentenced her thereunder to simple imprisonment for six months and a compensation of Rs.1,00,000/- with a default clause for simple imprisonment for three months.

In the appeal filed against the said conviction and sentence, the conviction was confirmed and the sentence was modified and reduced to pay a compensation of Rs.1,00,000/- with a default clause for simple imprisonment for three months. Aggrieved by the said conviction and sentence, the revision petitioner has filed this revision petition.

3. Heard the learned counsel for the revision petitioner and the learned Public Prosecutor.

4. The prosecution allegation is that the revision petitioner issued Ext.P1 cheque in favour of the complainant towards the discharge of the liability due to the complainant from the revision petitioner. 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 issued to the revision petitioner, which was received by the revision petitioner. However, the revision petitioner did not make payment of the cheque amount within the statutory period or thereafter.

5. Before the court below, PW1 was examined and Exts.P1 to P7 were marked for the complainant. DW1 was examined and Ext.D1 was marked for the revision petitioner.

6. 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. Since there is concurrent finding on facts, this Court will not be justified in interfering with the same unless the finding of 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 of 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.

7. The appellate court had taken a very lenient view in the matter of sentence. In the said circumstances, 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.

sd/

**B.SUDHEENDRA KUMAR,
JUDGE**

dl

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PA to Judge