

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR

FRIDAY, THE 9TH DAY OF JANUARY 2015/19TH POUSHA, 1936

Crl.Rev.Pet.No. 21 of 2015 ()

AGAINST THE JUDGMENT IN CRL.A 136/2013 of II ADDL.SESIONS
JUDGE,THIRUVANANTHAPURAM DATED 05-11-2014
AGAINST THE JUDGMENT IN ST 1630/2008 of J.M.F.C-I,VARKALA

REVISION PETITIONER(S)/APPELLANT/ACCUSED:

ALEEMA AMEEN, W/O.AMEEN
KURAKANI, VARKALA P.O-695141

BY ADVS.SRI.SALIM V.S.
SRI.SHANAVAS.S
SRI.H.NUJUMUDEEN
SRI.P.V.JEEVESH

RESPONDENT(S)/RESPONDENTS/COMPLAINANT:STATE

1. VIJAYAKUMAR
S/O.GOPINATHAN PILLAI, PRENAVAM, MUNDAYIL
VARKALA P.O-695141

2. STATE OF KERALA
REP. BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA ERNAKULAM-682031

R2 BY PUBLIC PROSECUTOR SRI.N.SURESH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON
09-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C.T. RAVIKUMAR, J.

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Crl.R.P No.21 OF 2015

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Dated this the 9th day of January, 2015

ORDER

This revision petition is directed against the judgment in Crl.Appeal No.136 of 2013 of the Court of Sessions Judge-II, Thiruvananthapuram. The revision petitioner who was the accused in S.T.No.1630 of 2008 on the files of Judicial First Class Magistrate Court, Varkala was found guilty and convicted under section 138 of the Negotiable Instruments Act. The trial court sentenced him to undergo imprisonment till the rising of court and she was directed to pay a compensation of ₹2,30,000/- with 9% interest to the complainant under section 357 (3) of the Code of Criminal Procedure and in default to pay the amount of compensation to undergo simple imprisonment for six months. In the appeal filed by the revision petitioner herein as Crl.A.No.136 of 2013, the appellate court

confirmed the conviction and the sentence to undergo imprisonment till the rising of court was confirmed. The direction to pay compensation was interfered with and the revision petitioner was sentenced to pay a fine of ₹2,30,000/-. The amount of fine, if realised was ordered to be given to the complainant as compensation under section 357(1) Cr.P.C and in default, she was directed to undergo simple imprisonment for a period of four months. It is in the said circumstances that this revision petition has been filed.

2. Evidently, after a careful consideration of the evidence on record consisting of the oral testimony of PW1 and Exts.P1 to P6 on the side of the complainant and oral testimony of DW1 with D1 on the side of the revision petitioner/accused the courts below found that the cheque in question was issued by the revision petitioner herein in discharge of a legally enforceable debt owing to the first respondent/complainant. The courts below also found that all the ingredients to attract the offence under section 138 of the N.I.Act were

proved against the revision petitioner. It is the result of such consideration and conclusions that ultimately culminated in the concurrent conviction of the revision petitioner. Upon such conviction, the trial court sentenced the revision petitioner as mentioned hereinbefore and the appellate court modified the sentence as, noted above. The appellate court found no ground to interfere with the conviction and confirmed the sentence to undergo imprisonment till the rising of court and in default of payment of compensation, she was directed to undergo simple imprisonment for four months. The revision petitioner did not have a case that the courts below adverted to the evidence on record incorrectly though she got a contention that it was considered improperly by the courts below. After considering the rival submissions, I have no hesitation to hold that the revision petitioner has failed to make out a case of perverse appreciation of evidence by the courts below or brought out any other grounds for exercising revisional jurisdiction. In the said circumstances, the conviction of the revision petitioner under section 138 of the N.I.Act

concurrently entered into by the courts below calls for no interference and accordingly, the same is hereby confirmed. Upon such conviction, the revision petitioner was sentenced to undergo imprisonment till the rising of court besides directing him to pay an amount of ₹2,30,000/- as compensation with 9% interest. The appellate court interfered with the same and modified it as payment of compensation of ₹2,30,000/-. The said amount directed to be paid as compensation is the amount covered by Ext.P1 cheque. In such circumstances, I do not find any reason to interfere with the sentence as well. When this revision petition was about to be dismissed, the learned counsel appearing for the revision petitioner submitted that some reasonable time may be granted to the petitioner for effecting payment of compensation. The revision petitioner is directed to deposit an amount of ₹75000/- on or before 20.2.2015 before the trial court towards compensation under section 357 (1) Cr.P.C. The balance amount shall be paid in four equal monthly instalments on 20th day of the succeeding months. The learned counsel for the revision petitioner

submitted that a warrant has been issued against the revision petitioner. It is ordered that the warrant, if any, issued against the revision petitioner shall be kept in abeyance till the expiry of the aforesaid period to enable her to comply with the directions in this judgment.

Subject to the above, this revision petition is dismissed.

Sd/-
C.T. RAVIKUMAR
(JUDGE)

spc/

C.T. RAVIKUMAR, J.

JUDGMENT

September, 2010

