

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.D.RAJAN

MONDAY, THE 30TH DAY OF NOVEMBER 2015/9TH AGRAHAYANA, 1937

Crl.Rev.Pet.No. 4404 of 2006 ()

AGAINST THE JUDGMENT IN CRL.APPEAL 30/2004 of II ADDITIONAL SESSIONS
FAST TRACK COURT NO.III, PALAKKAD DATED 21.8.2006

AGAINST THE JUDGMENT IN ST 824/1999 of CHIEF JUDICIAL
MAGISTRATE, PALAKKAD DATED 19-12-2003

REVISION PETITIONER(S)/APPELLANT/ACCUSED::

R. MOHANAN, S/O.RAMAN, 13/563,
SREELAKSHMI NILAYAM, EDAYAR STREET,
KOPPAM, PALAKKAD.

BY ADV. SRI.VINOD KUMAR.C

RESPONDENT(S)/COMPLAINANT:

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1. STATE OF KERALA, REP. BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, , ERNAKULAM.
 2. K. SHANMUGHAN, S/O.KANTHASWAMY,
13/600, EDAYAR STREET, MANKAVU,
KOPPAM, PALAKKAD.

BY PUBLIC PROSECUTOR SRI.N. SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 30-11-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

acd

P.D. RAJAN, J.

Crl.R.P.No.4404 of 2006

Dated this the 30th day of November, 2015

ORDER

This revision petition is preferred by the accused against the judgment in Crl. Appeal No.30/2004 of Additional Sessions Judge, Palakkad. He was accused in S.T.No.824/1999 by the Chief Judicial Magistrate, Palakkad for offence punishable u/s.138 of the Negotiable Instruments Act (hereinafter referred to as the N.I. Act). The complainant's case is that accused borrowed ₹23,000/- from him and in discharge of that debt, he issued a cheque. When it was presented for encashment, the cheque was dishonoured for the reason of funds insufficient. He demanded the amount by giving a notice in writing to the

accused, even after notice there was no repayment. Hence, he filed a complaint in the Chief Judicial Magistrate Court, Palakkad.

2. During trial, the complainant was examined as PW1 and his documents were marked Exts.P1 to P6. The incriminating circumstances brought out in evidence were denied by the accused while questioning him. He did not adduce any defence evidence. The learned Chief Judicial Magistrate convicted the accused and sentenced to simple imprisonment for two months and pay compensation of ₹ 23,000/- u/s.357(3) Cr.P.C. Against that, he preferred Crl.Appeal No.30/2004 before Additional Sessions Judge, Fast Track Court No.III, Palakkad, in that appeal the sentence was modified. Being aggrieved by that judgment, the accused preferred this revision petition.

3. When the matter came up for hearing, the

learned counsel appearing for the revision petitioner submitted that the revision petitioner is ready to undergo the modified sentence imposed by the appellate Court. He is ready to pay the entire fine amount in the trial Court and not interested in prosecuting this revision petition. On the basis of the above submission, this court directed the Chief Judicial Magistrate, Palakkad to file a report with regard to the compliance of the direction in the appellate Court's judgment. The report dated 25.11.2015 shows that as per the direction in Crl.M.A.No.12742/2006 in Crl.R.P.No.4404/2006, the sentence was suspended on executing a bond for ₹25,000/- with two solvent sureties each for the like sum to the satisfaction of the trial Court and also depositing ₹12000 within one month. Accordingly, on 29.10.2007, the revision petitioner deposited a sum of ₹12,000/- and executed the bond. Since the revision

petitioner is not challenging the appellate Court's judgment, there is no scope for further hearing. In the light of the above submission and perusal of the records, I am of the view that there is no illegality or irregularity in the findings of the Court below. It appears that no grounds are mentioned to interfere in the findings.

4. In the result, the findings of the appellate Court is confirmed. The revision petitioner is directed to surrender in the Chief Judicial Magistrate, Palakkad forthwith to undergo the modified sentence imposed by the appellate Court, failing which the learned Chief Judicial Magistrate shall issue non bailable warrant against the revision petitioner. It is directed that the amount deposited by the revision petitioner shall be adjusted towards the compensation amount.

Crl.R.P. is disposed of.

P.D. RAJAN, JUDGE.

acd