

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

TUESDAY, THE 17TH DAY OF NOVEMBER 2015/26TH KARTHIKA, 1937

Crl.Rev.Pet.No. 276 of 2015 ()

**AGAINST THE ORDER IN ST 59/2011 of JUDICIAL FIRST CLASS MAGISTRATE COURT-
II, THODUPUZHA DATED 03.12.2012**

**AGAINST THE JUDGMENT IN CRA 1/2013 of II ADDITIONAL SESSIONS
COURT, THODUPUZHA DATED 07.11.2014**

REVISION PETITIONER/APPELLANT/ACCUSED :

**JOSE P. ISSAC, AGED 47 YEARS,
S/O ISSAC, PUTHAN VEETIL HOUSE, MUTTOM KARA,
MUTTOM VILLAGE, THODUPUZHA.**

BY ADV. SRI.S.DILEEP (KALLAR)

RESPONDENTS/STATE/2ND RESPONDENT/COMPLAINANT :

- 1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-COCHIN-31.**
- 2. LEELA P.K.,
D/O KONTHY, PARAKKAL HOUSE, YELLUMPURAM KARA
MUTTOM VILLAGE, THODUPUZHA, PIN:685584.**

**R2 BY ADV. SRI.M.POLY MATHAI
R2 BY ADV. SRI.VIMAL K.CHARLES
R1 BY SRI.R.GITHESH, PUBLIC PROSECUTOR**

**THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 17-11-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

AMV

B.SUDHEENDRA KUMAR, J.

.....
Crl.R.P.No.276 of 2015
.....

Dated this the 17th day of November, 2015

ORDER

The accused in S.T.No.59 of 2011 on the files of the Court of the Judicial First Class Magistrate Court II, Thodupuzha, has filed this revision petition challenging the concurrent finding of conviction and sentence passed by the courts below under Section 138 of the N.I.Act.

2. Heard both sides.

3. The prosecution allegation is that the revision petitioner issued Ext.P2 cheque in favour of the complainant towards the discharge of the liability to the complainant. The complainant presented the said cheque for encashment. However, the same was dishonoured as the payment was stopped by the revision petitioner. There was no sufficient fund in his account to honour the cheque. Statutory notice was issued on behalf of the complainant to the revision petitioner, which was received by the revision petitioner. However, the revision petitioner did not pay the cheque amount within the statutory period or thereafter.

4. Before the trial court, PW1 was examined and Exts.P1 to P8 were marked for the complainant. Ext.D1 was marked for the revision petitioner.

5. The courts below, after evaluating the oral and documentary evidence adduced by the parties, concurrently found that the revision petitioner executed Ext.P2 cheque as contemplated under Section 138 of the N.I Act. The defence set up by the revision petitioner through Ext.D1 was also repelled by the courts below. Since there is concurrent finding on facts, this Court will not be justified in interfering with the same, unless the finding is perverse or incorrect. No circumstance has been brought to my notice to indicate that the concurrent finding by the courts below is 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 N.I Act does not warrant any interference by this court.

6. The appellate court had taken a very lenient view in the matter of sentence. Therefore, the sentence awarded by the appellate court also does not warrant any interference by this Court.

In the result, this revision petition stands dismissed. However, the revision petitioner is granted ten months to pay the fine as requested by the learned counsel for the revision petitioner.

It is made clear that, the 2nd respondent shall be at liberty to withdraw the amount, if any, deposited by the revision petitioner before the trial court.

Sd/-
B.SUDHEENDRA KUMAR
JUDGE

AMV/17/11/15