

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR

TUESDAY, THE 10TH DAY OF MARCH 2015/19TH PHALGUNA, 1936

Crl.Rev.Pet.No. 330 of 2015 ()

AGAINST THE JUDGMENT IN CRA 277/2011 of COURT OF SESSIONS JUDGE,
THRISSUR DATED 07-01-2014

AGAINST THE JUDGMENT IN CC 55/2010 of COURT OF JUDICIAL FIRST CLASS
MAGISTRATE, IRINJALAKUDA DATED 19-03-2011

REVISION PETITIONER/APPELLANT/ACCUSED:

VARUNDEEP, S/O.ARAYAM PARAMBIL SACHIDANDAN,
METHALA DESOM, METHALA VILLAGE,
KODUNGALLUR, THRISSUR DISTRICT.

BY ADV. SRI.RAJESH CHAKYAT

RESPONDENTS/COMPLAINANT & STATE:

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1. NISHA, D/O.SASI,
THACHAPPULLY HOUSE, NELLAYI DESOM
NELLAYI VILLAGE, THRISSUR- 680 322.
 2. THE STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM

R2 BY PUBLIC PROSECUTOR SRI.N.SURESH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 10-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C.T.RAVIKUMAR, J.

Crl.R.P.No.330 of 2015

Dated 10th March, 2015

ORDER

This revision petition is directed against the judgment in Crl.Appeal No.277 of 2011 of the Court of the Sessions Judge, Thrissur. As per the impugned judgment, the conviction of the revision petitioner in C.C.No.55 of 2010 of the Court of Judicial First Class Magistrate, Irinjalakuda under section 138 of the Negotiable Instruments Act and the sentence imposed for such conviction, were confirmed. The trial court sentenced him to undergo simple imprisonment till rising of the court and he was also directed to pay a compensation of ₹ 1,00,000/- 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 a period of one month. It is in the said circumstances that this revision petition has been filed.

2. Evidently, after a careful consideration of the evidence on record, both oral and documentary, the courts below found that Ext.P1 cheque 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 that ultimately culminated in the conviction of the revision petitioner. Upon such conviction, the trial court sentenced the petitioner as mentioned above and the appellate court found no ground to interfere with the conviction. In such a case of conviction concurrently entered against an accused in the absence of a case of utter perverse appreciation of evidence or any illegality in view of error of law or findings totally against the weight of evidence an interference in exercise of revisional jurisdiction is uncalled for. No case has been brought out by the revision petitioner inviting such an interference. I am in perfect agreement with the findings and reasonings of the courts below. Accordingly, the conviction entered against the revision petitioner for the offence under section 138 of the N.I.Act is confirmed.

3. As noticed hereinbefore, upon such conviction, the revision petitioner was sentenced to undergo imprisonment till rising of the court and also was directed to pay an amount of ₹ 1,00,000/- as compensation to the complainant under Section 357(3) Cr.P.C. The amount directed to be paid as compensation is the amount covered by Ext.P1 cheque dated 28.12.2009. As noticed hereinbefore, the sentence

was also confirmed by the appellate court. Taking into account such circumstances, I do not find any reason to interfere with the sentence as well. When this court was about to dismiss this matter without any qualification the learned counsel appearing for the revision petitioner submitted that some reasonable time may be granted to the revision petitioner for effecting payment of compensation. In such circumstances, the learned Magistrate is directed to keep in abeyance execution of the sentence to undergo imprisonment till the rising of the court and also initiation of steps to recover the amount of compensation for a period of four months so as to enable the revision petitioner to pay the amount of compensation and also to appear before the trial court to suffer the imprisonment within the above stipulated time. In case of failure on the part of the revision petitioner to pay the amount and to appear to suffer the imprisonment till the rising of the court, within the above stipulated time, the learned Magistrate shall take appropriate steps in accordance with law, forthwith.

Subject to the above, this revision petition is dismissed.

Sd/-
C.T.RAVIKUMAR
Judge

TKS