

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

Crl.Rev.Pet.No. 474 of 2015 ()

AGAINST THE JUDGMENT IN CRL.APPEAL 247/2012 of THE ADDITIONAL
SESSIONS COURT-VI, KOLLAM DATED 30-01-2015

AGAINST THE JUDGMENT IN CC 503/2008 of JUDICIAL FIRST CLASS
MAGISTRATE COURT, PARAVOOR DATED 18-08-2012

REVISION PETITIONER(S)/APPELLANT/ACCUSED:

VENU, AGED 48 YEARS
S/O. SANKARANKUTTY, KOONAYIL,
PARAVUR, KOLLAM

BY ADV. SMT.G.VIDYA

RESPONDENT(S)/COMPLAINANT:

1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM
2. AMRITHANJAN, AGED 37 YEARS,
S/O.GANGADHARAN,
AMBIKA VILASAM, VARINJAM,
KARAMCODE P.O. KOLLAM-691579

R1 BY PUBLIC PROSECUTOR SRI.N.SURESH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 10-04-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

dlk

C.T.RAVIKUMAR, J

Crl.R.P. No. 474 of 2015

Dated this the 10th day of April, 2015

ORDER

This revision petition is directed against the conviction concurrently entered against the petitioner under section 138 of the Negotiable Instruments Act. The petitioner was tried for the said offence before the court of the Judicial First Class Magistrate, Paravur in C.C. No.503/2008. After complying with all the procedures of trial for an offence under section 138 of the N.I.Act and on appreciation of the evidence adduced by the first respondent/complainant the Trial Court found the petitioner guilty thereunder and consequently convicted him thereunder and sentenced to undergo imprisonment till the rising of the court and to pay a fine of Rs.55,000/-. In default of payment of fine he was directed to undergo simple imprisonment for a period of five months. The petitioner unsuccessfully challenged the same in Crl.A.No.247/2012. The appellate court confirmed the conviction as also the sentence. This revision petition is filed in the aforesaid circumstances.

2. The case of the first respondent is that the appellant borrowed an amount of ₹50,000/- as loan and in discharge of the said liability he issued Ext.P1 cheque . The first respondent/complainant got himself examined as PW1 and got marked Exts.P1 to P6 to bring home the charge against the revision petitioner. It is to be noted that the petitioner had not mounted the box and in fact, he has not adduced any evidence in defence. It was on appreciation of the evidence on record that the trial court as also the appellate court arrived at the conclusion that the oral evidence of PW1 with Exts.P1 to P6 are sufficient to establish the charge of commission of offence under section 138 of the N.I.Act against the revision petitioner. Having carefully considered the judgment and upon hearing the learned counsel for the revision petitioner I do not find any reason to disagree with the findings of the courts below for entering conviction against the revision petitioner. In otherwords, no case was brought out by the petitioner to interfere with the conviction concurrently entered against him for the offence under section 138 of the N.I.Act in exercise of revisional jurisdiction.

3. Upon convicting the petitioner under section

138 of the N.I.Act the trial court sentenced him to undergo imprisonment till the rising of the court and to pay a fine of Rs.55,000/- to the complainant. The appellate court, evidently, considered the requirement, if any, to interfere with the sentence imposed by the trial court and ultimately found that no appellate interference is called for in the facts and circumstances. As noticed hereinbefore, the sentence imposed for the conviction under section 138 of the N.I.Act against the petitioner is only imprisonment till the rising of the court and the amount directed to be paid as fine of Rs.55,000/-. In such circumstances, when once it is found that there is no scope for interfering with the conviction in exercise of the revisional jurisdiction I am of the considered view that a further interference with the sentence imposed is also not called for. When this Court was about to dismiss this revision petition without any qualification the learned counsel for the petitioner submitted that the petitioner may be granted some reasonable time to pay the amount of fine. Taking note of the fact that the amount directed to be paid as fine is Rs,55,000/- I am of the view that even while confirming the conviction as also the sentence it will only be appropriate, in the

interest of justice, to direct the learned magistrate to keep in abeyance the execution of the sentence for a period of three months so as to enable the petitioner to appear before the trial court to pay the amount of fine and to suffer imprisonment till the rising of the court. Ordered accordingly. Needless to say that in case the petitioner fails to appear before the trial court to pay the amount of fine also to suffer the sentence of imprisonment till the rising of the court, within the above stipulated time appropriate steps shall be taken by the trial court in accordance with law to execute the sentence.

Subject to the above this revision petition is dismissed.

Sd/-

C.T.RAVIKUMAR,JUDGE.

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