

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

MONDAY, THE 16TH DAY OF NOVEMBER 2015/25TH KARTHIKA, 1937

Crl.Rev.Pet.No. 1183 of 2011 (R)

AGAINST THE JUDGMENT IN CRL.A. 229/2009 of ADDL. SESSIONS
JUDGE, (ADHOC) III, PALAKKAD DATED 10-01-2011

AGAINST THE JUDGMENT IN ST 2753/2005 of J.M.F.C. - II,
OTTAPPALAM DATED 28-02-2009

REVISION PETITIONER(S)/3RD RESPONDENT:

RAVEENDRAN, S/O. JANAKI,
MANAGING PARTNER, VARSHITHA KURIES AND LOANS
ERUPPATHODI HOUSE, PALAPPURAM, OTTAPALAM TALUK
PALAKKAD DISTRICT.

BY ADV. SRI.P.K.MOHANAN (PALAKKAD)

RESPONDENT (S) /RESPONDENTS:

1. V. MOHANDAS, S/O. NARAYANAN NAIR,
PATHALINGAL HOUSE, KULUKKALLUR.P.O, OTTAPALAM TALUK
PIN - 679 503, PALAKKAD DISTRICT.

2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERANAKULAM., KOCHI - 682 031.

R1 BY ADV. SRI.P.JAYARAM
R2 BY PUBLIC PROSECUTOR SRI. V.S. SREEJITH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY
HEARD ON 16-11-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

B. SUDHEENDRA KUMAR, J.

.....
Crl.R.P. No. 1183 of 2011
.....

Dated this the 16th day of November, 2015

ORDER

The first accused in ST No. 2753 of 2005 on the files of the Court of the judicial Magistrate of First Class, II, Ottappalam, has filed this revision petitioner 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 and the other accused executed Ext. P1 cheque in favour of the complainant towards the discharge of the liability of the revision petitioner to the complainant in connection with a chitty transaction. The complainant presented the said cheque for encashment. However, the same was dishonoured due to insufficiency of funds in the account of the revision petitioner. Statutory notice was issued on behalf of the complainant, 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

P7 were marked for the complainant. DW1 was examined and Ext. D1 was marked on the side of the defence.

5. The courts below, after evaluating the oral and documentary evidence adduced by the parties, concurrently found that the revision petitioner executed Ext. P1 cheque as contemplated under Section 138 of the N.I.Act. The defence set up by the revision petitioner 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 appreciation of evidence 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 Sec. 138 of the N.I.Act does not warrant any interference by this Court. 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 call for any interference by this Court.

In the result, this Revision Petition stands dismissed. However, the revision petitioner is granted six months to pay the

Crl.R.P. No. 1183 of 2011

fine ordered by the appellate court, as requested by the learned counsel for the revision petitioner.

Sd/-B. SUDHEENDRA KUMAR,
JUDGE.

Ani/ 19-11-2015

/true copy/

P.S. To Judge