

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

FRIDAY, THE 20TH DAY OF NOVEMBER 2015/29TH KARTHIKA, 1937

Crl.Rev.Pet.No. 4048 of 2009 ()

CRA 420/2007 of ADDL.SESSN.COURT (ADHOC-II)KASARAGODE
CC 1021/2006 of J.M.F.C.-I,HOSDRUG

REVISION PETITIONER(S)/APPELLANT/ACCUSED.:

P.RAMAKRISHNAN NAIR, AGED 65 YEARS,
S/O. PARAMESWARAN NAIR, R/AT CHEMBOTHUNKAL, BELLIKOTH
P.O.AJANNUR, HOSDURG TALUK.
(WITHIN THE LIMITS OF HOSDURG P.S.)

BY ADV. SRI.M.RAMESH CHANDER

RESPONDENT(S)/RESPONDENTS/COMPLAINANT AND STATE.:

1. V.V.KORAN, AGED 63 YEARS,
S/O. VELLOOR VAYALIL BHATTYAN, R/AT VAYALIL, BELLIKOTH
P.O.AJANNUR, HOSDURG TALUK.
(WITHIN THE LIMITS OF HOSDURG P.S.).

2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

R1 BY ADV. SRI.KODOTH SREEDHARAN
R2 BY PUBLIC PROSECUTOR, SHRI.R.GITHESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON
20-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P. No.4048 of 2009

Dated this the 20th day of November 2015

O R D E R

The accused in C.C.No.1021 of 2006 on the files of the Court of the Judicial Magistrate of First Class - I, Hosdurg has filed this revision petition challenging the concurrent finding of conviction and sentence passed by the courts below under Section 138 of the Negotiable Instruments Act (for short 'the N.I. Act).

2. Heard the learned counsel for the revision petitioner and the learned Public Prosecutor.

3. The prosecution allegation is that towards the discharge of the liability, the revision petitioner issued

Ext.P1 cheque in favour of the complainant. 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 to the revision petitioner, which was received by the revision petitioner. However, the revision petitioner did not make payment of the cheque amount within the statutory period or thereafter.

4. Before the trial court, PW1 was examined and Exts.P1 to P5 were marked for the complainant. No evidence was adduced on the side of the defence.

5. The courts below, relying on the documentary as well as oral evidence adduced by the complainant, concurrently found that the revision petitioner had

executed Ext.P1 cheque as contemplated under Section 138 of the N.I. Act and committed the offence under Section 138 of the N.I. Act, repelling the contention of the revision petitioner. Since there is concurrent finding on facts, this Court will not be justified in interfering with the same as no circumstance has been brought to my notice to indicate that the concurrent finding by the courts below was 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 the N.I. Act does not warrant any interference by this court.

6. 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.

Crl.R.P. No.4048 of 2009

: 4 :

The revision petitioner is granted six months to pay the fine, as requested by the learned counsel for the revision petitioner.

Sd/-
B.SUDHEENDRA KUMAR,
JUDGE

dl/.23.11.2015

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PA to Judge