

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

MONDAY, THE 23RD DAY OF NOVEMBER 2015/2ND AGRAHAYANA, 1937

Crl.Rev.Pet.No. 4073 of 2009 ( )  
-----

Crl.A 403/2008 OF THE ADDITIONAL SESSIONS COURT-I, MAVELIKKARA  
CC 425/2006 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT, CHENGANNUR

REVISION PETITIONER/APPELLANT/ACCUSED.:  
-----

PRASANTH, S/O. RAMACHANDRAN,  
MEDAYIL SIVAPADAM, KANDIYOOR, THATTARAMBALAM  
MAVELIKKARA.

BY ADVS.SRI.R.SUNIL KUMAR  
SMT.A.SALINI LAL

RESPONDENT(S)/RESPONDENT/COMPLAINANT.:  
-----

1. STATE OF KERALA,  
REPRESENTED BY THE PUBLIC PROSECUTOR  
HIGH COURT OF KERALA, ERNAKULAM.
2. RAJENDRA PRASAD P.G.,  
SANTHOSH BHAVANAM, KODUKULANJI KARODU MURI  
VENMONY VILLAGE.

R1 BY PUBLIC PROSECUTOR SRI.V.S.SREEJITH  
R2 BY ADV. SRI.N.ASHOK KUMAR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD  
ON 23-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

SCL.

**B. SUDHEENDRA KUMAR, J.**

-----  
Crl.R.P. No.4073 of 2009  
-----

Dated this the 23<sup>rd</sup> day of November, 2015

**ORDER**

The accused in C.C.No.425 of 2006 on the files of the Court of the Judicial Magistrate of First Class, Chengannur 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.

3. The prosecution allegation is that the revision petitioner executed Ext.P1 cheque in favour of the complainant towards the discharge of the liability of the revision petitioner to the complainant. The complainant presented the said cheque for encashment. However, the same was dishonoured due to the insufficiency of funds in the account of the revision petitioner. Statutory notice was issued, which was received by the revision petitioner.

4. Before the trial court, PW1 was examined and Exts.P1 to P4 were marked for the complainant. DW1 was examined for the revision petitioner.

5. The courts below correctly evaluated the oral and documentary evidence and concurrently found that the revision petitioner 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 contentions of the revision petitioner. No circumstance has been brought to my notice to indicate that the appreciation of the evidence by the courts below or the concurrent finding by the courts below suffers from any infirmity, warranting interference by this Court. 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 amount covered by Ext.P1 cheque is ₹50,000/-. Considering the facts and circumstances of the case, including

the amount covered by Ext.P1 cheque, I am of the view that the sentence awarded by the courts below can be modified and reduced to imprisonment till the rising of the court and a fine of ₹50,000/- to meet the ends of justice and accordingly, I order so. In default of payment of fine, the revision petitioner shall undergo simple imprisonment for one month. In the event of realisation of fine, the entire amount shall be given to the complainant as compensation under Section 357 (1) (b) Cr.P.C.

In the result, this revision petition stands allowed in part as above.

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**

Scl/23.11.2015

True Copy

PA to Judge