

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

THURSDAY, THE 1ST DAY OF OCTOBER 2015/9TH ASWINA, 1937

Crl.Rev.Pet.No. 888 of 2015 ()

CRA 306/2013 of ADDL. S.C. KOZHIKODE- II
ST 791/2008 of J.M.F.C.,PERAMBRA

REVISION PETITIONERS/APPELLANTS/ ACCUSED:

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1. M/S.SREENARAYANA DHARMA VICHARA PARISHATH
PARISHATH OFFICE, WEST NADAKKAVU, SHAMSU BUILDING
KALLAI ROAD, KOZHIKODE
 2. SREENARAYANA DHARMA VICHARA PARISHATH
REPRESENTED BY PRESIDENT, SIVARAM THANDASSERY, PENSIONER
AGED 70 YEARS, SHAMSU BUILDING, KALLAI ROAD, KOZHIKODE
 3. SREENARAYANA DHARMA VICHARA PARISHATH
REPRESENTED BY TREASURER, GOPI, PENSIONER
AGED 50 YEARS, EDATHUMPADIKKAL, SHAMSU BUILDING, KALLAI ROAD
KOZHIKODE

BY ADV. SMT.VIJAYAKUMARI

RESPONDENTS/RESPONDENTS/COMPLAINANT:

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1. E.P. NARAYANAN
S/O CHANDU, EDATHUMPADIKKAL, RESIDING AT ROSHNARAYIL
KALPATHUR AMSOM DESOM, KOYILANDY TALUK, PIN-673 305
 2. STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM PIN-682031

R1 BY ADV. SRI.B.KRISHNA MANI

R2 BY PUBLIC PROSECUTOR, SHRI.R.GITHESH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 01-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P. No.888 of 2015

Dated this the 1st day of October 2015

O R D E R

The revision petitioners are the accused in S.T.No.791 of 2008 on the files of the Court of the Judicial Magistrate of First Class-I, Perambara.

2. The trial court convicted the revision petitioners under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the N.I.Act') and sentenced them thereunder to a fine of Rs.2,00,000/- with a default clause for simple imprisonment for three months. The appeal filed against the said conviction and sentence was dismissed by the II Additional Sessions

Court, Kozhikode as per judgment in CrI. Appeal No.306 of 2013. Aggrieved by the said conviction and sentence, the revision petitioners have filed this revision petition.

3. Heard the learned counsel for the revision petitioners and the learned Public Prosecutor.

4. The prosecution allegation can be briefly stated thus:-The first revision petitioner is a firm, namely, Sreenarayana Dharma Vichara Parishath. The 2nd revision petitioner is the President and the third revision petitioner is the treasurer of the said Parishath. The 2nd and 3rd revision petitioners received an amount of Rs.5,00,000/- from the complainant for arranging the post of P.E.T. for the son of the complainant during the academic year 2005-2006 in the U.P.School run by the first revision petitioner.

However, the job, as promised, was not arranged. Thereafter, towards the discharge of the said liability, the revision petitioners executed two cheques in favour of the complainant. The complainant presented the said cheques for encashment. However, the same was dishonoured due to insufficiency of funds in the account of the revision petitioners. After the dishonouring of the cheques, an amount of Rs.2,00,000/- was given to the complainant. They promised that the balance amount of Rs.3,00,000/- would be paid within three days. However, they did not pay the balance amount. Thereafter, statutory notice was issued to the revision petitioners, which was evaded by the revision petitioners even after getting intimation from the postal authorities. The revision petitioners did not make payment

of the cheque amount within the statutory period or thereafter.

5. Before the court below, PW1 was examined and Exts.P1 to P10 were marked for the complainant. No evidence was adduced on the side of the defence.

6. The courts below, relying on the documentary as well as oral evidence adduced by the complainant, concurrently found that the revision petitioners had executed Ext.P1 cheque as contemplated under Section 138 of the N.I. Act. Since there is concurrent finding on facts, this Court will not be justified in interfering with the same unless the finding of the courts below is perverse or incorrect. No circumstance has been brought to my notice to indicate that the appreciation of evidence by the courts below was perverse or incorrect. In the said circumstances,

the concurrent finding of the courts below that the revision petitioners committed the offence under Section 138 of the N.I. Act does not warrant any interference by this court.

7. The courts below had taken a very lenient view in the matter of sentence. In the said circumstances, the sentence awarded by the courts below also does not call for any interference by this court.

In the result, this revision petition stands dismissed.

However, the revision petitioners are granted six months to pay the fine, as requested by the learned counsel.

Sd//
B.SUDHEENDRA KUMAR, JUDGE.

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/ True copy /

PA to Judge