

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

FRIDAY, THE 30TH DAY OF OCTOBER 2015/8TH KARTHIKA, 1937

Crl.Rev.Pet.No. 1675 of 2011 ()

AGAINST THE JUDGMENT IN CRA 361/2010 of III ADDL.SESIONS
COURT, KOLLAM DATED 16/05/2015

AGAINST THE JUDGMENT IN CC 182/2009 of J.M.F.C. - III,
KOLLAM DATED 4-08-2010

REVISION PETITIONER(S)/APPELLANT/ACCUSED:

RAJI REGUNATHAN, W/O.REGHUNATHAN,
SOUPARNIKA, CHIRAKADAVAM (PO), KAYAMKULAM
ALAPPUZHA DISTRICT.

BY ADVS.SRI.M.V.THAMBAN
SRI.R.REJI
SMT.THARA THAMBAN
SMT.REVATHY P.NAIR

RESPONDENT(S)/RESPONDENTS/STATE & COMPLAINANT:

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

2. M/S.SREE GOKULAM CHIT & FINANCE CO.PVT.
LTD., BANK ROAD, MUKKAVALA
KAYAMKULAM, REPRESENTED
BY ITS AUTHORISED REPRESENTATIVE, P.D.MADHUKUMAR
S/O.A.DAMODAR ADDISSER, THOPPIL (H), NEERAVIL
PERINAD (PO), KOLLAM DISTRICT - 691601

R2 BY ADVS. M/S. SRI.K.S.BABU, SMT.N.SUDHA &
SRI.BABU SHANKAR
BY PUBLIC PROSECUTOR SRI. V.S. SREEJITH FOR R1

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY
HEARD ON 30-10-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

B. SUDHEENDRA KUMAR, J.

.....
Crl.R.P. No. 1675 of 2011
.....

Dated this the 30th day of October, 2015

ORDER

The revision petitioner is the accused in S.T. No. 182 of 2009 on the files of the court of the Judicial Magistrate of First Class-III, Kollam.

2. The trial Court convicted the revision petitioner under Section 138 of the Negotiable Instruments Act, 1881 and sentenced him thereunder to simple imprisonment for six months and to pay an amount of Rs. 98,500/- to the complainant as compensation under Section 357 (3) Cr.P.C. In the appeal filed against the said conviction and sentence, the conviction was confirmed and the sentence was modified and reduced to imprisonment till the rising of the Court and to pay an amount of Rs. Rs.98,500/- to the complainant as compensation under Section 357 (3) Cr.P.C. Aggrieved by the said conviction and sentence, this revision petition has been filed.

2. Heard both sides.

3. The prosecution allegation is that towards the discharge of the liability to the complainant, 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 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. No evidence was adduced on the side of the defence.

5. After evaluating the oral and documentary evidence adduced by the complainant, the courts below 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 concurrent finding 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.

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

Needless to state that the amount, if any, deposited by the revision petitioner before the trial court in this case will be treated as part payment of the compensation. The 2nd respondent herein shall be entitled to get the amount, if any, deposited by the revision petitioner, on filing application in this regard before the trial Court.

Dated this the 30th day of October, 2015.

B. SUDHEENDRA KUMAR,
JUDGE.

Ani/2/11/2015