

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

WEDNESDAY, THE 9TH DAY OF SEPTEMBER 2015/18TH BHADRA, 1937

Crl.Rev.Pet.No. 1108 of 2015 ()

AGAINST THE JUDGMENT IN CRL.APPEAL 85/2009 of ADDL. SESSIONS COURT -
IV, THALASSERY DATED 27-03-2015

AGAINST THE JUDGMENT IN ST 1754/2005 of JUDICIAL FIRST CLASS
MAGISTRATE COURT, TALIPARAMBA, KANNUR DIST. DATED 17-01-2009

REVISION PETITIONER/APPELLANT/ACCUSED:

JOY K.U AGED 50 YEARS
S/O. UTHUPPAN, KANHIRAKKATTU HOUSE, ALEX NAGAR
CHERIKODE P.O, SREEKANDAPURAM VIA, TALIPARAMBA TALUK
KANNUR DISTRICT

BY ADVS.SRI.SUNIL NAIR PALAKKAT
SRI.K.N.ABHILASH

RESPONDENTS/COMPLAINANT & STATE:

-
1. THE RUBCO SREEKANDAPURAM LATEX PVT. LTD
SREEKANDAPURAM REPRESENTED BY ITS FACTORY MANAGER
E.M SHANALAL, S/O. ELIAS KUNHU, SREEKANDAPURAM
KANNUR DISTRICT, PIN 670 631
 2. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, 682 031

R BY PUBLIC PROSECUTOR SRI.REJI JOSEPH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 09-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

sm

B.SUDHEENDRA KUMAR, J.

Crl.R.P. No. 1108 of 2015

Dated this the 9th day of September, 2015

ORDER

The revision petitioner is the accused in STC No. 1754/2005 on the files of the court of the Judicial Magistrate of First Class, Thaliparambu.

2. The trial court convicted the revision petitioner under Section 138 of the Negotiable Instruments Act and sentenced him thereunder to simple imprisonment for 6 months and to pay a compensation of Rs.2,00,000/- to the complainant under Section 357(3) Cr.PC with a default clause for simple imprisonment for three months. In the appeal filed against the said conviction and sentence, the conviction was confirmed by the appellate court. However, the sentence was modified and reduced to imprisonment till the rising of the court and a compensation of Rs.3,00,000/- to the complainant under Section 357(3) Cr.PC, with a default clause for simple

imprisonment for six months. Aggrieved by the said conviction and sentence, the revision petitioner has approached this Court with this revision petition.

3. Heard.

4. The prosecution case is that the revision petitioner purchased rubber products from the complainant and towards the discharge of the said 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.

5. Before the trial court, PW1 and PW2 were examined and Exts.P1 to P10 were marked for the complainant. DW1 was examined and Exts.D1 to D11 were marked for the defence. After evaluating the documentary and oral evidence, the courts

below concurrently found that the revision petitioner 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 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 Section 138 of 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. In the said circumstances, I find no reason to interfere with the sentence as well.

In the result, this revision petition stands dismissed. However, the revision petitioner is granted six months time to pay the compensation.

Sd/-
B.SUDHEENDRA KUMAR
JUDGE

sm/