

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

FRIDAY, THE 11TH DAY OF SEPTEMBER 2015/20TH BHADRA, 1937

Crl.Rev.Pet.No. 1131 of 2015 ()

AGAINST THE JUDGMENT IN CRL.APPEAL NO.257/2010 of ADDITIONAL SESSIONS
JUDGE-II, THIRUVANANTHAPURAM, DATED 31-07-2014

AGAINST THE JUDGMENT IN ST 242/2007 of JUDICIAL FIRST CLASS
MAGISTRATE-II, VARKALA DATED 12-03-2010

REVISION PETITIONER/APPELLANT/ACCUSED :

PRADEEP KUMAR AGED 48 YEARS
S/O. SIVARAMA PILLAI, KAKKANAD HOUSE, PANDANAD VILLAGE
CHENGANNUR TALUK, ALAPPUZHA DISTRICT.

BY ADV. SMT.ANITHA M.N. (EKM)

RESPONDENTS/RESPONDENTS/COMPLAINANT:

1. THAMPI.N., AGED 48 YEARS
S/O. NATARAJAN, VADAKKEBHAGAM VEEDU, KAPPIL DESOM
EDAVA VILLAGE, CHIRAYINKEEZHU TALUK.
2. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682 031.

BY ADV. PUBLIC PROSECUTOR SRI.S.V.SREEJITH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 11-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P. No. 1131 of 2015

Dated this the 11th day of September, 2015

ORDER

The revision petitioner is the accused in ST No. 242/2007 on the files of the court of the Judicial Magistrate of First Class-II, Varkala.

2. The trial court convicted the revision petitioner under Section 138 of the Negotiable Instruments Act and sentenced him thereunder to imprisonment till the rising of the court and to pay a compensation of Rs.93,000/- to the complainant under Section 357(3) Cr.PC with a default clause for simple imprisonment for one month. The appeal filed against the said conviction and sentence was dismissed by the appellate court as per judgment in Crl.Appeal 257/2010. Aggrieved by the said conviction and sentence, the revision petitioner has approached this Court with this revision petition.

3. Heard.

4. The prosecution allegation is that the revision petitioner borrowed an amount of Rs.93,000/- 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 was examined and Exts. P1 to P6 were marked for the complainant. After evaluating the evidence of PW1 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. 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. Sentence awarded by the courts below is also reasonable and 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 three months time to pay the compensation, as requested by the learned counsel for the revision petitioner.

Sd/-
B.SUDHEENDRA KUMAR
JUDGE

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