

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

WEDNESDAY, THE 16TH DAY OF SEPTEMBER 2015/25TH BHADRA, 1937

Crl.Rev.Pet.No. 1146 of 2015 ()

CRA 129/2014 of III ADDL.DISTRICT & SESSIONS COURT, PALAKKAD
ST 2722/2012 of J.M.F.C.,ALATHUR

REVISION PETITIONER:

SUSEELA, AGED 43 YEARS
R.D.AGENT, W/O.RAJAN
VADAKKUMMURI HOUSE
VANDAZHI, ALATHUR, PALAKKAD

BY ADV. SRI.V.A.JOHNSON (VARIKKAPPALLIL)

RESPONDENT:

1. CHANDRAN, AGED 59 YEARS
S/O.VELAYUDHAN
FILM REPRESENTATIVE, MANKARA HOUSE
MANAPPADATH, KANNANNUR PATOLA
PALAKKAD 678 702.
2. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM 682 031.

R2 BY PUBLIC PROSECUTOR, SHRI.V.S.SREEJITH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 16-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P. No.1146 of 2015

Dated this the 16th day of September 2015

O R D E R

The revision petitioner is the accused in S.T. No.2722 of 2012 on the files of the court of the Judicial Magistrate of First Class, Alathur.

2. The trial court convicted the revision petitioner under Section 138 of the Negotiable Instruments Act (for short 'the N.I.Act') and sentenced him thereunder to imprisonment till the rising of the court and to pay Rs.80,000/- to the complainant as compensation under Section 357(3) Cr.P.C. The appeal filed against the said conviction and sentence was dismissed as per judgment in

Crl. Appeal No.129 of 2014. Aggrieved by the said order of conviction and payment of compensation, the revision petitioner has filed this revision petition.

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

4. The prosecution case is that the revision petitioner borrowed an amount of Rs.75,000/- from the complainant and towards the discharge of the said liability, the revision petitioner issued Ext.P1 cheque in favour of the complainant. The said cheque was presented for encashment. However, the same was dishonoured stating that the account of the revision petitioner was closed. 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 prosecution.

6. The courts below, after evaluating the oral and documentary evidence adduced by the complainant, 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 by the courts below, 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 finding of the courts below was perverse or incorrect. The courts below concurrently found the revision petitioner guilty under Section 138 of the N.I. Act and convicted him thereunder. Having gone through the

relevant inputs, I do not find any reason to interfere with the concurrent finding of the courts below that the revision petitioner committed the offence under Section 138 of the N.I. Act. The courts below had taken a very lenient view in the matter of sentence and hence, 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 petitioner is granted six months to pay the fine, as requested by the learned counsel for the revision petitioner.

Sd//

**B.SUDHEENDRA KUMAR,
JUDGE.**

dl

/ True copy /

PA to Judge