

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

FRIDAY, THE 18TH DAY OF SEPTEMBER 2015/27TH BHADRA, 1937

Crl.Rev.Pet.No. 1168 of 2015 ()

CRA 208/2014 of II ADDITIONAL SESSIONS COURT, THODUPUZHA
ST 57/2013 of J.M.F.C.-II, THODUPUZHA

REVISION PETITIONER:

SABINI, AGED 35 YEARS
W/O.YOUNUS, ABBAS QUARTERS
KADANTHARA
PERUMBAVOOR, ERNAKULAM DISTRICT

BY ADVS.SRI.C.A.NAVAS
SRI.T.K.SASIKUMAR
SRI.P.A.SHAJI SAMAD
SRI.C.J.SOLOMAN
SMT.E.G.AMBILY
SRI.BABU JOSEPH PYNADATH

RESPONDENTS:

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1. M/S.GOKULAM CHITS AND COMPANY PRIVATE LIMITED
356 ACROT ROAD, KODAMPLAKAM, CHENNAI, REPRESENTED
BY THE POWER OF ATTORNEY HOLDER
JOMY M.C., S/O.CHACKO (SENIOR BUSINESS MANAGER)
THODUPUZHA BRANCH
 2. STATE OF KERALA, REPRESENTED BY THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM

R2 BY PUBLIC PROSECUTOR, SHRI.R.GITHESH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 18-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P.No. 1168 of 2015

Dated this the 18th day of September 2015

ORDER

The revision petitioner is the accused in S.T. No.57 of 2013 on the files of the Court of the Judicial Magistrate of First Class – II, Thodupuzha.

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 simple imprisonment for four months and a fine of Rs.1,35,744/-, with a default clause for simple

imprisonment for two months. In the appeal filed against the said conviction and sentence, the appellate court confirmed the conviction and modified and reduced the sentence to imprisonment till the rising of the court and a fine of Rs.1,35,744/- with a default clause for simple imprisonment for two months. Aggrieved by the said conviction and sentence, the revision petitioner has filed this revision petition.

3. Heard the learned counsel for the petitioner and the learned public prosecutor.

4. The prosecution allegation is that towards the discharge of the liability of an amount of R.1,00,000/- of the husband of the revision petitioner, due under a chitty, the revision petitioner issued Ext.P1 cheque in favour of

the complainant. The said cheque was presented 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 P12 were marked for the prosecution. No evidence was adduced from the side of the revision petitioner.

6. The courts below, after evaluating the oral and the 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. The defence set up by the revision petitioner was repelled by the courts below. 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 finding of the courts below that the revision petitioner committed the offence under Section 138 of the N.I. Act.

7. The sentence awarded by the courts below is reasonable. 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 petitioner is granted six months to pay the fine, as requested by the learned counsel for the revision petitioner.

Sd//

**B.SUDHEENDRA KUMAR,
JUDGE.**

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/ True copy /

PA to Judge