

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

TUESDAY, THE 29TH DAY OF SEPTEMBER 2015/7TH ASWINA, 1937

Crl.Rev.Pet.No. 1204 of 2015 ()

CRA 819/2009 of ADDITIONAL SESSIONS COURT, IRINJALAKUDA
CC 1995/2008 of J.M.F.C.,IRINJALAKUDA

REVISION PETITIONER/APPELLANT/ACCUSED:

AZIS, AGED 46 YEARS
S/O.VEERAN, KALARIPARAMBIL HOUSE
KARALAM DESOM, KARALAM PO
MUKUNDAPURAM TALUK,
THRISSUR DISTRICT.

BY ADVS.SRI.G.SREEKUMAR (CHELUR)
SRI.N.L.BITTO

RESPONDENTS/RESPONDENTS/STATE AND COMPLAINANT:

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1. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA AT ERNAKULAM 682 031
 2. KRISHNAN, AGED 48, S/O.KUTTAN
KURUMBADAN HOUSE
CHEMMANDA DESOM, KARALAM VILLAGE
MUKUNDAPURAM TALUK, THRISSUR DISTRICT 680 001.

R1 BY PUBLIC PROSECUTOR, SHRI.R.GITHESH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 29-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P. No.1204 of 2015

Dated this the 29th day of September 2015

ORDER

The revision petitioner is the accused in C.C. No.1995 of 2008 on the files of the Court of the Judicial Magistrate of First Class, Irinjalakuda.

2. The trial court convicted the revision petitioner under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the N.I.Act') and sentenced him thereunder to simple imprisonment for six months and to pay a compensation of Rs.75,000/- to the complainant under Sec.357(3) Cr.P.C. with a default clause for simple imprisonment for three

months. 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 a compensation of Rs.75,000/- to the complainant under Section 357(3) Cr.P.C. Aggrieved by the said conviction and sentence, 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 allegation 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 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 court below, PW1 was examined and Exts.P1 to P4 were marked for the complainant. No evidence was adduced on the side of the defence.

6. The courts below, relying on the documentary as well as oral evidence adduced by the complainant, concurrently found that the accused had 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 of the courts below is perverse or incorrect. No circumstance has been brought to my notice to indicate that the appreciation of evidence by the courts below was perverse or incorrect. In the said circumstances, the concurrent finding of the courts below that the revision petitioner committed the offence under Section 138 of the N.I. Act does not warrant any interference by this court.

7. The courts below had taken a very lenient view in the matter of sentence. 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 compensation as requested by the learned counsel.

Sd//
B.SUDHEENDRA KUMAR, JUDGE.

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/ True copy /

PA to Judge