

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

THURSDAY, THE 8TH DAY OF OCTOBER 2015/16TH ASWINA, 1937

Crl.Rev.Pet.No. 1217 of 2015 ()

AGAINST THE JUDGMENT IN CrI.A 185/2013 of ADDL. SESSIONS COURT,
ALAPPUZHA. DATED 30-06-2014

AGAINST THE JUDGMENT IN CC 301/2010 of J.M.F.C.-I, CHERTHALA,
DATED 12-04-2013

REVISION PETITIONER(S)/APPELLANT /ACCUSED:

P.V.ROY
S/O.VARGHESE, PUTHUKKATTU VEEDU, EZHUPUNNA SOUTH P.,O.,
CHERTHALA, ALAPPUZHA

BY ADV. SRI.JOHN JUDE ISSAC

RESPONDENT(S)/COMPLAINANT/STATE:

1. XAVIER K.S
KARUMANCHERIL VEEDU, EZHUPUNNA SOUTH PO, CHERTHALA

2. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM

R1 BY ADVS. M/S. A.BALAGOPALAN, A.RAJAGOPALAN
& M.S.IMTHIYAZ AHAMMED
R2 BY PUBLIC PROSECUTOR SRI. V.S. SREEJITH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 08-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B. SUDHEENDRA KUMAR, J.

.....
Crl.R.P. No. 1217 of 2015
.....

Dated this the 8th day of October, 2015

ORDER

The revision petitioner is the accused in C.C. No. 301 of 2010 on the files of the Judicial Magistrate of the First Class-I Cherthala. The trial Court convicted the revision petitioner under Section 138 of the Negotiable Instruments Act, 1881 and sentenced him thereunder to imprisonment till the rising of the court and to pay a compensation of Rs. 1,00,000/- to the complainant under Section 357 (3) Cr.P.C. The appeal filed against the said conviction and sentence was dismissed. Aggrieved by the said conviction and sentence, this petitioner has been filed.

2. Heard both sides.

3. The prosecution allegation is that the revision petitioner borrowed an amount of Rs. 1,00,000/- from the complainant and towards the discharge of the said liability, the revision petitioner

executed Ext. P1 cheque in favour of the complainant. The complainant presented the said cheque for encashment. However, the same was dishonoured as the account was closed by the revision petitioner. Statutory notice was issued on behalf of the complainant. The revision petitioner received the notice. However, the revision petitioner did not pay the cheque amount within the statutory period or thereafter.

4. Before the court below, PW1 and PW2 were examined and Exts. P1 to P8 were marked for the complainant. The revision petitioner himself got examined as DW1.

5. After evaluating the oral and documentary evidence adduced by the parties, the courts below 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, this Court will not be

CrI.R.P. No. 1217 of 2015

justified in interfering with the same unless the finding is perverse or incorrect. There is no material before the court to indicate that the said finding of the courts below is perverse or incorrect. In the said circumstances, the concurrent finding of the courts below that the revision petitioner committed the offence under Sec. 138 of the N.I.Act does not warrant any interference by this Court. 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' time to pay the compensation.

Sd/-B. SUDHEENDRA KUMAR,
JUDGE.

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P.S. To Judge