

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. 1266 of 2015 ()

JUDGMENT IN CRA 245/2014 OF THE II ADDITIONAL SESSIONS COURT, ERNAKULAM
DATED 10-06-2015

JUDGMENT IN CC 906/2010 OF THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE
COURT (E&O), ERNAKULAM DATED 09-04-2014

REVISION PETITIONER/APPELLANT/ACCUSED

VENKATESAN M.M.
OLD NO.6/NEW NO.13,
KRISHNA VENI AMMAL ST,
CHENNAI - 600 029.

BY ADVS.SRI.T.K.VIPINDAS
SMT.PREM BINDU T.K.
SRI.K.V.SREE VINAYAKAN
SRI.K.M.MUHAMMED HUSSAIN

RESPONDENTS/COMPLAINANT & STATE:

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1. M/S.GEOJIT PARIBAS,
FINANCIAL SERVICES LTD, (FORMERLY KNOWN AS GEOJIT
FINANCIAL SERVICES), FINANCE TOWER, KALOOR, KOCHI-682017.
REPRESENTED BY ITS AUTHORISED REPRESENTATIVE MR. G.HARILAL.
 2. THE STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

R BY PUBLIC PROSECUTOR SRI.R.GITESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 08-10-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

SCL.

B. SUDHEENDRA KUMAR, J.

Crl.R.P. No.1266 of 2015

Dated this the 8th day of October, 2015.

ORDER

The revision petitioner is the accused in C.C.906 of 2010 on the files of the Court of the Additional Chief Judicial Magistrate (Economic Offence), Ernakulam.

2. The trial court convicted the revision petitioner under Section 138 of the Negotiable Instruments Act and sentenced him thereunder to a fine of ₹26,000/- with a default clause for simple imprisonment for one month. The appeal filed against the said conviction and sentence was dismissed. Aggrieved by the said conviction and sentence, this revision petition has been filed.

3. Heard both sides.

4. The prosecution allegation is that the revision petitioner issued Ext.P3(b) cheque in favour of the complainant. The complainant presented the said cheque for encashment. However, the same was dishonoured due to the

insufficiency of funds in the account of the revision petitioner. Statutory notice was issued on behalf of the complainant, which was returned as unserved as the revision petitioner refused to accept the same even after the receipt of intimation from the postal authorities.

5. Before the court below, PW1 was examined and Exts.P1 to P15 were marked for the complainant. No evidence was adduced on the side of the revision petitioner.

6. This case was tied with two other cases and a common judgment was passed by the trial court and the appellate court.

7. The courts below after evaluating the oral and documentary evidence adduced by the complainant, concurrently found that the revision petitioner executed Ext.P3 (b) cheque as contemplated under Section 138 of the N.I Act. The defence set up by the revision petitioner was also repelled by the courts below. 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 of 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.

8. The court below had taken a very lenient view in the matter of sentence. In the said circumstances, the sentence awarded by the courts below does not warrant 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 fine.

Sd/-
B. SUDHEENDRA KUMAR
JUDGE

Scl.

True Copy

PA to Judge