

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. 1271 of 2015 ()

CRA 645/2003 of SESSIONS COURT, THALASSERY
ST 1334/2001 of J.M.F.C.-I, KANNUR

REVISION PETITIONER/REVISION PETITIONER/APPELLANT/ACCUSED:

P.M.KURIAKOSE,
S/O.P.J.MAICHLE, FORM LAND, SOUTH BAZAR
KANNUR-2.

BY ADVS.SRI.SOORAJ T.ELENJICKAL
SRI.K.NIRMALAN

RESPONDENTS/COMPLAINANT/STATE:

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1. M.T.P.MOHAMMED KUNHI
REPRESENTED BY HIS POWER OF ATTORNEY HOLDER
T.MOHAMMED, SULFEX FIBRE PRODUCTS, KANNUR
PIN-670012.
 2. STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM, PIN-682031.

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

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

B.SUDHEENDRA KUMAR, J.

Crl.R.P. No.1271 of 2015

Dated this the 8th day of October 2015

O R D E R

The revision petitioner is the accused in S.T.No.1334 of 2001 on the files of the Court of the Judicial Magistrate of First Class-I, Kannur.

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 a compensation of Rs.22,000/- to the complainant under Section 357(3) Cr.P.C. 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 compensation of Rs.20,000/- under Section 357(3) Cr.P.C., with a default clause for simple imprisonment for one month. 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 towards the discharge of the amount due to the complainant in connection with the purchase of fibre products, the revision petitioner issued Ext.P2 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 P6 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 revision petitioner had executed Ext.P2 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 appellate court had taken a very lenient view in the matter of sentence. In the said circumstances, the sentence awarded by the appellate court also does not call for any interference by this court.

In the result, this revision petition stands dismissed.

However, the revision petitioner is granted four months to pay the compensation as requested by the learned counsel for the revision petitioner.

Sd/

**B.SUDHEENDRA KUMAR,
JUDGE**

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PA to Judge