

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

MONDAY, THE 12TH DAY OF OCTOBER 2015/20TH ASWINA, 1937

Crl.Rev.Pet.No. 1281 of 2015 ()

AGAINST THE JUDGMENT IN CRA 569/2008 of I ADDL. SESSIONS
JUDGE - I, PALAKKAD DATED 29-10-2009

AGAINST THE JUDGMENT IN ST 5228/2006 of J.M.F.C.-
III, PALAKKAD DATED 25-07-2008

REVISION PETITIONER(S)/APPELLANT/ACCUSED:

SATHEESH CHANDRAN AGED 65 YEARS
S/O. K.P.G.MENON, KANDETH HOUSE, KUNISSERI
ALATHUR, PALAKKAD.

BY ADV. SRI.V.A.JOHNSON (VARIKKAPPALLIL)

RESPONDENT(S)/RESPONDENT/COMPLAINANT & STATE:

1. A.KUMARAN
S/O. AANDAVAN, PUTHENPURACKAL, SASTHA NAGAR
AKETHETHARA, PALAKKAD.

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

BY PUBLIC PROSECUTOR SRI. SREEJITH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY
HEARD ON 12-10-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

B. SUDHEENDRA KUMAR, J.

.....
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.....

Dated this the 12th day of October, 2015

ORDER

The revision petitioner is the accused in S.T. No. 5228 of 2006 on the files of the court of the Judicial Magistrate of First Class-III, Palakkad.

2. The trial Court convicted the revision petitioner under Section 138 of the Negotiable Instruments Act, 1881 and sentenced him thereunder to simple imprisonment for one month and a fine of ₹ 50,000/-. 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 borrowed an amount of Rs. 50,000/- 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 due to insufficiency of funds in the account of 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.

5. Before the court below, PW1 was examined and Exts. P1 to P5(a) were marked for the complainant. No evidence was adduced on behalf of the revision petitioner.

6. After carefully 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

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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 two months' time to pay the compensation.

Sd/-B. SUDHEENDRA KUMAR,
JUDGE.

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P.S. to Judge