

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

FRIDAY, THE 6TH DAY OF NOVEMBER 2015/15TH KARTHIKA, 1937

Crl.Rev.Pet.No. 1283 of 2015 ()

CRL.A 147/2013 of II ADDL. SESSIONS COURT,PALAKKAD
CC 27/2010 of J.M.F.C.-II,PALAKKAD

REVISION PETITIONER/APPELLANT:

MURALI NARAYANAN, AGED 55 YEARS
S/O. CHANDRASEKHARA MENON, NEYTHALATH HOUSE
NEAR SANKAR THEATRE, THATHAMANGALAM, CHITTUR
PALAKKAD.

BY ADV. SRI.JACOB SEBASTIAN

RESPONDENTS/COMPLAINANT AND STATE:

1. SIRAJUDHEEN
S/O. SULAIMAN, 16/204, NEHRU COLONY
KALMANDAPAM, PALAKKAD.
2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

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

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 06-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P. No.1283 of 2015

Dated this the 6th day of November 2015

O R D E R

The revision petitioner is the accused in C.C. No.27 of 2010 on the files of the Court of the Judicial Magistrate of First Class -II, Palakkad.

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 imprisonment till the rising of the court and to pay a compensation of Rs.1,20,000/- to the complainant under Section 357(3) of the Code. 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.

4. The prosecution allegation is that towards the discharge of the 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 trial court, PW1 and PW2 were

examined and Exts.P1 to P5 were marked for the complainant. DW1 was examined and Ext.D1 was marked for the revision petitioner.

6. The courts below, relying on the documentary as well as oral evidence adduced by the parties, concurrently found that the revision petitioner 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 by 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 by 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.

The revision petitioner is granted six months to pay the fine, as requested by the learned counsel for the revision petitioner.

SD/-
B.SUDHEENDRA KUMAR,
JUDGE

dl/6.11.2015

// True Copy //

PA to Judge