

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

TUESDAY, THE 13TH DAY OF OCTOBER 2015/21ST ASWINA, 1937

Crl.Rev.Pet.No. 1289 of 2015 ()

JUDGMENT IN CRA 657/2014 OF THE ADDITIONAL DISTRICT AND SESSIONS
COURT - IV, KOZHIKODE DATED 19.08.2015

JUDGMENT IN CC 681/2012 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-
II, PERAMBRA DATED 24.10.2014

REVISION PETITIONER/APPELLANT/ACCUSED:

RAVI K.P, AGED 31 YEARS, S/O. KELAPPAN
KUTTAMPOYIL HOUSE, AVIDANALLOOR P.O,
BALUSSERY, KOZHIKODE.

BY ADVS.SRI.SANTHARAM.P
SMT.REKHA ARAVIND

RESPONDENTS/RESPONDENTS/COMPLAINANT & STATE:

1. THE MANAGING DIRECTOR
M/S. DHANAKODI CHITS PVT. LIMITED,
REP. BY ITS RECOVERY MANAGER,
MR. SOMASUNDARAN K.G., AGED 56 YEARS,
KOLAGAPPARA, SULTHAN BATHERY POST,
WAYANAD, PIN- 673 121.
2. THE STATE, REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, PIN-682031.

R BY PUBLIC PROSECUTOR SRI.G.JITHESH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 13-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

SCL.

B. SUDHEENDRA KUMAR, J.

Crl. R.P. No.1289 of 2015

Dated this the 13th day of October, 2015.

ORDER

The revision petitioner is the accused in C.C.681 of 2012 on the files of the Court of the Judicial Magistrate of First Class-II, Perambra.

2. The trial court convicted the revision petitioner under Section 138 of the Negotiable Instruments Act and sentenced him thereunder to simple imprisonment for two months and to pay an amount of ₹81,564/- to the complainant as compensation under Section 357 (3) Cr.P.C. In the appeal filed against the said conviction and sentence, the conviction was confirmed and the sentence was modified to imprisonment till the rising of the court and a fine of ₹ 81,564/-. Aggrieved by the said conviction and sentence, this revision petition has been filed.

3. Heard both sides.

4. The prosecution allegation is that towards the

discharge of the liability to the complainant, 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 the insufficiency of funds in the account of the revision petitioner. Statutory notice was issued on behalf of the complainant, which was received by the revision petitioner. 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 P7 were marked for the complainant. No evidence was adduced on the side of the defence.

6. The courts below, after evaluating the oral and the documentary evidence adduced by the complainant, 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 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.

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 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 as requested by the learned counsel for the revision petitioner.

Sd/-

B. SUDHEENDRA KUMAR
JUDGE

Scl.

True Copy

PA to Judge