

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

TUESDAY, THE 27TH DAY OF OCTOBER 2015/5TH KARTHIKA, 1937

Crl.Rev.Pet.No. 1355 of 2015 ()

JUDGMENT IN CRA 141/2014 OF THE ADDITIONAL SESSIONS COURT - III,
KASARAGOD DATED 10-03-2015

JUDGMENT IN CC 716/2012 OF THE JUDICIAL FIRST CLASS MAGISTRATE
COURT-II, HOSDRUG DATED 07-07-2014

REVISION PETITIONER/APPELLANT/ACCUSED:

MUHAMMED MUSTHAFA C.H., AGED 45 YEARS
S/O.ABDULKUNJU C.H., PALLAM HOUSE, P.O.POVVAL
MULLYAR VILLAGE, KASARAGOD TALUK & DISTRICT.

BY ADV. SRI.K.P.HARISH

RESPONDENTS/RESPONDENTS/COMPLAINANT & STATE:

1. P.A.HAMEED, AGED 60 YEARS
S/O.ABDUL RAHIMAN, ROSE HOUSE, KOTTIKULAM
P.O.BEKAL, KASARAGOD DISTRICT- 671 318.
2. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM 682 031.

R1 BY ADV. SRI.JAWAHAR JOSE
R BY PUBLIC PROSECUTOR SRI.V.S.SREEJITH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 27-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

SCL.

B. SUDHEENDRA KUMAR, J.

Crl.R.P. No.1355 of 2015

Dated this the 27th day of October, 2015.

ORDER

The revision petitioner is the accused in C.C.No.716 of 2012 on the files of the Court of the Judicial Magistrate of First Class-II, Hosdurg.

2. The trial court convicted the revision petitioner under Section 138 of the Negotiable Instruments Act and sentenced him to imprisonment till the rising of the court and a fine of ₹6,00,000/-. 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 towards the discharge of the liability of the revision petitioner 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 to the revision petitioner 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 trial court, PW1 and PW2 were examined and Exts.P1 to P4 were marked for the complainant. No evidence was adduced on the side of the revision petitioner.

6. The courts below, after evaluating the oral and 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 courts below had taken a very lenient view in the matter of sentence. In the said circumstances, the sentence awarded by the courts below 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.

Sd/-
B. SUDHEENDRA KUMAR
JUDGE

Scl/27.10.2015

True Copy

PA to Judge