

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. 1368 of 2015 ()

JUDGMENT IN Crl.A 175/2013 OF THE ADDITIONAL DISTRICT AND SESSIONS
COURT - V, KOTTAYAM DATED 30-07-2015
JUDGMENT IN ST 142/2012 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-
IV, KOTTAYAM DATED 09-05-2013

REVISION PETITIONER/APPELLANT/ACCUSED:

K.R.MINI, W/O. SHAJI,
VELLAPPALLIYIL HOUSE, OLASSA P.O,
KOTTAYAM, PIN- 686 014.

BY ADVS.SRI.C.S.MANU
SRI.S.K.PREMRAJ

RESPONDENTS/RESPONDENTS/COMPLAINANT & STATE:

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1. SREE GOKULAM CHITTY & FINANCE COMPANY(P) LTD
WITH ITS CENTRAL OFFICE AT NO.66,
ARCOT ROAD, KODAMPAKAM, CHENNAI, PIN-600024,
ITS DIVISIONAL OFFICE AT PRAKKATTU BUILDING, 1ST FLOOR,
CENTRAL JUNCTION, KOTTAYAM -1, REP. BY ITS POWER OF ATTORNEY
HOLDER K.N.RAJESH.
 2. STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, PIN- 682 031.

R BY PUBLIC PROSECUTOR SRI. GITHESH R.

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.1368 of 2015

Dated this the 27th day of October, 2015.

ORDER

The revision petitioner is the accused in S.T.No.142 of 2012 on the files of the Court of the Judicial Magistrate of First Class-IV, Kottayam.

2. The trial court convicted the revision petitioner under Section 138 of the Negotiable Instruments Act and sentenced him to simple imprisonment for three months and to pay a compensation of 63,764/- to the complainant under Section 357(3) Cr.P.C. In the appeal, the conviction was confirmed and the sentence was modified and reduced to a fine of ₹63,764/- with a direction that in the event of realisation of the fine amount, the entire amount shall be given to the complainant as compensation under Section 357(1)(b) Cr.P.C. Aggrieved by the said conviction and sentence, this revision petition has been filed.

3. Heard the learned counsel for the petitioner.

4. The prosecution allegation is that in order to discharge the liability to the complainant, the revision petitioner issued Ext.P7 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, which was accepted 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 P13 were marked for the complainant. Exts.D1 and D2 were marked for the defence.

6. The courts below, after evaluating the oral and documentary evidence adduced by the parties, concurrently found that the revision petitioner executed Ext.P7 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 call for any interference by this court.

7. The appellate court had taken a very lenient view in the matter of sentence. Therefore, the sentence awarded by the appellate court 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