

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

THURSDAY, THE 29TH DAY OF OCTOBER 2015/7TH KARTHIKA, 1937

Crl.Rev.Pet.No. 1374 of 2015 ()

JUDGMENT IN Crl.A 152/2014 OF THE ADDITIONAL DISTRICT AND SESSIONS
COURT - VII, THIRUVANANTHAPURAM DATED 26-06-2015

JUDGMENT IN ST 206/2010 OF THE JUDICIAL MAGISTRATE OF FIRST CLASS-II,
VARKALA DATED 31-03-2014

REVISION PETITIONER/APPELLANT/ACCUSED:

PRAMEELA, D/O. SARASWATHY AMMA,
THENGILAZHIKOM, KAITHAPPUZHA,
AYIROOR (PO), VARKALA.

BY ADV. SRI.C.R.SIVAKUMAR

RESPONDENTS/ RESPONDENTS/COMPLAINANT & THE STATE:

1. THE STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.
2. MOHANDAS, NANU PILLAI,
NJARAKKAL VEEDU, AYIROOR (P.O.)
VARKALA, PIN-695 141.

R BY PUBLIC PROSECUTOR SRI. R. GITESH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 29-10-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

SCL.

B. SUDHEENDRA KUMAR, J.

Crl.R.P. No.1374 of 2015

Dated this the 29th day of October, 2015

ORDER

The revision petitioner is the accused in S.T.No.206 of 2010 on the files of the Court of the Judicial Magistrate of First Class-II, Varkala.

2. The trial court convicted the revision petitioner under Section 138 of the Negotiable Instruments Act and sentenced him thereunder to imprisonment till the rising of the court and to pay a compensation of ₹1,00,000/- to the complainant under Section 357(3) Cr.P.C. 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 amount due 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 to the revision petitioner, 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 was examined and Exts.P1 to P5 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 by 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 call for any interference by this Court.

In the result, this revision petition stands dismissed. However, the revision petitioner is granted six months to pay the compensation.

Sd/-

B. SUDHEENDRA KUMAR
JUDGE

Scl.

True Copy

PA to Judge