

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

Cr1.Rev.Pet.No. 1379 of 2015 ()

JUDGMENT IN Cr1.A 263/2010 OF THE ADDITIONAL SESSIONS
COURT, THALASSERY DATED 03-02-2015

JUDGMENT IN ST 12545/2008 OF THE JUDICIAL FIRST CLASS MAGISTRATE
COURT-III (MOBILE), KANNUR DATED 19-06-2010

REVISION PETITIONER/APPELLANT/ACCUSED:

KHALID C, AGED 52 YEARS
S/O. ABDULLA, RESIDING AT 'HALEEMA MANZIL'
NEAR PANCHAYATH OFFICE, P.O PAPPINISSERY
KANNUR DISTRICT

BY ADV. SRI.P.U.SHAILAJAN

RESPONDENTS/RESPONDENTS/COMPLAINANT & STATE:

1. M/S.MANAPPURAM GENERAL FINANCE AND LEASING LTD.
TALAP BRANCH, NEAR KOYILI HOSPITAL, P.O PALLIKUNNU,
KANNUR DISTRICT 670 004, REPRESENTED BY
AREA MANAGER SIJO SEBASTIAN
2. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM, PIN 682 031

R1 BY ADV. SRI.B.S.SURESH KUMAR
R BY PUBLIC PROSECUTOR SRI.V.S.SREEJITH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 29-10-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

SCL.

B. SUDHEENDRA KUMAR, J.

Crl.R.P. No.1379 of 2015

Dated this the 29th day of October, 2015

ORDER

The revision petitioner is the accused in S.T.No.12545 of 2008 on the files of the Court of the Judicial Magistrate of First Class-III, Kannur.

2. The trial court convicted the revision petitioner under Section 138 of the Negotiable Instruments Act and sentenced him thereunder to simple imprisonment for four months and to pay an amount of ₹53,207/- to the complainant as compensation under Section 357(3) Cr.P.C. In the appeal, the conviction was confirmed and the sentence was modified and reduced to imprisonment till the rising of the court and to pay a compensation of ₹53,207/- to the complainant under Section 357(3) Cr.P.C. 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 to the complainant, the revision petitioner issued Ext.P3 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 pay the cheque amount within the statutory period or thereafter.

5. Before the trial court, PW1 was examined and Exts.P1 to P10 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.P3 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 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 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.

I make it clear that the payment which may be directly made to the complainant, will be treated as sufficient

compliance of payment of compensation, provided the complainant files an affidavit in this regard before the trial court.

Sd/-
B. SUDHEENDRA KUMAR
JUDGE

Scl/30.10.2015

True Copy

PA to Judge