

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

MONDAY, THE 16TH DAY OF NOVEMBER 2015/25TH KARTHIKA, 1937

Crl.Rev.Pet.No. 1412 of 2015 ()

JUDGMENT IN Crl.A 261/2014 OF THE ADDITIONAL SESSIONS COURT - V,
KOLLAM

JUDGMENT IN CC 217/2008 OF THE JUDICIAL FIRST CLASS MAGISTRATE
COURT-I, KOTTARAKKARA

REVISION PETITIONER(S)/APPELLANT

LEELA BHAI, AGED 61 YEARS
W/O.CHANDRASEKHARAN PILLAI, PALAVILA VEEDU
KIZHAKKEKKARA MURI, KOTTARAKKARA, KOTTARAKKARA TALUK
KOLLAM DISTRICT.

BY ADV. SRI.K.V.ANIL KUMAR

RESPONDENT(S)/RESPONDENT NO.1

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1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.
 2. K.P.SYMON
KUNNATHU VEEDU, MUTTARA(PO), ODANAVATTOM
KOTTARAKARA TALUK, KOLLAM DISTRICT.

R BY PUBLIC PROSECUTOR SRI.R.GITESH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 16-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

SCL.

B. SUDHEENDRA KUMAR, J.

Crl.R.P. No.1412 of 2015

Dated this the 16th day of November, 2015

ORDER

The accused in C.C.No.217 of 2008 on the files of the Court of the Judicial Magistrate of First Class-I, Kottarakara, has filed this revision petition, challenging the concurrent finding of conviction and sentence passed by the courts below under Section 138 of N.I.Act.

2. Heard.

3. 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.

4. Before the trial court, PW1 was examined and Exts.P1 to P6 were marked for the complainant. No evidence was adduced on the side of the revision petitioner.

5. 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 appellate court had taken a very lenient view in the matter of sentence. Therefore, 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 to pay the fine ordered by the appellate court.

**Sd/-
B. SUDHEENDRA KUMAR
JUDGE**

Scl/16.11.2015

True Copy

PA to Judge