

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

FRIDAY, THE 20TH DAY OF NOVEMBER 2015/29TH KARTHIKA, 1937

Crl.Rev.Pet.No. 1413 of 2015 ()

Crl.A 510/2011 OF THE ADDITIONAL SESSIONS COURT-II,
THIRUVANANTHAPURAM

CC 234/2006 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-I, VARKALA

PETITIONER/REVISION PETITIONER:

BINDU DAS, AGED 34 YEARS
D/O. HARIDAS, GURUMANDIRAM, POOTHANKULAM DESOM
AMMARATHUMUKKU, KOLLAM DISTRICT.

BY ADV. SMT.G.VIDYA

RESPONDENT(S)/RESPONDENT:

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1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.
 2. SASIDHARAN NAIR, AGED 66 YEARS
S/O. RAMAKRISHNAN PILLAI, KOCHALUMOODU VEEDU
KURAKKANNI DESOM, VARKALA VILLAGE.
THIRUVANANTHAPURAM - 695 141.

R2 BY ADV. SRI.M.DINESH
R BY PUBLIC PROSECUTOR SRI.V.S.SREEJITH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 20-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

SCL.

B. SUDHEENDRA KUMAR, J.

Crl.R.P. No. 1413 of 2015

Dated this the 20th day of November, 2015.

ORDER

The accused in C.C.No.234 of 2006 on the files of the Court of the Judicial Magistrate of First Class-I, Varkala, has filed this revision petition challenging the concurrent finding of conviction and sentence passed by the courts below under Section 418 IPC.

2. Heard.

4. The prosecution allegation is that the revision petitioner executed Ext.P1 cheque in favour of the complainant towards the discharge of the liability of the revision petitioner to 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 and also due to the reason that there was difference in signature of the revision petitioner. The allegation is that in furtherance of the common intention to cheat the complainant,

the revision petitioner put a different signature on Ext.P1 cheque and handed over the same to the complainant. Ext.P1 was drawn from the account of the revision petitioner.

5. Before the trial court, PW1 to PW3 were examined and Exts.P1 to P3 were marked for the complainant. DW1 was examined for the revision petitioner. Exts. X1 to X4 were also marked.

6. The courts below, after evaluating the oral and documentary evidence available before the court, concurrently found that the revision petitioner committed the offence under Section 418 IPC. Since there is concurrent finding on facts, this Court will not be justified in interfering with the same, as no material 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 418 IPC does not warrant any interference by this court.

7. As regards the sentence, the learned counsel for the revision petitioner has pleaded for leniency. The cheque is for an amount of ₹1,30,000/-. Considering the facts and circumstances of the case, including the amount covered by Ext.P1 cheque and also taking into consideration of the nature of allegations raised against the revision petitioner, I am of the view that the sentence awarded by the courts below can be modified and reduced to imprisonment till the rising of the court and a fine of ₹1,30,000/- to meet the ends of justice. Accordingly, I order so.

In the result, this revision petition stands allowed in part,

(i) confirming the verdict of guilty and conviction passed by the courts below under Section 418 IPC.

(ii) the sentence awarded by the courts below under Section 418 IPC stands modified and reduced to imprisonment till the rising of the court

and a fine of ₹1,30,000/- (Rupees one lakh thirty thousand only).

(iii) in default of payment of fine, the revision petitioner shall undergo simple imprisonment for two months.

(iv) in the event of realisation of fine, the entire amount shall be given to the complainant as compensation under Section 357 (1) (b) Cr.P.C.

The revision petitioner is granted six months to pay the fine as requested by the learned counsel for the revision petitioner.

Sd/-

**B. SUDHEENDRA KUMAR
JUDGE**

Scl/20.11.2015

True Copy

PA to Judge