

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

WEDNESDAY, THE 4TH DAY OF NOVEMBER 2015/13TH KARTHIKA, 1937

Crl.Rev.Pet.No. 1418 of 2015 ()

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Crl.A 893/2009 of ADDITIONAL SESSIONS COURT, IRINJALAKUDA  
CC 228/2008 of J.M.F.C.,IRINJALAKUDA

REVISION PETITIONER/ACCUSED/ACCUSED:

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VIBHAKARAN PILLAI, AGED 70 YEARS  
S/O. MADHAVAN NAIR, MURUTHUVILA PUTHENVEETIL  
KUNNIKODE, KOLLAM.

BY ADV. SRI.K.S.MANU (PUNUKKONNOOR)

RESPONDENTS/RESPONDENTS/COMPLAINANT:

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1. PAUL LORENCE  
S/O. PADINJAREKKARAN PAUL, GANGHIGRAM DESAM  
IRINJALAKUDA VILLAGE.
  2. STATE OF KERALA  
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA  
ERNAKULAM.

R1 BY ADV. SRI.TONY CHACKO  
R1 BY ADV. SRI.K.I.SAGEER  
R1 BY ADV. SMT.A.B.MANJU  
R1 BY ADV. SMT.A.D.SOLY  
R2 BY PUBLIC PROSECUTOR, SHRI.R.GITHESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON  
04-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**B.SUDHEENDRA KUMAR, J.**

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Crl.R.P. No.1418 of 2015  
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Dated this the 4<sup>th</sup> day of November 2015

O R D E R

The revision petitioner is the accused in C.C. No.228 of 2008 on the files of the Court of the Judicial Magistrate of First Class, Irinjalakuda.

2. The trial court convicted the revision petitioner under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the N.I.Act') and sentenced him thereunder to simple imprisonment for one month and to pay a compensation of Rs.2,00,000/- to the complainant under Section 357(3) of the Code. In the appeal filed against the said conviction and sentence, 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 Rs.2,00,000/- with a default clause for simple imprisonment for one month. Aggrieved by the said conviction and sentence, this revision petition has been filed.

3. Heard the learned counsel for the revision petitioner and the learned Public Prosecutor.

4. The prosecution allegation is that towards the discharge of the liability, 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 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 make payment of the cheque amount within the statutory period or thereafter.

5. 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 defence.

6. The courts below, relying on the documentary as well as oral evidence adduced by the parties, concurrently found that the revision petitioner had executed Ext.P1 cheque as contemplated under Section 138 of the N.I. Act. Since there is concurrent finding on facts, this Court will not be justified in interfering with the same unless the finding by the courts below is perverse or incorrect. No circumstance has been brought to my notice to indicate that the appreciation of evidence by the courts below was

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 the 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. In the said circumstances, 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.

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**

*dl/4.11.2015*

*// True Copy //*

*PA to Judge*