

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

FRIDAY, THE 6TH DAY OF NOVEMBER 2015/15TH KARTHIKA, 1937

Crl.Rev.Pet.No. 1428 of 2015 ()

Crl.A 162/2013 of 1st ADL.DISTRICT AND SESSIONS COURT,THODUPUZHA
ST 111/2012 of J.M.F.C.-II,THODUPUZHA

REVISION PETITIONER/APPELLANT/ACCUSED:

BABY M.M., AGED 63 YEARS
MAPILAKUDIYIL HOUSE, CHATTUPARA P.O., ADIMALY
IDUKKI DISTRICT

BY ADV. SRI.B.V.JOY SANKER

RESPONDENTS/RESPONDENTS/COMPLAINANT:

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1. SREE GOKULAM CHIT & FINANCE CO (P) LTD
ARCO ROAD, KODAMBAKKAM, CHENNAI - 600 024
REPRESENTED BY ITS POWER OF ATTORNEY HOLDER
C.KARUNAN, DIVISIONAL MANAGER.
 2. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT
ERNAKULAM - 682 031.

R1 BY ADV. SRI.U.P.BALAKRISHNAN
R2 BY PUBLIC PROSECUTOR, SHRI.R.GITHESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 06-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P. No.1428 of 2015

Dated this the 6th day of November 2015

O R D E R

The revision petitioner is the accused in S.T.No.111 of 2012 on the files of the Court of the Judicial Magistrate of First Class-II, Thodupuzha.

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 imprisonment till the rising of the court and to pay a fine of Rs.1,47,948/-. 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 liability, the revision petitioner issued Ext.P8 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 returned as "unclaimed" as the revision petitioner did not incline to receive the same, even after the receipt of intimation from the postal authorities. However, the revision petitioner did not make payment of the cheque amount within the statutory period or thereafter.

5. Before the trial court, PW1 and PW2 were examined and Exts.P1 to P12 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 complainant, concurrently found that the revision petitioner had executed Ext.P8 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 by 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/6.11.2015