

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. 1429 of 2015 ()

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CRL.A 23/2013 of 5TH ADDL.DISTRICT AND SESSIONS COURT, ERNAKULAM  
ST 4836/2010 of J.M.F.C.,KOLENCHERRY

REVISION PETITIONER/APPELLANT/ACCUSED:

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ABDUL RASHEED,  
S/O.KAINYKUTTY, PUTHENVEETIL HOUSE, KOOLIMUTTOM P.O.  
THRISSUR.

BY ADVS.SRI.M.SHAJU PURUSHOTHAMAN  
SRI.K.S.RAJESH

RESPONDENTS/RESPONDENTS/COMPLAINANT:

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1. M/S. SREE GOKULAM CHIT AND FINANCE CO.PVT.LTD.  
HAVING CORPORATE OFFICE AT NO.66, ARCOT ROAD  
CHENNAI-24  
HAVING DIVISIONAL OFFICE AT SHERIN BUILDING  
JOSE JUNCTION, M.G.ROAD  
ERNAKULAM-16 AND HAVING BRANCH AT ERNAKULAM REPRESENTED  
BY ITS POWER OF ATTORNEY HOLDER  
MANOJ KUMAR, S/O.BALAN, AGED 36.
  2. STATE OF KERALA  
REPRESENTED BY THE PUBLIC PROSECUTOR  
HIGH COURT OF KERALA, ERNAKULAM - 682 031.

R2 BY PUBLIC PROSECUTOR, SHRI.V.S.SREEJITH

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.**

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Crl.R.P. No.1429 of 2015  
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Dated this the 6<sup>th</sup> day of November 2015

**O R D E R**

The revision petitioner is the accused in C.C. No.4836 of 2010 on the files of the Court of the Judicial Magistrate of First Class, Kolencherry.

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 three months and to pay a fine of Rs.72,800/-. In the appeal filed against the said conviction and sentence, the conviction was confirmed and the sentence was modified

and reduced to a fine of Rs.75,000/-. Aggrieved by the said conviction and sentence, this revision petition has been filed.

3. Heard.

4. The case of the complainant is that the revision petitioner issued Ext.P6 cheque to the complainant towards the discharge of his liability in connection with a chitty transaction. 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 P13 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.P6 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*

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PA to Judge