

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

TUESDAY, THE 17TH DAY OF NOVEMBER 2015/26TH KARTHIKA, 1937

Crl.Rev.Pet.No. 1447 of 2015 ()

JUDGMENT IN Crl.A 268/2014 OF THE ADDITIONAL SESSIONS COURT - IV,
KOZHIKODE

JUDGMENT IN ST 8/2013 OF THE JUDICIAL FIRST CLASS MAGISTRATE
COURT-II, NADAPURAM

REVISION PETITIONER/ACCUSED:

YUSAF K, AGED 39 YEARS
S/O.MAMMU, KAYIKKAL HOUSE
KOTTUR AMSOM, MOOLAD.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS/COMPLAINANT AND STATE:

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1. SHAJI, S/O. CHATHU,
AGED 31 YEARS, CHUTTUPURYIL HOUSE,
CHATHANGOTTUNADA P.O.
 2. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM

R1 BY ADV. SRI.S.K.SAJU
R1 BY ADV. SRI.A.RANJITH NARAYANAN
R BY PUBLIC PROSECUTOR SRI.V.S.SREEJITH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 17-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

SCL.

B. SUDHEENDRA KUMAR, J.

Crl.R.P. No.1447 of 2015

Dated this the 17th day of November, 2015

ORDER

The accused in S.T.No.8 of 2013 on the files of the Court of the Judicial Magistrate of First Class-II, Nadapuram, challenges the conviction and sentence passed by the courts below under Section 138 of the N.I.Act in this revision petition.

2. Heard both sides.

3. The prosecution case is that the revision petitioner issued Ext.P1 cheque in favour of the complainant towards the discharge of the liability 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. Statutory notice was issued on behalf of the complainant to the revision petitioner, which was returned unserved as the revision petitioner refused to accept the same. However, the revision petitioner did not pay the cheque amount within the statutory period or thereafter.

4. Before the trial court, PW1 to PW3 were examined and Exts.P1 to P7 were marked for the complainant. No evidence was adduced on the side of the revision petitioner.

5. The courts below, after evaluating the 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.

6. The courts below had taken a very lenient view in the matter of sentence. Therefore, the sentence awarded by

the courts below also does not warrant any interference by this Court.

In the result, this revision petition stands dismissed. However, the revision petitioner is granted five months to pay the compensation ordered by the courts below as requested by the learned counsel for the revision petitioner.

Sd/-
B. SUDHEENDRA KUMAR
JUDGE

Scl/17.11.2015

True Copy

PA to Judge