

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. 1470 of 2015 ()

JUDGMENT IN CrI.A 465/2012 OF THE ADDITIONAL SESSIONS COURT - IV,
THIRUVANANTHAPURAM
JUDGMENT IN ST 3095/2010 OF THE JUDICIAL FIRST CLASS MAGISTRATE
COURT-IV (MOBILE), THIRUVANANTHAPURAM

REVISION PETITIONER/APPELLANT/ACCUSED:

JIJUKUMAR, S/O. SREEDHARA PANICKER
G.V.R.A.127, GREEN VALLY RESIDENCE ASSOCIATION
NEAR HOTEL PRASANTH, NANTHANCOD, THIRUVANANTHAPURAM

BY ADVS.SRI.D.KISHORE
SMT.MINI GOPINATH

RESPONDENT/COMPLAINANT AND STATE:

1. STATE OF KERALA, REPRESENTED BY ITS PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM - 682 031
2. R.V.SANALKUMAR, S/O. VELAYUDHAN, NALUKETTIL
VEEDU, KOLLAMCODE, ANAYARA P.O,
THIRUVANANTHAPURAM - 695 002.

R BY PUBLIC PROSECUTOR SRI.V.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.1470 of 2015

Dated this the 17th day of November, 2015

ORDER

The accused in S.T.No.3095 of 2010 on the files of the Court of the Judicial Magistrate of First Class-IV (Mobile Court), Thiruvananthapuram, has filed this revision petition challenging the concurrent finding of conviction and sentence passed by the courts below under Section 138 of the N.I.Act.

2. Heard both sides.

3. The prosecution allegation 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 as the account was closed by the revision petitioner. Statutory notice was issued on behalf of the complainant to the revision petitioner, which was received by the revision petitioner. However, the revision petitioner did not pay the cheque amount within the statutory

period or thereafter.

4. Before the trial court, PW1 and PW2 were examined and Exts.P1 to P6 were marked for the complainant. DW1 and DW2 were examined for the revision petitioner.

5. The courts below, after evaluating the oral and documentary evidence adduced by the parties, 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 through DW1 and DW2 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.

7. The appellate court had taken a very lenient view in the matter of sentence. Therefore, the sentence awarded by the appellate court also does not warrant any interference by this Court.

In the result, this revision petition stands dismissed. However, 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.

True Copy

PA to Judge