

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

MONDAY, THE 16TH DAY OF NOVEMBER 2015/25TH KARTHIKA, 1937

Crl.Rev.Pet.No. 1474 of 2015 ()

AGAINST THE JUDGMENT IN CRA 134/2011 of II ADDL.SESIONS
COURT, KOLLAM DATED 11-12-2012

AGAINST THE JUDGMENT IN ST 1274/2008 of J.M.F.C.,
SASTHAMCOTTA DATED 09-03-2011

REVISION PETITIONER(S)/APPELLANT/ACCUSED:

K.SASI
S/O.KUNJUKUTTY, DEERA VILASOM, KARIYARA
PUNALUR.

BY ADV. SRI.A.B.MOHANAKUMAR

RESPONDENT(S)/COMPLAINANT/STATE:

1. SATHEESAN L.
S/O.LEKSHMANAN, SAJITH BHAVANAM, PADINJATTAKARA
THEVALAKKARA, KARUNAGAPPALLY, PIN - 693 501

2. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM - 682 031

BY PUBLIC PROSECUTOR SRI. R. GITHESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY
HEARD ON 16-11-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

B. SUDHEENDRA KUMAR, J.

.....
Crl.R.P. No. 1474 of 2015
.....

Dated this the 16th November, 2015

ORDER

The revision petitioner is the accused in S.T. No. 1274 of 2008 on the files of the Court of the Judicial Magistrate of First Class, Sasthamcotta, who in this Revision Petition challenges the concurrent finding of conviction and sentence passed by the courts below under Section 138 of the N.I.Act.

2. Heard the learned counsel for the revision petitioner.

3. The prosecution allegation is that the revision petitioner executed Ext. P1 cheque in favour of the complainant towards the discharge of the liability of the revision petitioner. 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 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 was examined and Exts.P1 to P6 were marked for the complainant. DW1 was examined on behalf of the revision petitioner.

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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 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. The courts below concurrently found that the revision petitioner committed the offence under Section 138 of the N.I.Act. 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. 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 compensation ordered by the appellate court, as requested by the learned counsel for the revision petitioner.

Sd/-B. SUDHEENDRA KUMAR,
JUDGE.

Ani/ 19-11-2015

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P.S. To Judge