

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. 1477 of 2015 ()

CRL.A 563/2010 of II ADDL.D.C.,TRIVANDRUM
ST 800/2006 of J.M.F.C.-II, VARKALA

REVISION PETITIONER(S)/APPELLANT/ACCUSED:

DR.REMA
D/O.RAGHAVAN, VETERINARY DOCTOR
GOVT. VETERINARY HOSPITAL, EDAVA VILLAGE
VENKULAM DESAM, FROM RAGAM, KALINGU JUNCTION
POOTHAKULAM.P.O., KOLLAM DISTRICT.

BY ADV. SRI.POOVAPPALLY M.RAMACHANDRAN NAIR

RESPONDENTS/RESPONDENTS/STATE & COMPLAINANT:

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1. BHASI
S/O.RAGHAVAN, SEENA NIVAS, CHERINNIYOOR VILLAGE
CHERINNIYOOR DESOM.
 2. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

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

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 17-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P. No.1477 of 2015

Dated this the 17th day of November 2015

O R D E R

The accused in S.T. No.800 of 2006 on the files of the court of the Judicial Magistrate of First Class - II, Varkala has filed this revision petition challenging the concurrent finding of conviction and sentence passed by the court below under Section 138 of the Negotiable Instruments Act (for short 'the N.I. Act').

2. Heard.

3. The prosecution allegation is that the revision petitioner executed Ext.P1cheque 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 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.

4. Before the trial court, PW1 to PW3 were examined and Exts.P1 to P5 were marked for the complainant. Ext.X1 was also marked.

5. The courts below, relying on the documentary as well as the oral 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. 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 appreciation of evidence by the courts below was perverse or incorrect. The courts below found the revision petitioner guilty under Section 138 of the N.I. Act and convicted him thereunder. 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.

6. 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.

However, the revision petitioner is granted four months to pay the fine, as requested by the learned counsel for the revision petitioner.

Sd/-

**B.SUDHEENDRA KUMAR,
JUDGE**

dl/20.11.2015