

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

THURSDAY, THE 19TH DAY OF NOVEMBER 2015/28TH KARTHIKA, 1937

Crl.Rev.Pet.No. 1486 of 2015 ()

AGAINST THE JUDGMENT IN CRL.A. 227/2013 of ADDL. SESSIONS
COURT -II (SPL. COURT), KOTTAYAM DATED 31-08-2015

AGAINST THE JUDGMENT IN ST 91/2012 of J.M.F.C - II,
CHANGANACHERRY DATED 31-05-2013

REVISION PETITIONER(S)/APPELLANT/ACCUSED:

P.MEERAN MOITHEEN
S/O.PAKKIR KHAN, PRABHALAYAM (RIYAS MANSIL)
NEAR N.S.S. U.P.SCHOOL, PUZHAVATHU, CHANGANACHERRY.

BY ADVS.SRI.BINDU SREEKUMAR
SMT.MINI.R.MENON

RESPONDENT(S)/COMPLAINANT:

1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

2. P.H.ABDUL KASIM
S/O.P.S.HAMEED, LAILA MANSIL, FIRE STATION WEST ROAD
PUZHAVATHU, CHANGANACHERRY.

BY PUBLIC PROSECUTOR R. GITHESH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR
ADMISSION ON 19-11-2015, THE COURT ON THE SAME DAY PASSED
THE FOLLOWING:

B. SUDHEENDRA KUMAR, J.

.....
Crl.R.P. No. 1486 of 2015
.....

Dated this the 19th day of November, 2015

ORDER

The accused in S.T. No. 91 of 2012 on the files of the Court of the Judicial Magistrate of First Class-II, Changanassery, has filed this Revision Petition challenging the concurrent finding of conviction and sentence passed by the courts below under Section 138 of the Negotiable Instruments Act, 1881.

2. The prosecution case is that the revision Petitioner executed Ext. P9 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.

3. Before the trial Court, joint trial of this Case and ST 90/2012 was conducted. PW1 was examined and Exts. P1 to P14 were marked for the complainant. Exts. D1 to D5 were marked for the revision Petitioner.

4. The courts below thoroughly appreciated the evidence and concurrently found that the revision petitioner executed Ext.P9 cheque as contemplated under Section 138 of the N.I.Act and committed the offence under Section 138 of the N.I.Act, rejecting the defence set up by the revision petitioner.

5. Since there is concurrent finding on facts, this Court will not be justified in interfering with the same, as no circumstance has been brought before this Court 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 the N.I.Act does not warrant any interference by this Court.

6. The appellate court had taken a very lenient view

in the matter of sentence. Therefore, the sentence awarded by the appellate court does not warrant any interference by this Court.

In the result, this Revision petition stands dismissed. However, the revision petitioner is granted two months to pay the fine.

B. SUDHEENDRA KUMAR,
JUDGE.

ani/ 19-11-2015