

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

WEDNESDAY, THE 9TH DAY OF DECEMBER 2015/18TH AGRAHAYANA, 1937

Crl.Rev.Pet.No. 1558 of 2015 ()

CRL.A 23/2015 of II ADDL.S.C., THIRUVANANTHAPURAM
ST 25/2014 of J.M.F.C.-IV, NEYYATTINKARA

REVISION PETITIONER(S)/APPELLANT/ACCUSED :

APPU, AGED 53 YEARS
S/O. PALAYAN, SANTHY BHAVAN, PALIYODE
KORANAMCODE DESOM, ANAVOOR VILLAGE
THIRUVANANTHAPURAM.

BY ADV. SRI.M.R.SARIN

RESPONDENT(S)/RESPONDENTS/COMPLAINANT & STATE :

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1. SELVARAJ
S/O. SIMON, VIJAYA BHAVAN, NELKUNNILKONAM
KARIKKAMARICODE DESOM, VELLARADA VILLAGE
THIRUVANANTHAPURAM - 695001.
 2. STATE OF KERALA
REPRESENTED BY ITS PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682 031.

R2 BY PUBLIC PROSECUTOR, SHRI.R.GITHESH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON
09-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P. No.1558 of 2015

Dated this the 9th day of December 2015

O R D E R

The accused in S.T.No.25 of 2014 on the files of the Court of the Judicial Magistrate of First Class - IV, Neyyattinkara 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 (for short 'the N.I. Act).

2. Heard.

3. The prosecution allegation is that towards the discharge of the liability, the revision petitioner issued Ext.P1 cheque in favour of 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 received by the revision petitioner.

4. Before the trial court, PW1 and PW2 were examined and Exts.P1 to P5 were marked for the complainant. Ext.D1 was marked for the revision petitioner.

5. The courts below, relying on the documentary as well as oral evidence adduced by the parties, concurrently found that the revision petitioner had executed Ext.P1 cheque as contemplated under Section 138 of the N.I. Act and committed the offence under Section 138 of the N.I. Act, repelling the contentions of the revision petitioner.

Since there is concurrent finding on facts, this Court will not be justified in interfering with the same unless the finding by the courts below 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. 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.

SD/-

**B.SUDHEENDRA KUMAR,
JUDGE**

The clause “the Revision Petitioner is granted four months to pay the fine as requested by the learned counsel for the revision petitioner” is incorporated in the final order dated 9.12.2015 in Crl.R.P. No.1558/2015, vide order dated 21.12.2015 in Crl.R.P. No.1558/2015.

Sd/-Registrar (Judicial)