

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

THURSDAY, THE 26TH DAY OF NOVEMBER 2015/5TH AGRAHAYANA, 1937

Crl.Rev.Pet.No. 1566 of 2015 ()

Crl.A 717/2009 of I ADDL.SESIONS COURT,PALAKKAD
ST 4970/2008 of J.M.F.C.-III,PALAKKAD

REVISION PETITIONER/APPELLANT/ACCUSED:

V.J.JAMES,
S/O.JOSEPH,
AGED 50 YEARS, TTE/PGT OFFICE
SOUTHERN RAILWAY
OLANVAKKODE, PALAKKAD

BY ADVS.SRI.BINOY VASUDEVAN
SMT.P.G.BABITHA

RESPONDENTS/COMPLAINANT & STATE:

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1. STATE OF KERALA
REP. BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA
ERNAKULAM 682 031.
 2. A.SASIKUMAR
S/O.CHINNAN NAIR
AGED 60 YEARS, DEEPTHI,
DURGA NAGAR, KALLEKULANGARA
PALAKKAD DISTRICT 678 105.

R1 BY PUBLIC PROSECUTOR, SHRI.R.GITHESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON
26-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P. No.1566 of 2015

Dated this the 26th day of November 2015

O R D E R

The accused in S.T.No.4970 of 2008 on the files of the Court of the Judicial Magistrate of First Class - III, Palakkad 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 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 due to insufficiency of funds in the account of the revision petitioner. Statutory notice was issued to the revision petitioner, which was returned as 'unserved', as the revision petitioner did not accept the same even after the receipt of intimation from the postal authorities. However, the revision petitioner did not make payment of the cheque amount within the statutory period or thereafter.

4. Before the trial court, PW1 was examined and Exts.P1 to P5 were marked for the complainant. No evidence was adduced on the side of the defence.

5. The courts below, after appreciating the oral and documentary evidence adduced by the prosecution, 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. 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.

The revision petitioner is granted six months to pay the fine ordered by the appellate court, as requested by the learned counsel for the revision petitioner.

Sd/-
B.SUDHEENDRA KUMAR,
JUDGE

dl/.27.11.2015