

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

FRIDAY, THE 4TH DAY OF DECEMBER 2015/13TH AGRAHAYANA, 1937

Crl.Rev.Pet.No. 1609 of 2015 ()

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Crl.A 113/2014 of ADDL. D.C. & SESSIONS COURT - IV, KOTTAYAM  
ST 130/2013 of J.M.F.C. V, KOTTAYAM

REVISION PETITIONER(S)/REVISION PETITIONER/APPELLANT/ACCUSED:

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SUNNY JOSEPH  
S/O JOSEPH, KATTAPURATHU HOUSE, THIRUVANCHOOR P.O.  
KOTTAYAM.

BY ADVS.SRI.JIJI THOMAS  
SMT.SMITHA JIJI PAMBACKAL

RESPONDENT(S)/RESPONDENT/RESPONDENT/COMPLAINANT:

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1. ANISH ARAVIND  
PADINJAREKKUTTU HOUSE, THIRUVANCHOOR P.O.  
MANARCADU VILLAGE, KOTTAYAM-685682.
  2. STATE OF KERALA  
REPRESENTED BY PUBLIC PROSECUTOR  
HIGH COURT OF KERALA, ERNAKULAM-682031.

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

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON  
04-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**B.SUDHEENDRA KUMAR, J.**

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Crl.R.P. No.1609 of 2015  
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Dated this the 4<sup>th</sup> day of December 2015

O R D E R

The accused in S.T.No.130 of 2013 on the files of the Court of the Judicial Magistrate of First Class - V, Kottayam 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 P7 were marked for the complainant. DW1 was examined and Exts.D1 and D2 series were marked for the revision petitioner.

5. The courts below correctly appreciated the oral and documentary evidence adduced by the parties and 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. 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 courts below also does not call for any interference by this court.

In the result, this revision petition stands dismissed.

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

**Sd/-**  
**B.SUDHEENDRA KUMAR,**  
**JUDGE**

*dl/7.12.2015*

*// True Copy //*

*PA to Judge*