

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. 1622 of 2015 ()

AGAINST THE JUDGMENT IN CRA 143/2009 of ADDITIONAL SESSIONS COURT,
IRINJALAKUDA DATED 18-11-2014

AGAINST THE JUDGMENT IN CC 1057/2007 of COURT OF THE JUDICIAL MAGISTRATE
OF I CLASS, KODUNGALLUR DATED 26-11-2008

REVISION PETITIONER/APPELLANT/ACCUSED:

SATHYAN,
S/O.VISWAMBARAN, KOROVAMPARAMBIL HOUSE, LOKAMALESWARAM
KODUNGALLUR.

BY ADVS.SRI.M.SHAJU PURUSHOTHAMAN
SRI.K.S.RAJESH

RESPONDENTS/RESPONDENTS/COMPLAINANT:

1. PUSHPAN,
S/O.PUSHKARAN, NEDUMPARAMBATH HOUSE, SRINGAPURAM
METHALA, PIN-688001., KODUNGALLUR
2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.

R BY PUBLIC PROSECUTOR SRI.GITHESH R

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON
04-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

AV

B. SUDHEENDRA KUMAR, J.

Crl.R.P.No.1622 of 2015

Dated this the 4th day of December, 2015.

ORDER

The accused in C.C.No.1057 of 2007 on the files of the Court of the Judicial Magistrate of First Class, Kodungalloor 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 ('N.I.Act' for short).

2. When this matter has been taken up for hearing, the learned counsel for the revision petitioner has submitted that the revision petitioner is not pressing for hearing this revision petition on merits and that he needs only leniency in the matter of sentence. Suffice it to say that, having gone through the judgments of the courts below, I am satisfied that the concurrent finding by the courts below that the revision petitioner committed the offence under Section 138 of the N.I.Act does not suffer from any infirmity, warranting interference by this Court.

3. The amount covered by Ext.P1 cheque is Rs.50,000/-. Considering the facts and circumstance of the case, including the amount covered by Ext.P1 cheque, I am of the view that the sentence awarded by the courts below can be modified and reduced to imprisonment till the rising of the court and a fine of Rs.50,000/- (Rupees Fifty thousand only), to meet the ends of justice and

accordingly, I order so. In default of payment of fine, the revision petitioner shall undergo simple imprisonment for a period of two months. In the event of realisation of fine, the entire amount shall be given to the complainant under Section 357(1)(b) Cr.P.C.

In the result, this revision petition stands allowed in part as above. However, the revision petitioner is granted one month to pay the fine as requested by the learned counsel for the revision petitioner.

It is made clear that the payment which may be directly made to the complainant will be treated as sufficient compliance of payment of fine as per this order, provided the complainant files an affidavit in this regard before the trial court.

Sd/-
B. SUDHEENDRA KUMAR,
JUDGE

AV