

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. 1649 of 2015 ()

Crl.A 213/2011 of SPECIAL COURT (ATROCITIES AGAINST SC/ST), MANJERI
ST 568/2009 of J.M.F.C.-II,PERINTHALMANNA

REVISION PETITIONER(S)/REVISION PETITIONER/APPELLANT:

PUTHENVEETIL BASHEER
S/O.KUNHAMMED, PUTHENVEETIL HOUSE, B P ANGADI PO
TIRUR, MALAPPURAM DISTRICT

BY ADVS.SRI.P.K.MOHAMED JAMEEL
SRI.ABDUL KADER KANNETH
SRI.JINU JOSEPH

RESPONDENT(S)/RESPONDENT:

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1. A.RADHAKRISHNAN
S/O.VASUDEVAN NAMBEESAN, ARAYAMGARA HOUSE
PERUMANNA AMSOM DESOM, P O VAZHAKKULAM, TIRUR
MALAPPURAM DISTRICT -674101
 2. STATE OF KERALA
REP BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM

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

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.1649 of 2015

Dated this the 9th day of December 2015

O R D E R

The accused in S.T.No.568 of 2009 on the files of the Court of the Judicial Magistrate of First Class - II, Perinthalmanna 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 his 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 received by the revision petitioner.

4. Before the trial court, PW1 was examined and Exts.P1 to P5 were marked for the complainant. Exts.D1 to D4 were marked for the revision petitioner.

5. The courts below correctly evaluated the oral and documentary evidence adduced by the parties and concurrently found that the revision petitioner 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. As regards the sentence, the learned counsel has pleaded for leniency. The amount covered by Ext.P1 cheque is Rs.1,00,000/-. Considering the facts and circumstances 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.1,00,000/- (Rupees one lakh only) to secure the ends of justice. Accordingly, I order so. In default of payment of fine, the revision petitioner shall undergo simple imprisonment for two months. In the event of realisation of the fine amount, the entire amount shall be given to the complainant as compensation under Section 357(1) (b) Cr.P.C.

In the result, this revision petition stands allowed in part as above.

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

Sd/-

**B.SUDHEENDRA KUMAR,
JUDGE**

dl/10.12..2015

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PA to Judge