

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

FRIDAY, THE 11TH DAY OF DECEMBER 2015/20TH AGRAHAYANA, 1937

Crl.Rev.Pet.No. 1674 of 2015 ()

Crl.A 105/2014 of SESSIONS COURT,PATHANAMTHITTA
CC 1458/2013 of J.M.F.C-1.,RANNI

REVISION PETITIONER(S)/APPELLANT/ ACCUSED:

SREEKUMAR V.S. AGED 43 YEARS
S/O. SREEDHARA PANICKER, ILLIKULATHU HOUSE
KLAPPANA SOUTH, KLAPPANA P.O, KARUNAGAPPALLY TALUK

BY ADVS.SRI.S.PRASANTH
SRI.SOORAJ T.ELENJICKAL
SMT.UMA
SRI.K.NANDAKUMAR
SMT.MARY RESHMA GEORGE
SMT.V.A.HARITHA
SMT.P.M.MAZNA MANSOOR

RESPONDENT(S)/RESPONDENTS/COMPLAINANT & STATE:

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1. DIVAKARAN NAIR K.S.
JAYA NIVAS, BANGLAMKADAVU, VADASSERIKARA VILLAGE
RANNI TALUK 689672
 2. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA 682031

R2 BY PUBLIC PROSECUTOR, SHRI.R.GITHESH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON
11-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P. No.1674 of 2015

Dated this the 11th day of December 2015

O R D E R

The accused in C.C. No.1458 of 2013 on the files of the Court of the Judicial Magistrate of First Class - I, Ranni 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 issued to the revision petitioner, which was returned “unclaimed” as the revision petitioner refused to accept the same even after getting the intimation from the postal authorities.

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, relying on the documentary as well as oral evidence adduced by the complainant, 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 or concurrent finding 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 ten months to pay the fine, as requested by the learned counsel for the revision petitioner.

Sd/-
B.SUDHEENDRA KUMAR,
JUDGE

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PA to Judge