

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. 1685 of 2015 ()

Crl.A 70/2010 of SESSIONS COURT, THALASSERY
ST 3291/2008 of J.M.F.C.-II, KANNUR

REVISION PETITIONER(S)/APPELLANT/ACCUSED:

M.RAJEEV
NALINI NIVAS, KOKKEN PARA ROAD, PALLIKUNNU
KANNUR DISTRICT, NOW RESIDING AT ALAKAPURI
PALLIKUNNU, KANNUR.

BY ADV. SRI.V.PREMCHAND

RESPONDENT(S)/RESPONDENT/COMPLAINANT:

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1. K.C.AJITH
GOVINDASADAN, CHOVVA PO, KANNUR DISTRICT-671 026.
 2. STATE OF KERALA
REPRESENTED 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
11-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P. No.1685 of 2015

Dated this the 11th day of December 2015

ORDER

The accused in S.T.No.2291 of 2008 on the files of the Court of the Judicial Magistrate of First Class - II, Kannur 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 executed Ext.P3 cheque in favour of the complainant towards the discharge of the liability to the complainant. When presented for encashment, 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 P7 were marked for the complainant. DW1 was examined and Ext.D1 was marked for the revision petitioner.

5. The courts below, relying on the documentary as well as oral evidence adduced by the parties, concurrently found that the revision petitioner had executed Ext.P3 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**

dl/14.12.2015

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PA to Judge