

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

THURSDAY, THE 17TH DAY OF DECEMBER 2015/26TH AGRAHAYANA, 1937

Crl.Rev.Pet.No. 1712 of 2015 ()

Crl.A 69/2012 OF THE ADDITIONAL SESSIONS
COURT - V, THIRUVANANTHAPURAM

CC 435/2006 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-I,ATTINGAL

REVISION PETITIONER/APPELLANT/ACCUSED:-:

RAHIM, AGED 50 YEARS
PROPRIETOR, VILAYIL MARBLES, MARKET ROAD
ANCHAALUMODU, PERINADU, KOLLAM DISTRICT.

BY ADV. SRI.P.ANOOP (MULAVANA)

RESPONDENTS/RESPONDENTS/COMPLAINANT & STATE:-:

1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM- 682 031.

2. BEENA
D/O.DEVADASAN, PROPRIETOR, V.B.MARBLES
KOONTHALLOOR (V.B.HOUSE, VALIYAKADA
CHIRAYINKEEZHU DESOM, SARKARA VILLAGE
THIRUVANANTHAPURAM DISTRICT).

R2 BY PUBLIC PROSECUTOR SRI.R.GITESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 17-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

SCL.

B. SUDHEENDRA KUMAR, J.

Crl.R.P. No.1712 of 2015

Dated this the 17th day of December, 2015.

ORDER

The accused in C.C.No.435 of 2006 on the files of the Court of the Judicial Magistrate of First Class-I, Attingal, has filed this revision petition challenging the concurrent finding of conviction and sentence passed by the courts below under Section 138 of the N.I.Act.

2. Heard.

3. The prosecution allegation is that the revision petitioner executed Ext.P2 cheque in favour of the complainant towards the discharge of the liability of the revision petitioner to the complainant. The said cheque was dishonoured when presented for encashment due to the 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 P8 series were marked for the complainant. No evidence was adduced on the side of the revision petitioner.

5. The courts below correctly evaluated the oral and documentary evidence adduced by the complainant and concurrently found that the revision petitioner executed Ext.P2 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 this Court to indicate that the appreciation of the evidence or the concurrent finding by the courts below is 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 N.I Act does not warrant any interference by this court.

6. The appellate court had taken a very lenient view in the matter of sentence. Therefore, the sentence awarded by the appellate court also does not warrant any interference by this Court.

In the result, this revision petition stands dismissed. However, 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

Scl/17.12.2015

True Copy

PA to Judge