

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

THURSDAY, THE 8TH DAY OF OCTOBER 2015/16TH ASWINA, 1937

Crl.Rev.Pet.No. 3218 of 2010 ()

CRL.A 225/2007 of ADDITIONAL SESSIONS COURT, IRINJALAKUDA
ST 463/2005 of J.M.F.C., IRINJALAKUDA

REVISION PETITIONER/REVISION PETITIONER/APPELLANT/ACCUSED:

GIRIJA, D/O.NARAYANAN NAMBOODIRI,
ERATHUMANA, MATTATHURKUNNU P.O., VASUPURAM
THRISSUR DISTRICT.

BY ADVS.SRI.P.K.MADHUSOODHANAN
SRI.P.M.BINOY KRISHNA

RESPONDENTS/RESPONDENTS/RESPONDENTS/COMPALINANT AND STATE OF KERALA :

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1. GOPI V.N., S/O.VELLAYIKUDATH NARAYANAN
NAIR, MATTATHURKUNNU P.O., VASUPURAM
THRISSUR DISTRICT- 680 692.
 2. STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

R1 BY ADV. SRI.A.C.DEVY
R2 BY PUBLIC PROSECUTOR, SHRI.R.GITHESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON
08-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P. No.3218 of 2010

Dated this the 8th day of October 2015

O R D E R

The revision petitioner is the accused in S.T. No.463 of 2005 on the files of the Court of the Judicial Magistrate of First Class, Irinjalakuda.

2. The trial court convicted the revision petitioner under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the N.I.Act') and sentenced him thereunder to simple imprisonment for one month and a compensation of Rs.70,000/-. In the appeal filed against the said conviction and sentence, the conviction was confirmed and the sentence was modified

and reduced to imprisonment till the rising of the court and a compensation of Rs.70,000/- to PW1 as ordered by the trial court. Aggrieved by the said conviction and sentence, the revision petitioner has filed this revision petition.

3. Heard the learned counsel for the revision petitioner and the learned Public Prosecutor.

4. The prosecution allegation is that the revision petitioner borrowed an amount of Rs.70,000/- from the complainant and towards the discharge of the said 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 received by the revision

petitioner. However, the revision petitioner did not make payment of the cheque amount within the statutory period or thereafter.

5. Before the court below, PW1 was examined and Exts.P1 to P5 were marked for the complainant. DW1 to DW3 were examined and Exts.D1 to D4 were marked for the revision petitioner.

6. 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.P1 cheque as contemplated under Section 138 of the N.I. Act. Since there is concurrent finding on facts, this Court will not be justified in interfering with the same unless the finding of the courts below is perverse or incorrect. 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 of 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.

7. 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 six months to pay the compensation, as requested by the learned counsel for the revision petitioner.

Sd/
B.SUDHEENDRA KUMAR,
JUDGE

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PA to Judge