

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

THURSDAY, THE 10TH DAY OF DECEMBER 2015/19TH AGRAHAYANA, 1937

Crl.Rev.Pet.No. 3381 of 2010 ()

Crl.A 693/2008 of D.C & SESSIONS COURT, THIRUVANANTHAPURAM
ST 175/2006 of J.M.F.C.-VI, THIRUVANANTHAPURAM

REVISION PETITIONER(S)/APPELLANT/ACCUSED:

RAVI KUMAR S.NAIR,
DIRECTOR, M/S.PANCHAMI PACKS KERALA PVT. LTD.
V.V.ROAD, PATTOOR, RESIDING AT PRIYA
TC.NO/30/1396, V.V.ROAD, PATTOOR
THIRUVANANTHAPURAM-24.

BY ADVS.SRI.D.SAJEEV
SMT.LIGEY ANTONY

RESPONDENT(S)/COMPLAINANT AND STATE:

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1. CANARA BANK,
COSMO POLITIAN HOSPITAL BRANCH, THIRUVANANTHAPURAM
REP. BY ITS MANAGER.
 2. STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM.

R,R1 BY ADV. SRI.D.KISHORE
R2 BY PUBLIC PROSECUTOR, SHRI.V.S.SREEJITH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON
10-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P. No.3381 of 2010.

Dated this the 10th day of December 2015

O R D E R

The accused in C.C.No.175 of 2006 on the files of the Court of the Judicial Magistrate of First Class-VI, Thiruvananthapuram 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.P1 cheque in favour of the complainant towards the discharge of the liability to the

complainant. 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 trial court, PW1 was examined and Exts.P1 to P8 were marked for the complainant. DW1 and DW2 were examined and Exts.D1 to D3 were marked for the revision petitioner. Exts.X1 to X4 were also marked.

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 the N.I. Act does not call for any interference by this Court.

7. The amount covered by Ext.P1 cheque is Rs.3,37,065/-. 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.3,37,065/- 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, 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 nine 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