

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

THURSDAY, THE 29TH DAY OF OCTOBER 2015/7TH KARTHIKA, 1937

Crl.Rev.Pet.No. 1871 of 2014 ()

JUDGMENT IN Crl.A 879/2010 OF THE II ADDITIONAL SESSIONS COURT,
TRIVANDRUM

JUDGMENT IN ST 1896/2006 OF THE JUDICIAL MAGISTRATE OF FIRST CLASS-
IV, NEDUMANGAD

REVISION PETITIONER/APPELLANT/ACCUSED:

IDICULA JACOB JACOB,
PUTHUVAL PUTHENVEEDU, KUTTICAL.P.O
THIRUVANANTHAPURAM.

BY ADV. SRI.G.SUDHEER

RESPONDENTS/RESPONDENTS/COMPLAINANT/STATE :

1. SUGATHAN ASARI,
AYANIVILA VEEDU, MELEMUKKU, KUTTICAL.P.O
THIRUVANANTHAPURAM-695001.
2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM - 682 031.

R1 BY ADV. SRI.A.S.SHAMMY RAJ
R BY PUBLIC PROSECUTOR SRI.V.S.SREEJITH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 29-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

SCL.

B. SUDHEENDRA KUMAR, J.

Crl.R.P. No.1871 of 2014

Dated this the 29th day of October, 2015

ORDER

The revision petitioner is the accused in S.T.No.1896 of 2006 on the files of the court of the Judicial Magistrate of First Class-IV, Nedumangad.

2. The trial court convicted the revision petitioner under Section 138 of the Negotiable Instruments Act and sentenced him thereunder to simple imprisonment for six months and to pay a compensation of ₹5,00,000/- to the complainant under Section 357(3) Cr.P.C. with a default clause for simple imprisonment for four months. In the appeal, the conviction was confirmed and the sentence was modified and reduced to imprisonment till the rising of the court and a fine of ₹5,00,000/-. Aggrieved by the said conviction and sentence, this revision petition has been filed.

3. Heard.

4. The prosecution allegation is that the revision

petitioner issued Ext.P1 cheque in favour of the complainant towards the discharge of the liability of the revision petitioner to the complainant. The complainant presented the said cheque for encashment. However, the same was dishonoured due to the insufficiency of funds in the account of the revision petitioner. Statutory notice was issued on behalf of the complainant, which was returned as unclaimed as the revision petitioner refused to accept the same even after the receipt of intimation from the postal authorities. The revision petitioner did not pay the cheque amount within the statutory period or thereafter.

5. Before the trial court, PW1 and PW2 were examined and Exts.P1 to P10 were marked for the complainant. No evidence was adduced on the side of the revision petitioner.

6. The courts below, after evaluating the oral and documentary evidence adduced by the prosecution, concurrently found that the revision petitioner executed Ext.P1 cheque as contemplated under Section 138 of the N.I Act. The defence set up by the revision petitioner was also repelled by

the courts below. Since there is concurrent finding on facts, this Court will not be justified in interfering with the same, unless the finding is perverse or incorrect. No circumstance has been brought to my notice to indicate that 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.

7. 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 six months to pay the fine.

Sd/-

B. SUDHEENDRA KUMAR
JUDGE

ScI/29.10.2015

True Copy

PA to Judge