

C. Ramesan Vs. Salim.S.

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Court : Kerala

Decided On : Sep-03-2014

Judge : Honourable Mr. Justice P.Ubaid

Appellant : C. Ramesan

Respondent : Salim.S.

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE
HONOURABLE MR. JUSTICE P.UBAID WEDNESDAY, THE 3D DAY OF
SEPTEMBER 2014 12TH BHADRA, 1936 CrI.Rev.Pet.No. 1562 of 2014 ()
----- AGAINST THE

JUDGMENT

IN CrI.A4112012 of ADDL. DISTRICT AND SESSIONS COURT - IV,
THIRUVANANTHAPURAM AGAINST THE

JUDGMENT

IN ST9772004 of J.M.F.C.-I, NEDUMANGAD REVISION
PETITIONER/APPELLANT/ACCUSED: ----- C.
RAMESAN S/O.CHALLAPPAN, SUKUMARI MANDIRAM, IRUMBA ARUVIKKARA
P O, NEDUMANGAD, THIRUVANANTHAPURAM BY
ADVS.SRI.T.A.UNNIKRISHNAN SRI.K.SATHEESH KUMAR
RESPONDENT(S)/RESPONDENTS/COMPLAINANT:

----- 1. SALIM.S. S/O.SHAHUL HAMEED,
VILAYIL VEEDU, MUKKAMPALAMOODU VEMBAYAM P O,
THIRUVANANTHAPURAM, PIN-695615 2. STATE OF KERALA REP BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA ERNAKULAM R2 BY PUBLIC
PROSECUTOR SRI.GITHESH.R. THIS CRIMINAL REVISION PETITION
HAVING COME UP FOR ADMISSION ON 0309-2014, THE COURT ON THE
SAME DAY PASSED THE FOLLOWING: P.UBAID, J.

~~~~~ Crl.R.P No.1562 of 2014 ~~~~~ Dated this the 3rd  
September, 2014

## ORDER

The revision petitioner is aggrieved by the conviction and sentence against him under Section 138 of the Negotiable Instruments Act in S.T No.977 of 2004 of the Judicial First Class Magistrate Court-I, Nedumangad. In appeal, the learned Additional Sessions Judge-IV, Thiruvananthapuram confirmed the conviction, but modified the sentence. The trial court found him guilty, and on conviction he was sentenced to undergo simple imprisonment for six months. He was also directed to pay a compensation of 4,80,000/- to the complainant under Section 357 (3) of Cr.P.C. The appellate court modified the sentence and reduced it to imprisonment till rising of the court. However, the direction to pay compensation was maintained.

2. When this revision came up for hearing on admission, the learned counsel for the revision petitioner submitted that he has no serious contest on facts and that Crl.R.P No.1562 of 2014 2 the revision petitioner will make payment within a reasonable time. The time sought is for eight months .

3. On a perusal of the case records, I find that the complainant has well proved the case on facts. He examined himself and three other witnesses and proved Exts.P1 to P9 documents. The transaction in which the revision petitioner incurred the alleged debt, and also execution of Ext.P1 cheque stand well proved by the evidence of the complainant and his witnesses. Compliance of statutory requirements for prosecution also stands proved in this case. The revision petitioner has no case that he had sufficient funds in his account to honour the

cheque or that it was bounced on some other ground. Bouncing due to insufficiency of funds is proved by Exts.P2 and P3 documents. Ext.P5 statutory notice was sent in time, and the complaint was also filed in time by the complainant. I find no reason for interference in revision on the ground of any illegality or irregularity.

4. In the particular circumstances where the amount involved is 4,80,000/-, I am inclined to grant time for eight Crl.R.P No.1562 of 2014 3 months' for payment as requested by the learned counsel. The revision as such does not deserve admission to files. In the result, this revision petition is dismissed in limine, without being admitted to files. However, the revision petitioner is granted time for eight months from this date to surrender before the trial court to serve out the sentence and make payment of the compensation voluntarily, on failure of which, the trial court shall take steps to enforce the sentence, and recover the amount of compensation, or enforce the default sentence. Sd/- P.UBAID JUDGE ma /True copy/ P.S to Judge

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