

Vijayakumar vs Divakaran

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Court : Kerala

Decided On : Feb-29-2024

Judge : Honourable Mr. Justice P.Somarajan

Appeal No. : Crl.Rev.Pet/695/2023

Appellant : Vijayakumar

Respondent : Divakaran

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.SOMARAJAN
THURSDAY, THE 29TH DAY OF FEBRUARY 2024 / 10TH PHALGUNA,
1945 AGAINST THE ORDER/JUDGMENT IN CRL.A 248/2018 OF
ADDITIONAL ST 798/2014 OF JUDICIAL MAGISTRATE OF FIRST
CLASS -I, PONNANI

REVISION PETITIONER/APPELLANT/ACCUSED: VIJAYAKUMAR
AGED 55 YEARS VIJAYAKUMAR, S/O. KILIYAN, MUKKANATHU
PARAMBIL HOUSE, EZHAVATHIRUTHI AMSOM, ERIKKAMANNA
DESOM, PONNANI P.O., PONNANI TALUK, MALAPPURAM DISTRICT,
PIN - 679577. BY ADVS. SANTHEEP ANKARATH J.RAMKUMAR

RESPONDENTS/RESPONDENTS/COMPLAINANT & STATE: 1
DIVAKARAN, AGED 60 YEARS, S/O. KARIYAN,
MELETHUMPARAMBIL HOUSE, EASWARAMANGALAM AMSOM
DESOM, P.O. EASWARAMANGALAM, PONNANI TALUK,
MALAPPURAM DISTRICT, PIN - 679573. 2 STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM, KOCHI - 682031

R1 BY ADV AHAMED FAZIL E.C. R2 BY ADV.SRI C N
PRABHAKARAN, SR. PUBLIC PROSECUTOR THIS CRIMINAL
REVISION PETITION HAVING COME UP FOR ADMISSION ON
29.02.2024, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ORDER

It is against the concurrent judgments of conviction and the order of sentence the
accused/revision petitioner came up.

2. It is submitted that the substantive

sentence ordered for the deemed offence statutorily created under Section 138 of
the Negotiable Instruments Act is highly exorbitant and excessive. It comes to one
year simple imprisonment. The same will stand modified and set aside by
confining the sentence to a fine amount of Rs.7,25,000/- (wrongly stated as
compensation), in default, to undergo simple imprisonment for three months. On
recovery of the fine amount, the same shall be released to the defacto
complainant under Section 357(1)(b) Cr.P.C. The accused shall appear before the
trial court within two months from today so as to receive the sentence of fine. The
earlier deposit made either under Section 143 or under Section 148 of the
Negotiable Instruments Act shall be adjusted towards the fine amount. The
Criminal Revision Petition will stand allowed in part accordingly by modifying the
sentence as above. Sd/- P.SOMARAJAN JUDGE SPV APPENDIX OF
CRL.REV.PET 695/2023 PETITIONER ANNEXURES: ANNEXURE A 1 TRUE
COPY OF THE PAGE NOTING THE DEFECTS ANNEXURE A 2 CERTIFIED

COPY OF THE JUDGMENT DATED 16.11.2021 IN CRIMINAL APPEAL NO.
ANNEXURE A 3 ORIGINAL CERTIFICATE DATED 22.6.2023 ISSUED BY THE
MEDICAL OFFICER, P.H. CENTRE, EZHUVANTHIRUTHI RESPONDENTS
ANNEXURES: NIL //TRUE COPY// PA TO JUDGE

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