

(2021) 01 KL CK 0322

In the High Court Of Kerala

Case No : Criminal Revision Petition No. 891 Of 2018

Harikrishnan And Ors

APPELLANT

Vs

Venugopalan And Ors

RESPONDENT

Date of Decision : 13-01-2021

Acts Referred:

Negotiable Instruments Act, 1881 — Section 138
Code Of Criminal Procedure, 1973 — Section 357(1)(b)

Citation : (2021) 01 KL CK 0322

Hon'ble Judges : B. Sudheendra Kumar, J

Bench : Single Bench

Advocate : V. Manoj Kumar, Iype Joseph, M. Kannan, Aparna Sathianathan, M. K. Pushpalatha

Final Decision : Allowed

Judgement

1. The revision petitioners were convicted and sentenced by the courts below under Section 138 of the Negotiable Instruments Act (for short 'the N.I.

Act').

2. Heard.

3. The courts below correctly appreciated the oral and documentary evidence and concurrently found that the revision petitioners 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. No material has been

brought to the notice of this court to indicate that the appreciation of evidence or the concurrent finding of conviction under Section 138 of the N.I. Act

by the courts below was perverse or incorrect. In the said circumstances, the concurrent finding of conviction by the courts below under Section 138

of the N.I. Act, does not warrant any interference by this court.

4. As regards the sentence, the learned Counsel for the revision petitioners has pleaded for leniency. The learned Counsel for the revision petitioners has submitted that the petitioners are not having any source of income at present even for their livelihood.

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 appellate court can be modified and reduced to a fine of Rs.2,00,000/- (Rupees Two4 Lakh Only) each, with a default clause for simple

imprisonment for one month each under Section 138 of the N.I.Act, to meet the ends of justice. It is ordered accordingly. If the fine is realised, the

entire amount shall be given to the complainant as compensation under Section 357 (1)(b) Cr.P.C.

In the result, this Criminal Revision Petition stands allowed in part as above.

The revision petitioners are granted eight months to pay the fine/compensation as requested by the learned Counsel for the revision petitioners.