
(2021) 03 KL CK 0050

In the High Court Of Kerala

Case No : Criminal Revision Petition No. 165 Of 2021

Navas K

APPELLANT

Vs

State Of Kerala And Ors

RESPONDENT

Date of Decision : 04-03-2021

Acts Referred:

Negotiable Instruments Act, 1881 — Section 138
Code Of Criminal Procedure, 1973 — Section 357(3)

Citation : (2021) 03 KL CK 0050

Hon'ble Judges : V.G. Arun, J

Bench : Single Bench

Advocate : R. Sunil Kumar, A. Salini Lal, C.S. Hrithwik

Final Decision : Allowed

Judgement

1. The revision petition is filed challenging the conviction and sentence in S.T.No.40 of 2019 of the Judicial First Class Magistrate Court-IV,

Alappuzha, as modified by the judgment in Criminal Appeal No.106 of 2020 of the Sessions Court, Alappuzha.

2. The case against the revision petitioner originated from the complaint filed by the 2nd respondent alleging commission of offence under Section 138

of the Negotiable Instruments Act. The allegation was that, towards discharge of a debt, the revision petitioner had issued a cheque for Rs.81,500/- in

favour of the 2nd respondent, which, on presentation, had bounced due to insufficiency of funds. Even though statutory notice was issued, calling upon the revision petitioner to pay the cheque amount, the demand was not met.

3. The trial court, after careful scrutiny of the oral and documentary evidence tendered by the 2nd respondent, found the cheque to have been issued

towards a legally enforceable debt and returned for insufficiency of funds.

Consequently, the revision petitioner was found guilty, convicted and sentenced to undergo simple imprisonment till the rising of the court and to pay fine of Rs.81,500/- with default sentence of simple imprisonment for three months. On realisation, the fine was directed to be paid to the first respondent as compensation under Section 357(3) of Cr.P.C.

4. After considering the factual and legal contentions raised in the appeal, the appellate court confirmed the conviction and the sentence passed by the trial court.

5. Having heard the learned Counsel for the revision petitioner at length, I find no reason to interfere with the concurrent findings of the trial as well as appellate court. Thereupon, the learned Counsel raised an alternative plea that, in the event of this Court being not convinced about the challenge raised in the revision petition, the time limit for remittance of fine amount may be extended.

6. Considering the factual circumstances and the contentions urged, I am inclined to grant the limited relief. The time limit for payment of the cheque amount is extended by a further period of six months. In view of the limited relief being granted, notice to the 2nd respondent is dispensed with.

In the result, the Criminal Revision Petition is allowed in part. The revision petitioner is granted six months time for remitting the fine amount of

Rs.81,500/- (Rupees eightyone thousand five hundred only). On remittance, the amount shall be paid to the 2nd respondent as compensation. In view

of the time granted by this Court, coercive steps based on the impugned judgments, shall be deferred for a period of six months.