

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

FRIDAY ,THE 28TH DAY OF SEPTEMBER 2018 / 6TH ASWINA, 1940

Crl.Rev.Pet.No. 1203 of 2018

AGAINST THE ORDER/JUDGMENT IN CRA 258/2012 of I  
ADDL.SESIONS JUDGE, PALAKKAD DATED 06-11-2014

AGAINST THE ORDER/JUDGMENT IN CC 888/2009 of J.M.F.C.-  
III, PALAKKAD DATED 29-05-2012

REVISION PETITIONER/S:

MANIKANDAN,  
AGED 46 YEARS  
S/O GOPOLAN, MUCHERY HOUSE,  
RAILEAY QUARTERS 216-B, TYPE-2,  
RAILWAY COLONY, PALAKKAD.  
BY ADV. SRI.V.A.JOHNSON (VARIKKAPPALLIL)

RESPONDENT/S:

- 1 SELVARAJAN  
S/O SUKUMARAN,  
PALAKKAD PARAMBU, VALLICODE,  
PUDUPPARIYARAM, PALAKKAD-678002.
- 2 STATE OF KERALA  
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF  
KERALA, ERNAKULAM - 682 031

OTHER PRESENT:

SRI.B. JAYASURYA-PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR  
ADMISSION ON 28.09.2018, THE COURT ON THE SAME DAY PASSED  
THE FOLLOWING:

## **ORDER**

The revision petitioner was 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 learned counsel for the revision petitioner has submitted that the revision petitioner is not contesting the matter on merits and that he needs only leniency in the matter of sentence. Suffice it to say that, having gone through the relevant inputs, I am satisfied that the courts below correctly appreciated the oral and documentary evidence and concurrently found that the revision petitioner committed the offence under Section 138 of the N.I.Act. In the said circumstances, I find no reason to interfere with the concurrent finding of conviction passed by the courts below under Section 138 of the N.I.Act.

4. The amount covered by the cheque is Rs.

5000/- Considering the facts and circumstances of the case, including the amount covered by Exts. P1 cheque, I am of the view that the sentence awarded by the courts below can be modified and reduced to a fine of Rs. 10,000/- (Rupees ten thousand only) with a default clause for simple imprisonment for ten days, 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 revision petition stands allowed in part as above.

Needless to state that if the revision petitioner had already deposited any amount before the trial Court, pursuant to the direction of this Court, the said amount will be treated as part payment of the fine directed in this Order.

I further make it clear that the payment directly made to the complainant will be treated as sufficient compliance of payment of fine, provided the

complainant files an affidavit in this regard before the trial Court.

Dated this the 28<sup>th</sup> day of September, 2018

**B. SUDHEENDRA KUMAR, JUDGE.**

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