
(2012) 01 KL CK 0100

High Court Of Kerala

Case No: Criminal R.P. No. 193 of 2012

K. Somanathan

APPELLANT

Vs

C.K. Manoj Kumar and
State of Kerala

RESPONDENT

Date of Decision: Jan. 20, 2012

Acts Referred:

- Negotiable Instruments Act, 1881 (NI) - Section 138

Hon'ble Judges: N.K. Balakrishnan, J

Bench: Single Bench

Advocate: Santharam. P. and Smt. Rekha Aravind, for the Appellant; T.R. Rajesh, Public Prosecutor, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

N.K. Balakrishnan, J.

Petitioner was convicted by the learned Magistrate for offence punishable under Sec. 138 of N.I. Act and he was sentenced to imprisonment till the rising of the court and to pay Rs. 1,00,000/- as compensation to the complainant. His appeal was dismissed by the learned IInd Addl. Sessions Judge, Kozhikode.

2. Learned counsel for the petitioner submits that courts below failed to appreciate the evidence given by DW1, who has testified before the court that, in fact it was she who had borrowed the amount and that the amount borrowed was only Rs. 10,000/- and the accused had only introduced her to the complainant. It is also pointed out that she deposed before court that the amount borrowed was in fact repaid by her and that at the time of borrowal as additional security, two signed blank cheque leaves of the accused were also obtained by the complainant and that because the complainant was not satisfied as to the interest paid, by making use of the signed blank cheque leaves given by the accused this complaint was filed. It is seen that the learned Magistrate and also the appellate court considered the evidence adduced on the side of the accused

particularly the evidence given by DW1 and found that the evidence given by DW1 is not probable or acceptable. On going through the evidence it can be seen that the cheque was issued to discharge a legally recoverable debt. The contention that it was given as a security for the amount borrowed by DW1 was rightly disbelieved by the two courts below. After careful scrutiny of the evidence, I find that there is no reason to upset the concurrent findings entered by the courts below. Hence, the conviction is to be confirmed.

3. Learned counsel for the petitioner submits that sufficient time may be given to the petitioner to pay the amount. Hence, this CrI. R.P. is disposed of as stated below :-

The conviction is confirmed. The sentence awarded by the courts below is also confirmed. The petitioner will surrender before the learned Magistrate on or before 24.2.2012 to undergo imprisonment till the rising of the court and on the same day he will deposit Rs. 20,000/- being part of the compensation amount. The entire balance amount of Rs. 80,000/- shall be deposited by him within four months thereafter.