

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

MONDAY, THE 21ST DAY OF AUGUST 2017/30TH SRAVANA, 1939

Crl.Rev.Pet.No. 993 of 2017 ()

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CRL.A.NO. 392/2016 OF ADDL. DISTRICT & SESSIONS COURT - IV, KOZHIKODE  
CC.NO. 508/2014 OF JUDICIAL FIRST CLASS MAGISTRATE COURT -II, VADAKARA  
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REVISION PETITIONER/APPELLANT/ACCUSED:  
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K.T.K.DINESAN,  
S/O.KELAPPAN, AGED 56 YEARS,  
CITADAL HOUSE, NEAR MUNICIPAL PARK,  
EDODI, VATAKARA P.O., VATAKARA TALUK,  
KOZHIKODE DISTRICT-673 101.

BY ADVS.SRI.BIJU ABRAHAM  
SRI.E.V.LIJEESH

RESPONDENT(S)/RESPONDENTS/COMPLAINANT & STATE:  
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1. DR.MOHAN KUMAR.K.C.,  
S/O.KUNHIKKANNAN, AGED 47 YEARS,  
GEETHANJALI HOUSE, NUT STREET P.O.,  
VATAKARA, VATAKARA TALUK, KOZHIKODE-673 104.
2. STATE OF KERALA,  
REPRESENTED BY THE PUBLIC PROSECUTOR,  
ERNAKULAM-682 011.

R2 BY PUBLIC PROSECUTOR SRI.JESTIN MATHEW

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION  
ON 21-08-2017, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

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**ALEXANDER THOMAS, J.**

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Crl.R.P.No. 993 of 2017  
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*Dated this the 21<sup>st</sup> day of August, 2017*

**ORDER**

The petitioner herein is the accused for the offence punishable under Section 138 of the Negotiable Instruments Act, in C.C.No.508 of 2014 on the file of the Judicial First Class Magistrate Court-II, Vadakara, instituted on the basis of a complaint filed by the 1<sup>st</sup> respondent herein.

2. The trial court, as per the impugned judgment rendered on 22.08.2016, has convicted the petitioner for the aforesaid offence and has sentenced him to undergo simple imprisonment for two years and to pay a fine of ₹12,70,000/- with a direction that the fine amount so realised to be disbursed as compensation to the complainant under Section 357(1)(b) Cr.P.C. and in default of the payment of the fine amount, the accused is ordered to suffer simple imprisonment for a period of three months. The dishonoured

cheque dated 10.03.2014 involved in this case is for ₹10,00,000/-.

3. Aggrieved by the said trial court judgment, the petitioner had preferred Crl.Appeal No.392/2016 before the Sessions Court, Kozhikode. The Appellate Sessions Court, as per the impugned judgment rendered on 19.06.2017, has confirmed the conviction and modified the substantive sentence of simple imprisonment of 2 years, by reducing the same to simple imprisonment till the rising of the court and also confirmed the fine amount of ₹12,70,000/-, with the default sentence for a further period of three months simple imprisonment. The fine amount so realised was directed to be paid to the complainant as compensation under Section 357(1)(b) Cr.P.C. It is aggrieved by these verdicts of both the courts below, the petitioner has preferred the instant revision petition by invoking the remedies under Section 397 and 401 Cr.P.C.

4. Heard Sri.Biju Abraham, the learned counsel appearing for the revision petitioner/accused and Sri.Jestin

Mathew, the learned Public Prosecutor appearing for the 2<sup>nd</sup> respondent State. In the nature of the orders proposed to be passed in this revision petition, notice to the 1<sup>st</sup> respondent/complainant would stand dispensed with.

5. Sri.Biju Abraham, the learned counsel appearing for the revision petitioner/accused would submit, on the basis of the instructions from his party (the revision petitioner), that though the revision petitioner has various contentions to be urged on the merits of the matter, he would confine his prayer only for a direction of this Court to grant one year's time to pay the fine/compensation amount of ₹12,70,000/- directly to the complainant. It is pointed out that the petitioner is now in financial difficulties. It is expected that he will get some amounts due in respect of some of his *kury* transactions in the succeeding months. Therefore, he would require at least one year's time to raise such a huge amount of ₹12,70,000/- .

6. Having regard to the fact that the fine/compensation amount involved in this case is ₹12,70,000/- and also taking

into account of the financial difficulties faced by the petitioner, this Court is inclined to grant one year's time to the petitioner to pay the fine/compensation amount. Accordingly, it is ordered that the impugned conviction, substantive sentence of simple imprisonment till the rising of the court, the fine of ₹12,70,000/- with default sentence clause of three months of simple imprisonment etc. are confirmed and the petitioner is given one year's time from 01.09.2017 to pay the amount of ₹12,70,000/- directly to the 1<sup>st</sup> respondent/complainant. On receiving such payments, the 1<sup>st</sup> respondent will issue necessary receipts evidencing such payments in order to enable the accused to present the same before the trial court to satisfy the said court about such payments. Any such amounts so paid directly by the petitioner to the complainant will be treated as those amounts have been paid as fine and then disbursed as compensation to the complainant in terms of Section 357(1) (b) Cr.P.C.

7. The petitioner will personally appear before the trial

court at 11 a.m. on 01.09.2018 to receive the sentence of simple imprisonment till the rising of the court and to satisfy the said court about payments of the total amount of ₹12,70,000/- directly to the complainant. On default of the petitioner to pay the said amount, the petitioner will have to suffer simple imprisonment for a period of three months as ordered in the impugned judgment. Until 01.09.2018, all further coercive steps that may be taken against the petitioner for execution of the impugned sentence in this case will stand deferred. Registry will forward the certified copies of this order to the trial court and to the 1<sup>st</sup> respondent/complainant.

With these observations and directions this revision petition is finally disposed of.

Sd/-

**ALEXANDER THOMAS,  
JUDGE**

DSV/22/8/17

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P.A. To Judge