



2026:KER:43007

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

WEDNESDAY, THE 17<sup>TH</sup> DAY OF JUNE 2026 / 27TH JYAISHTA, 1948

CRL.REV.PET NO. 520 OF 2026

AGAINST THE JUDGMENT DATED 11.03.2025 IN CRL.A NO.59 OF 2023 OF  
ADDITIONAL DISTRICT COURT & SESSIONS COURT - IV, KOTTAYAM ARISING OUT OF  
THE JUDGMENT DATED 14.03.2022 IN S.T. NO.2362 OF 2016 OF JUDICIAL FIRST  
CLASS MAGISTRATE COURT-III, KOTTAYAM

REVISION PETITIONER/APPELLANT/ACCUSED:

SUMI PRASAD  
AGED 43 YEARS  
W/O PRASAD, SNEHA BEAUTY PARLOUR, NEAR ANJALI JWELLARY,  
MUNDAKKAYAM P.O, KOTTAYAM, PIN - 686513

BY ADVS.  
SHRI.ASWIN P KUMAR  
SHRI.M.C.SURESH  
SMT.SAIRA SOURAJ P.

RESPONDENTS/RESPONDENTS/COMPLAINANT AND STATE:

- 1 SREE GOKULAM CHITS AND FINANCE (P) LTD.  
HAVING ITS CENTRAL OFFICE AT NO. 66, ARCOT ROAD,  
KODAMBAKKAM, CHENNAI. HAVING ITS DIVISIONAL OFFICE AT  
PRAKKATTU BUILDING, 1ST FLOOR, CENTRAL JUNCTION, KOTTAYAM-1,  
REPRESENTED BY ITS POWER OF ATTORNEY HOLDER K.R. SIBU, AGED  
53 YEARS, S/O RAJAN, KARUKAKKUTTIKADAVU, KUMARAKOM,  
KOTTAYAM, PIN - 686513
- 2 STATE OF KERALA,  
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,  
ERNAKULAM, PIN - 682031

BY ADVS  
SRI.RAJESH CHAKYAT  
SR PP - VIPIN NARAYAN A.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON  
17.06.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**“C.R”****ORDER****Dated this the 17<sup>th</sup> day of June, 2026**

This criminal revision petition has been filed under Sections 438 and 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023, challenging the judgment dated 11.03.2025 in CrL.Appeal No.59/2023 on the files of the Additional Sessions Judge-IV, Kottayam confirming the conviction and sentence imposed by the Judicial First Class Magistrate Court-III, Kottayam as per the judgment dated 14.03.2022 in S.T. No.2632/2016. The revision petitioner herein is the accused in the above case and the respondents are the complainant and the State of Kerala.

2. Heard the learned counsel for the revision petitioner, the learned counsel appearing for the 1<sup>st</sup> respondent and the learned Public Prosecutor, in detail. Perused the judgments under challenge as well as the relevant materials available.

3. Parties in this criminal revision petition shall be



referred as 'accused' and 'complainant', hereafter.

4. In this matter, the prosecution case is that, when the two cheques issued by the accused in favour of the complainant for Rs.30,000/- and Rs.40,000/- each got dishonored, the complainant lodged prosecution. On evidence, the learned Magistrate found that the accused had committed the offence punishable under Section 138 of the Negotiable Instruments Act [hereinafter referred as 'N.I. Act' for short] and sentenced her as under:

*"Hence, the accused is sentenced to pay a fine of Rs.40,000/- u/s 138 of Negotiable Instruments Act. In default of payment of fine she shall undergo simple imprisonment for a period of three months.*

*The accused is further sentenced to pay a fine of Rs.30,000/- u/s 138 of Negotiable Instruments Act. In default of payment of fine she shall undergo simple imprisonment for a period of two months. Fine amount as and when realized, shall paid as compensation to complainant u/s 357(1) of Criminal Procedure Code."*

5. Though appeal has been preferred by the accused before the Additional District and Sessions Court



challenging the conviction and sentence imposed by the learned Magistrate, the appeal was dismissed and the judgment rendered by the learned Additional Sessions Judge reads as under:

*"Appellant absent. Counsel for appellant submitted no instruction from the appellant. R2 present. Heard. Perused the Judgment of trial Court and the evidence and records. I don't find any reason to interfere with the finding of the trial court, Appeal dismissed."*

6. It is argued by the learned counsel for the accused that, the two cheques were issued by the accused as surety to a chitty transaction. Therefore, the concurrent finding of the learned Magistrate and the Sessions Judge would require interference.

7. Whereas, the otherside opposed interference in the concurrent verdicts impugned on the submission that, no illegality or improbability could be found in the verdicts to interfere the same by exercising the power of revision.

8. Here, on perusal of the verdict rendered by the learned Additional Sessions Judge, in the absence of the



appellant, since the counsel for the appellant submitted that no instruction from the appellant, the learned Additional Sessions Judge simply written a judgment as *'Heard. Perused the Judgment of trial Court and the evidence and records. I don't find any reason to interfere with the finding of the trial court, Appeal dismissed'*.

9. On reading the manner in which the learned Additional Sessions Judge delivered judgment in a criminal appeal, where the appellant/accused challenged conviction and sentence imposed against her, the same appears to be shocking. It is the well settled law that, a judgment in a criminal case, when challenged in an appeal, particularly when the same is one challenging the conviction and sentence imposed against the appellant/accused, it is the duty of the Appellate Court to decide the appeal on merits, after re-appreciating the evidence and enter into a conclusion. It is the equally settled law that, when both the appellant and counsel for the appellant are absent, the Court may appoint a State Brief to hear the appeal on merits and dispose of the



same. In the absence of the counsel for the appellant or appellant, if the Court is inclined to decide upon the case, then also, the Court has to discuss the evidence and re-appreciate the evidence, after raising points for determination and render a judgment with reasons. So, on no stretch of imagination, rendering a judgment in a criminal appeal as extracted hereinabove is legally permissible. In this regard, the learned Additional Sessions Judge lost sight of the legal principles and the same is quite unfortunate.

10. In view of the above, the judgment impugned is set aside and the matter is remanded back to the learned Additional Sessions Court-IV, Kottayam, who delivered the impugned judgment, for hearing the counsel for the appellant or to appoint a State Brief, to argue on behalf of the appellant and dispose of the appeal on merits, without fail. The parties are directed to appear before the learned Additional Sessions Judge-IV, Kottayam at 10.00 a.m. on 17.07.2026.

11. The learned Additional Sessions Judge is



specifically directed to hear the appeal as directed above and pronounce judgment, within a period of four weeks from 17.07.2026.

12. Accordingly, the revision petition stands allowed as above.

Registry is directed to forward a copy of this order to the Sessions Court within ten days for information and compliance.

**Sd/-  
A. BADHARUDEEN  
JUDGE**

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