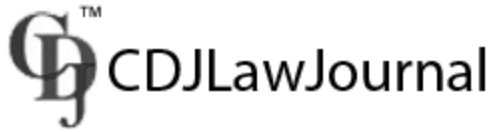


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Citation : CDJ 2026 Ker HC 271

Court : High Court of Kerala

Case No : CrI.Rev.Pet No. 776 of 2020

Judges : THE HONOURABLE MR. JUSTICE JOHNSON JOHN

Parties : P. Vijayan Versus George & Company, Thrissur, Rep By K. M. Unni & Another

Appearing Advocates : For the Appellant: M. Shaju Purushothaman, K.S. Rajesh, Advocates. For the Respondents: K.B. Gangesh, Advocate, M.N. Maya, Public Prosecutor.

Date of Judgment : 17-02-2026

Head Note :

Criminal Procedure Code - Section 219 -

Comparative Citations:

2026 KER 13915, 2026 (2) KLT(SN) 4 (C.No. 3)

Judgment :

1. The revision petitioner is the accused in a case under Section 138 of the Negotiable Instruments Act, 1881 ('N.I Act' for short).
2. The trial court convicted and sentenced the accused to undergo simple imprisonment for seven months and to pay a compensation of Rs.7,23,500/- and in default of payment of compensation, to undergo simple imprisonment for two months. The appellate court, as per judgment dated 15.09.2020 in CrI. Appeal No. 193 of 2015, confirmed the conviction, but modified the sentence to undergo simple imprisonment till rising of the court and to pay a compensation of Rs.7,23,500/- and in default of payment of compensation, to undergo simple imprisonment for two months.
3. The main contention of the revision petitioner is that the trial is vitiated, in as much as the trial court conducted joint trial of the dishonour of 5 cheques in violation of Section 219 Cr.P.C.
4. Heard Sri. M. Shaju Purushothaman, the learned counsel for the revision petitioner, Sri. K.B. Gangesh, the learned counsel for the first respondent and Smt. Maya M.N., the learned Public Prosecutor for the second respondent

5. The learned counsel for the revision petitioner argued that the dishonour of each cheque is a separate cause of action and in the absence of satisfactory evidence to show that the multiple cheques were issued in connection with the same transaction as provided under Section 220 (1) Cr.P.C., the trial court and the appellate court were not justified in convicting the accused for the offence under Section 138 of the N.I Act. In this connection, the learned counsel for the revision petitioner relied on the decisions of the Honourable Supreme Court in *Sumit Bansal v. M/s. MGI Developers and Promoters* [2026 KHC OnLine 6030] and in *Re: expeditious Trial of Cases Under Section 138 of the N.I Act, 1881* reported in 2021 (3) KLT 10 (SC) and *Mohan Baitha and others v. State of Bihar and another* [(2001) 4 SCC 350].

6. The learned counsel for the first respondent argued that the specific averment in paragraph 2 of the complaint that the accused purchased steel items on various occasions and part payments were made on different occasions and issued 5 cheques towards the balance due on 24.12.2009, 31.12.2009, 20.02.2010, 04.03.2010 and 06.03.2010, is not challenged while cross examining PW2, Managing Partner of the complainant company. It is argued that when multiple cheques are issued by the accused towards discharge of the balance due in connection with the same transaction, a joint trial is permissible under Section 220(1) Cr.P.C and the decision of the Honourable Supreme Court in *Mohan Baitha (supra)* would clearly show that whether the cheques issued as part of the same transaction is a question of fact to be determined in the circumstances of the case having regard to the factors, such as proximity of time and place and continuity of action and purpose or design. In this connection the learned counsel for the first respondent also cited the decision of this Court in *Mohammed v. State of Kerala* [2004 (3) KLT 330], wherein it was held that the offence under Section 138 of the N.I Act in respect of 6 cheques issued as part of the same transaction, can be tried jointly.

7. The learned counsel for the first respondent also cited the decision of the Punjab and Haryana High Court in *Sh. Charashni Kumar Talwani v. Malhotra Poultries, Naraingarh Road, Barwala.* [2014 KHC 3295] and the decision of the Delhi High court in *Pawan Dhanpatrai Malhotra v. Mahender Khari* [2024 KHC 5639] to point out that a single complaint and issuance of a single notice is maintainable for multiple cheques issued by the accused for the same cause of action.

8. In the chief affidavit of PW2, Managing partner, the averments in paragraph 2 of the complaint are reiterated and a perusal of the cross examination would show that no specific challenge is raised regarding the averment that the accused purchased steel items on various occasions and issued 5 cheques towards the balance due. It is pertinent to note that the cheques in question were issued during the period from 24.12.2009 to 06.03.2010 and therefore, considering the facts and circumstances, I find that the trial court and the appellate court are justified in arriving at a conclusion that the cheques form part of the same transaction and that in view of Section 220 Cr.P.C., cheques issued as part of the same transaction can be jointly tried.

9. It is well settled that revisional power is a type of supervisory jurisdiction meant to rectify injustices and it is not the same as the appellate jurisdiction, as held by the Hon'ble Supreme Court in *State of Kerala v. Puttumana Illath Jathavedan Namboodiri* [(1999) 2 SCC 452]. The revisional court cannot re-appreciate the evidence, unless there are glaring indications of a grave injustice or a blatant violation of the law.

10. It is also well settled that while considering the legality, propriety or correctness of a finding or a conclusion, normally the revisional court does not dwell at length upon the facts and evidence of the case and the revisional court considers the material only to satisfy itself about the legality and propriety of the findings and the revisional court cannot substitute its own conclusion on an elaborate consideration of evidence as held by the Hon'ble Supreme Court in *Amit Kapoor v. Ramesh Chander and*

Another [(2012) 9 SCC 460] and Kishan Rao v. Shankargauda [(2018) 8 SCC 165].

11. Therefore, on a careful consideration of the facts and circumstances of the case, I find that there is no illegality, perversity or infirmity which necessitates the interference of this Court in revision.

In the result, the revision petition is dismissed.

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