

ismail Vs. State of Kerala

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Court : Kerala

Decided On : Dec-20-2012

Judge : Honourable Mr.Justice S.Siri Jagan

Appellant : ismail

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE S.SIRI JAGAN THURSDAY, THE 20TH DAY OF DECEMBER 2012 29TH AGRAHAYANA 193 CrI.Rev.Pet.No. 2322 of 2004 (A) ----- CRA.419/1997 of D.C. & SESSIONS COURT,THALASSERY CC.88/1996 of J.M.F.C.,KUTHUPARAMBA REVISION PETITIONER(S)/APPELLANTS/ACCUSED: ----- ISMAIL S/O. MANNUTTY, MARIYADAN HOUSE, MALUR AMSOM, THOLAMBRA DESOM KANNUR DISTRICT. BY ADV. SRI.CIBI THOMAS COMPLAINANT(S)/COMPLAINANT & STATE: ----- STATE OF KERALA, REP.BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM. BY PUBLIC PROSECUTOR SMT.SEENA RAMAKRISHNAN THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 20-12-2012, ALONG WITH CRL.R.P.NO.2346/2004 THE COURT ON THE SAME DAY PASSED THE FOLLOWING: S.SIRI JAGAN, J.

Dated this the 20th day of December, 2012

ORDER

The petitioners in these Criminal Revision Petitions are accused Nos.1 and 2 in C.C.No.88/1996 before the Judicial First Class Magistrate's Court, Kuthuparamba. They were prosecuted for an offence punishable under Section 379 read with Section 34 of the Indian Penal Code.

2. The Magistrate narrated the prosecution case thus: "2. On the night of 7.12.95 at or about 7.30 PM in Tholambra amson at Kottumanda, all accused committed theft of 30 kgs. of latex (.2Gal^W.) worth Rs. 750/- kept into two sacks from the shed belonging to Taiparambil Joseph, S/o.Thomas and in that the accused are alleged to have committed the above said offence." 3. The prosecution examined PWs.1 to P4 and, marked Exts.P1 to P3 and MO1 series. The accused did not adduce any evidence. Out of three, one accused was absconding and therefore the case against him was split up and the calendar case was proceeded against the petitioners herein. After considering the evidence of the prosecution, the Magistrate convicted the petitioners and sentenced them to undergo rigorous imprisonment for six months each. The petitioners filed Crl.R.P.2322/04 & cc - :

2. :- Crl.Appeal Nos.419/1997 and 22/1998 before the Sessions Court, Thalassery, which were dismissed. The petitioners are challenging the judgments of the courts below.

4. After arguing for some time, the learned counsel for the petitioners confines relief for leniency in the matter of punishment.

5. I have heard the learned Public Prosecutor also on this question.

6. Taking a lenient view, I reduce the sentence of both petitioners to four months' rigorous imprisonment instead of six months' rigorous imprisonment. The Criminal Revision Petitions are disposed of as above. Sd/- sdk+ S.SIRI JAGAN, JUDGE
///True copy/// P.A. to Judge