

Susbhash Vs. State of Kerala

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Court : Kerala

Decided On : Aug-27-2013

Judge : Honourable Mr.Justice K.Harilal

Appellant : Susbhash

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE K.HARILAL TUESDAY, THE 27TH DAY OF AUGUST 2013 5TH BHADRA, 1935 CrI.Rev.Pet.No. 1551 of 2012 ()
----- AGAINST THE

JUDGMENT

IN CRL.A. 106/2011 of ADDL. SESSIONS COURT-I,MAVELIKKARA DATED 23 05-2012 AGAINST THE

JUDGMENT

IN CC 686/2008 of J.M.F.C., KAYAMKULAM DATED 4 2/2011 REVISION PETITIONER(S)/A1: ----- SUBHASH AGED 3 YEARS, S/O. BALAKRISHNAN, PORULA PADEETTITHIL, MENAMPALLIL MURI, PERINGALA VILLAGE. BY ADVS.SRI.M.V.THAMBAN SRI.R.REJI SMT.THARA THAMBAN SRI.B.BIPIN RESPONDENTS/STATE: ----- 1. STATE OF KERALA, REPRSENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,

ERNAKULAM, REPRESENTING THE SUB INSPECTOR OF POLICE POLICE STATION, KAYAMKULAM DISTRICT. ADDL.2.KUTTY, AGED 6 YEARS, D/O. KARFUMBI, RESIDING AT HARIKRISHNA BHAVAN, PATHIYOOR KIZHAKKU MURI, PATHIYOOR VILLAGE, KAYAMKULAM, ALAPPUZHA DISTRICT. IS IMPLEADED AS ADDITIONAL 2 D RESPONDENT AS PER THE ORDER DATED 17 8/12 IN CRL.M.A.NO.6278/12 IN CRL.R.P. NO.1551/12. R1 BY PUBLIC PROSECUTOR THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 27-08-2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: K. HARILAL, J.

----- Crl.R.P. No.1551 of 2012
----- Dated this the 27th day of August, 2013
ORDER The revision petitioner is the first accused in C.C.No.686/08 on the files of the Judicial First Class Magistrate's Court, Kayamkulam. He was prosecuted for the offence punishable under Sec.420 read with Sec.34 of the Indian Penal Code along with another accused. After trial, the learned Magistrate found the revision petitioner guilty of the said offence and convicted thereunder. He was sentenced to undergo simple imprisonment for a period of three months under Sec.420 IPC and he was directed to pay a compensation of Rs.45,000/- to P.W.1 under Sec. 357(3) of the Code of Criminal Procedure. In default of payment of compensation, to undergo simple imprisonment Crl.R.P. No.1551 of 2012 -:

2. :- for a period of six months. Though he had preferred Crl. Appeal No.106/11 before the Additional Sessions Court-I, Mavelikara, after re-appreciating the entire evidence on record, the learned Sessions Judge also confirmed the verdict of guilty, conviction and sentence thereunder, as such, without any interference. This revision petition is filed challenging the concurrent findings of conviction and sentence imposed on the revision petitioner.

2. Though this revision petition had been filed on various grounds challenging the merits of the impugned judgment also, the learned counsel for the revision petitioner submits that the sentence alone is sought to be challenged in this revision petition. The learned counsel submits that the sentence imposed on the revision petitioner is excessive, harsh and disproportionate with the nature and

gravity of the offence.

3. The learned Public Prosecutor also submits that a reasonable modification can be made in the sentence. Having regard to the facts of the prosecution case, I am of the opinion that the sentence imposed on the revision Crl.R.P. No.1551 of 2012 -:

3. :- petitioner is too harsh, excessive and disproportionate with the nature and gravity of the offence as argued by the learned counsel for the revision petitioner.

4. Consequently, in supersession of the sentence imposed by the trial court and confirmed by the appellate court, the revision petitioner is sentenced to pay a compensation of Rs.45,000/- (Rupees forty five thousand only) within a period of two months from today to P.W.1. He shall appear before the trial court either in person or through counsel on or before 28/10/2013 with sufficient proof to show the payment of compensation. In default, the revision petitioner shall undergo simple imprisonment for a period of six months. This revision petition is disposed of as above. Sd/- (K. HARILAL, JUDGE) Nan/ //true copy// P.S. to Judge

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