

Sajeevan Vs. State of Kerala

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Court : Kerala

Decided On : Jan-01-2014

Judge : Honourable Mr.Justice Harun-Ul-Rashid

Appellant : Sajeevan

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE HARUN-UL-RASHID WEDNESDAY, THE 11TH DAY OF JANUARY 2014 11TH POUSHA, 1935 CrI.MC.No. 6269 of 2013 ()
----- AGAINST THE

JUDGMENT

IN CC602010 of JUDICIAL FIRST CLASS MAGISTRATE COURT ALATHUR O.R. NO. 7/1998 OF NELLIAMPATHY FOREST RANGE OFFICE , PALAKKAD PETITIONER(S)/PETITIONERS: ----- 1. SAJEEVAN AGED 33 YEARS PARAMBIKKATTIL HOUSE, VALLAPPADI, PERAMBRAM KODAKARA, THRISSUR 2 BIJU AGED 35 YEARS S/O.KURIAKOSE, ELEVANKUDI HOUSE, KAYARADI ALATHUR, PALAKKAD DIST 3 DIXON AGED 46 YEARS S/O.ANTONEY, PAZHUMKARAM HOUSE, AMBALLUR MUKUNDAPURAM, THRISSUR DIST BY ADVS.SRI.P.SANTHOSH (PODUVAL) SMT.R.RAJITHA RESPONDENT/STATE: ----- STATE OF KERALA REP BY THE PUBLIC PROSECUTOR , HIGH COURT OF

KERALA ERNAKULAM, KOCHI-682031 BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 01-01-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: CrI.MC.No. 6269 of 2013 () ----- APPENDIX PETITIONERS' ANNEXURES ----- A:- TRUE COPY OF THE CHARGE SHEET IN OR NO 790 OF NELLAMPATHY FOREST RANGE B:- TRUE COPY OF THE

JUDGMENT

DTD303/07 IN CC74201 JUDICIAL FIRST CLASS MAGISTRATE COURT, ALATHUR C:- TRUE COPY OF THE

JUDGMENT

IN CC NO19107 DTD161/2010 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, ALATHUR RESPONDENT(S)' EXHIBITS : NIL ----- \\ TRUE COPY \\ PA TO JUDGE jm/ HARUN-UL-RASHID, J.

----- CrI. M.C No. 6269 of 2013 ----- Dated this the 01st day of January, 2014.

ORDER

Petitioners are the accused Nos. 1 to 3 in O.R No. 7/99 of Nelliampathy Forest Range. The offences alleged are punishable under Sections 27(1)(e)(iii) and (iv) of Kerala Forest Act. The CrI.M.C is filed seeking to quash Annexure-A charge sheet and all proceedings in C.C No. 60/10 on the file of the Judicial First Class Magistrate Court, Alathur.

2. There are 12 accused in the crime. Accused Nos. 10 to 12 were acquitted by the Judicial First Class Magistrate Court, Alathur vide judgment dated 30.03.2007 in C.C No. 742/01. Subsequently, the accused Nos. 5, 7 and 8 faced the trial and were acquitted in C.C.No.191/07 on the file of the same court. It is submitted that out of the remaining accused, two of them are no more and one is in abroad. The learned Magistrate decided the case on merits vide Annexure-B and C judgments.

The learned Magistrate observes that he is unable to accept the version of complainant that P7 statement was given by A11 voluntarily and in the manner deposed by him and complainant's witnesses. It is stated that there is no evidence to prove the alleged commission of trespass into the forest area and removal of Rose wood timber by accused Nos. Crl. M.C No. 6269 of 2013 2 10 to 12. The statement of accused No.10 which inculcates the accused was not admitted in evidence. For these reasons, the court found that A10 to 12 are not guilty of the offences charged against them. In Annexure-B judgment, the court observes that the accused except 10 to 12 are implicated as per confession of accused No.10. The learned Magistrate found that the confession is not admissible in evidence. For the same reason, the learned Magistrate in Annexure-C judgment found that there no other source to proceed against accused Nos. 5,7 and 8 and that confession of accused No.10 is not binding on accused Nos. 5, 7 and 8. In the light of Annexure-B and C judgment, the offences alleged against the petitioners are liable to be quashed. Since the other accused were acquitted, for the very same set of reasons, this Court is of the view that no purpose would be served by continuing the prosecution against the petitioner. Accordingly, Crl.M.C is disposed of quashing Annexure-A charge sheet and all proceedings in C.C No. 60/10 on the file of the Judicial First Class Magistrate Court, Alathur. HARUN-UL-RASHID, JUDGE. Isn

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