

Reni Vs. State of Kerala

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Court : Kerala

Decided On : Feb-04-2014

Judge : Honourable Mr.Justice M.L.Joseph Francis

Appellant : Reni

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE M.L.JOSEPH FRANCIS TUESDAY, THE 4TH DAY OF FEBRUARY 2014 15TH MAGHA, 1935 CrI.Rev.Pet.No. 184 of 2014 ()
----- AGAINST THE

JUDGMENT

IN CRL.APPEAL 442013 of II ADDITIONAL SESSIONS COURT, THODUPUZHA
AGAINST THE

JUDGMENT

IN CC1052010 of J.M.F.C., KATTAPPANA CRIME NO. 8/2010 OF KATTAPPANA POLICE STATION , IDUKKI REVISION PETITIONER/APPELLANT/2ND ACCUSED: ----- RENI S/O. CHERIYAN, RESIDING AT MALAMACKAL HOUSE UDAYAGIRI KARA, THANKAMANY VILLAGE, IDUKKI DISTRICT. BY ADV. SRI.JOICE GEORGE
RESPONDENTS/STATE/COMPLAINANT:

----- STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM. R BY
PUBLIC PROSECUTOR, SMT P MAYA THIS CRIMINAL REVISION PETITION
HAVING BEEN FINALLY HEARD ON 31.1.2014, THE COURT ON 4.2.2014
PASSED THE FOLLOWING: M.L. JOSEPH FRANCIS J., -----

----- Crl.R.P. No.184 of 2014 -----

Dated this the 4th day of February 2014

ORDER

The revision petitioner is the 2nd accused in C.C. No.105 of 2010 on the files of the Judicial First Class Magistrate Court, Kattappana for commission of an offence punishable under Sections 184 and 185 of the Motor Vehicles Act and 294(b) and 353 read with Section 34 of the Indian Penal Code (in short 'the the IPC').

2. The trial court found that the revision petitioner /2nd accused guilty of the offence punishable under Section 353 of the IPC and sentenced him to undergo simple imprisonment for three months and to pay a fine of `3,000/- and in default of Crl.R.P. No.184 of 2014 :2: payment of fine, he shall undergo simple imprisonment for another one month. Aggrieved by the order of conviction and sentence passed by the trial court, revision petitioner /2nd accused filed Criminal Appeal No.44 of 2013 before the court of the II Additional Sessions Judge, Thodupuzha and having not succeeded in the appeal, the revision petitioner /2nd accused filed this Criminal Revision Petition.

3. Heard the learned counsel for the revision petitioner and the learned Public Prosecutor. The learned counsel for the revision petitioner submitted that the revision petitioner is not challenging the conviction under Section 353 of the IPC and that the only prayer is to modify and reduce the sentence as the revision petitioner is a first offender. Under Section 353 of the IPC the jail sentence is not mandatory. If the law permits, a sentence of fine as an alternative, there is no need of a sentence of imprisonment, unless demanded by the gravity of the offence Crl.R.P. No.184 of 2014 :3: or unless the antecedents of the offender demand it. Since the accused being a first offender, I am of the view that sentencing the accused to pay a fine of `3,000/- under Section 353 of the IPC

would meet the ends of justice. Accordingly this Crl.R.P. is allowed in part. The conviction of second accused Reni in C.C.No.105 of 2010 on the file of Judicial First Class Magistrate Court, Kattappana under Section 353 of the IPC is confirmed. The sentence is modified and he is sentenced to pay a fine of `3,000/- in default to undergo simple imprisonment for one month. Three months time is granted to the revision petitioner/2nd accused to remit the fine amount before the trial court. Sd/- M. L. JOSEPH FRANCIS, (JUDGE) dl/

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