

Haludheen Vs. State of Kerala

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Court : Kerala

Decided On : Feb-28-2014

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

Appellant : Haludheen

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE M.L.JOSEPH FRANCIS FRIDAY, THE 28TH DAY OF FEBRUARY 2014 9TH PHALGUNA, 1935 CrI.Rev.Pet.No. 42 of 2014 () ----- CRL.A2612012 of ADDL. SESSIONS COURT - V, PALAKKAD CC1842007 of J.M.F.C., ALATHUR PETITIONER/APPELLANT/ACCUSED: ----- HALUDHEEN, AGED 38 YEARS S/O. LATE MEERANKUTTY, ANAKKAPPARA ANJUMOORTHY MANGALAM.P.O., ALATHUR, PALAKKAD DISTRICT. BY ADV. SRI.JOHN JOSEPH(ROY) RESPONDENT/STATE: ----- STATE OF KERALA REPRESENTED BY THE SHO, VADAKKANCHERY POLICE STATION THROUGH THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA ERNAKULAM. BY PUBLIC PROSECUTOR, SMT SEENA RAMAKRISHNAN THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 28-02-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: M.L. JOSEPH FRANCIS J., ----- CrI.R.P. No.42 of 2014 ----- Dated this the 28th day of February

2014

ORDER

Petitioner herein is the appellant in Criminal Appeal No.261 of 2012 of the Additional Sessions Judge - V, Palakkad and the accused in C.C. No.184 of 2007 of the Judicial First Class Magistrate Court, Alathur and the respondent herein is the respondent/complainant in the appeal and complaint respectively. The offence alleged was under sections 341, 332, 294(b) and 353 of the Indian Penal Code (for short 'the the IPC') alleging that the accused had deterred CW1 from officiating his duty, wrongfully restrained CW1 and caused injury to him, and also used obscene language against CW1 on Crl.R.P. No.42 of 2014 :2:

10. 3.2007 at 18 hrs. and has committed the offences. Petitioner pleaded not guilty before the trial court. The trial court convicted the accused under sections 332 and 353 of the IPC and acquitted for the offences under 341 and 294(b) of the IPC and sentenced to undergo simple imprisonment for a period of 6 months and pay a fine of `1,000/- for the offence punishable under section 332 the IPC with default clause of further simple imprisonment for one month and is also sentenced to undergo simple imprisonment for a period of 3 months for the offence punishable under section 353 of the IPC and sentence was ordered to run concurrently.

2. The accused filed appeal before Addl. Sessions Judge- V, Palakkad as Criminal Appeal No.261 of 2012 which was allowed in part and the conviction of the accused under section 332 of the IPC was confirmed and the accused was sentenced to undergo simple imprisonment for three months and to pay a Crl.R.P. No.42 of 2014 :3: fine of `1,000/- in default to undergo simple imprisonment for 15 days. Against that judgment, the appellant/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 Sections 332 of the IPC and that the only prayer of the revision petitioner is to reduce the sentence as he is only a first offender. Since the courts below convicted the accused under Sections 332 of the IPC on properly appreciating the evidence on record, I do not find any

reason to interfere with the conviction of the accused. For offence under section 332 of the IPC, jail sentence is not mandatory. Considering the facts and circumstances of the case, I am of the view that sentencing the accused to pay a fine of `1,000/- under Section 332 of the the IPC, would meet the CrI.R.P. No.42 of 2014 :4: ends of justice. Accordingly the Criminal Revision Petition is allowed in part. The conviction of accused in C.C. No.184 of 2007 on the file of Judicial First Class Magistrate Court, Alathur under Sections 332 of the IPC is confirmed. The accused is sentenced to pay a fine of `1,000/- under Section 332 of the IPC in default to undergo simple imprisonment for 15 days. Three months time is granted to revision petitioner to remit the fine amount before the trial court. Sd/- M. L. JOSEPH FRANCIS, (JUDGE) dl/ // TRUE COPY // PA TO JUDGE

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