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K.D.Thomas Vs. State of Kerala

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Court : Kerala

Decided On : Feb-26-2014

Judge : Honourable Mr.Justice B.P.Ray

Appellant : K.D.Thomas

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE B.P.RAY WEDNESDAY, THE26H DAY OF FEBRUARY20147TH PHALGUNA, 1935 Crl.Rev.Pet.No. 2182 of 2004 (C) ---------- CRA552001 of SESSIONS COURT, KASARAGOD SC1931998 of ASSISTANT SESSIONS COURT, KASARAGOD REVISION PETITIONERS/APPELLANTS/ACCUSED1& 3: ---------- 1. K.D.THOMAS,S/O. SEBASTIAN, THANNIKERIYIL HOUSE, PAYYANNUR, THALIPARAMBA.

2. K.HARIDAS SHENOY,S/O. K.RAGHAVAN SHENOY, KOTTENCHERY, KANHANGAD BALLA VILLAGE, HOSDURG TALUK, KASARAGOD. BY ADV. SRI.B.RAMAN PILLAI SRI. GEORGE PHILIP SRI. R. ANIL SRI. RAJU RADHAKRISHNAN SRI. ANIL K. MUHAMMED SRI. DELIVIN JACOB MATHEWS RESPONDENT/COMPLAINANT:- ---------- STATE REP. BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM. BY SHRI. THOMAS JOHN AMBOOKAN, GOVERNMENT PLEADER THIS CRIMINAL

REVISION PETITION HAVING BEEN FINALLY HEARD ON2602-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: B.P. RAY, J.

- - - - - - - - - - - - - - - - - Crl. R.P. No. 2182 of 2004 - - - - - - - - - - - - - - - - - Dated this the 26th day of February, 2014.

ORDER

The petitioners, who are accused Nos. 1 and 3 in S.C. No. 193 of 1998 on the file of Assistant Sessions Court, Kasaragod for offences punishable under Sections 332 and 353 IPC, challenge the conviction and sentence passed by the courts below.

2. The case of the prosecution is as follows: On 04.02.1996, at 11.45 a.m., accused Nos. 1 and 2 in furtherance of their common intention to deter CW1 from discharging his duty used criminal force on CW1, a public servant engaged in duty as Sales Tax Officer at Gualigopura in Padre Village and made him to get into Lorry No. KL-14-6898 driven by the 1st accused. They wrongfully confined him in the lorry and threatened to kill CW1 and caused alarm to him and pushed him out of the lorry and caused hurt to him.

3. Prosecution examined 12 witnesses as PWs 1 to 12 and Exts.P1 to P11 were marked. On the side of defence, two witnesses were examined as DWs 1 and 2 and Exts. D1 to D4 were also marked.

4. The learned Sessions Judge, after trial, as per judgment dated 19.02.2001 found the revision petitioners guilty of the Crl.R.P. No. 2182/2004 :

2. : offences and each of them was sentenced to undergo rigorous imprisonment for one year for offences punishable under Sections 332 and 353 IPC. Accused No.2 was acquitted under Section 235 Cr.P.C. Even though the revision petitioners filed an appeal before the Sessions Judge, Kasaragod as Crl. Appeal Nos. 55 and 56 of 2001, the learned Sessions Judge as per judgment dated 28.06.2004 dismissed the appeal confirming the conviction entered and the sentence passed by the trial court. Hence this revision.

5. The learned counsel for the revision petitioners contends that the petitioners were falsely implicated in the case and they have undergone custody for 20 and 23 days respectively. It is submitted that the alleged incident occurred in the year 1996 and for the last 18 years, they are facing the trauma of prosecution.

6. Taking a lenient view of the matter, I modify the sentence by reducing the same to the period of detention already undergone by them and to pay a fine of ` 5000/- (Rupees five thousand only) each and in default to pay the fine, to undergo simple imprisonment for three months. Fine amount shall be deposited on or before 31st March, 2014. Revision Petition is disposed of as above. sd/- B.P. RAY, JUDGE. rv Crl.R.P. No. 2182/2004 :

3. :

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