

Narayanan Vs. State

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Court : Kerala

Decided On : Jun-09-2014

Judge : Honourable Mr. Justice P.Ubaid

Appellant : Narayanan

Respondent : State

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE
HONOURABLE MR. JUSTICE P.UBAID MONDAY,THE9H DAY OF
JUNE201419TH JYAISHTA, 1936 Crl.Rev.Pet.No. 597 of 2002 ()
----- AGAINST THE

ORDER

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JUDGMENT

IN CRL.A1391997 OF THE SESSIONS COURT,THODUPUZHA AGAINST THE

JUDGMENT

IN CC1321995 of JUDICIAL MAGISTRATE OF THE FIRST CLASS - I ,
THODUPUZHA REVISION PETITIONER(S)/APPELLANT/ACCUSED:
----- 1. NARAYANAN,
S/O.KRISHNAN, KOTTAYIL UDMBANNOOR VILLAGE, THODUPUZHA TALUK.

2. SOMAN, S/O.KRISHNAN, DO.DO.DO BY ADVS.SRI.T.I. ABDUL SALAM SRI.P.CHANDY JOSEPH RESPONDENT(S)/RESPONDENTS/COMPLAINANTS:

----- 1. STATE OF KERALA, REP. BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

2. FOREST RAGNE OFFICER, THODUPUZHA. BY PUBLIC PROSECUTOR SMT. LILLY LESLIE THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 09.06.2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: P.UBAID, J.

----- Crl. R.P No. 597/2002 ----- Dated this the 9th day of June, 2014.

ORDER

The revision petitioners challenge the conviction and sentence against them under Section 27 (1) (a) (iv) of The Kerala Forest Act. The prosecution case is that on 26.08.1994 the revision petitioners unauthorizedly trespassed into the Government forest at Kuzhimattam beat of the Thodupuzha forest range. The offence was detected by the forest guards on beat duty in the forest. The accused were found carrying teak pieces, but they were not arrested on the spot by the forest guards. The forest guards collected their name and address, let them go, without making arrest for the reason that they are persons of the locality, and seized the teak pieces as per mahazar. The revision petitioners pleaded not guilty in the trial court. The prosecution examined four witnesses in the trial court also marked Exts. P1 to P3. Of the four witnesses, PW1 and PW4 are the Crl. R.P No. 597/2012 2 forest guards who claim to have detected the offence. The evidence given by PW2 and PW3 is only formal regarding registration of the Form I report and filing of complaint. Believing the evidence of PW1 and PW4 the trial court (Judicial First Class Magistrate Court - I, Thodupuzha) convicted the revision petitioners under Section 27 (1) (e) (iii) and 27 (1) (e) (iv) of the Kerala Forest Act. On conviction, they were sentenced to undergo simple imprisonment for one year and to pay fine of Rs. 1,000/- (Rupees One thousand only) each under the two sections. Aggrieved by the conviction and sentence the revision petitioners approached the Court of

Session, Thodupuzha with CrI. A13997. In appeal the learned Sessions Judge set aside the conviction under Section 27 (1) (e) (iii) of the Kerala Forest Act but confirmed the conviction and sentence under Section 27 (1) (e) (iv) of the the Kerala Forest Act.

3. On hearing the learned Counsel and the learned Public Prosecutor, and also on a perusal of the case records I find that the prosecution has not proved the case beyond doubt. Of course, the trial court believed the evidence given by PW1 and CrI. R.P No. 597/2012 3 PW4. They claim to have seen the revision petitioners in the Government forest, but there is no explanation why they were not arrested on the spot. There is also no explanation why their signature was not obtained in the detection mahazar. The explanation given by the forest guards that they allowed the revision petitioners to go from the place on the ground that they are locals, cannot be accepted as satisfactory explanation.

4. I find that the evidence given by PW1 and PW4 is really not free from doubt. On a perusal of the case records I find no satisfactory explanation for the failure of the witnesses to arrest the accused on the spot, and also for not obtaining their signature in the detection Mahazar. In fact the forest guards who detected the offence cannot assume the role of investigating officer. They stated that they were satisfied of the identity of the accused, and so they let them go. Such a casual and irresponsible evidence given by the witnesses explaining the failure to arrest the accused on the spot cannot be accepted by the court. I find that it is really doubtful whether the forest guards examined as PW1 and PW4 had in fact seen the revision CrI. R.P No. 597/2012 4 petitioners in the Government forest. The benefit of this serious doubt will have to be given the revision petitioners, and on this benefit they can be granted an acquittal. I find that the prosecution has not satisfactorily proved the case beyond reasonable doubt against the revision petitioners. Accordingly, the conviction and sentence against their under Section 27 (1) (e) (iv) of the Kerala Forest Act are set aside, and they are acquitted in revision. P.UBAID, JUDGE sab