

Chandrahasan vs State of Kerala

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Court : Kerala

Decided On : Mar-28-2025

Judge : Honourable Mr.Justice K. V. Jayakumar

Appeal No. : Crl.Rev.Pet/671/2012

Appellant : Chandrahasan

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE K. V. JAYAKUMAR
FRIDAY, THE 28TH DAY OF MARCH 2025 / 7TH CHAITHRA, 1947
CRL.REV.PET NO. 671 OF 2012 AGAINST THE JUDGMENT DATED
02.02.2011 IN CrI.A NO.385 OF 2010 OF SESSIONS COURT,
KASARAGOD ARISING OUT OF THE JUDGMENT IN SC NO.511 OF
2006 OF ASSISTANT SESSIONS COURT, HOSDURG
PETITIONER/APPELLANT/2ND COUNTER PETITIONER:
CHANDRAHASAN, AGED 40 YEARS S/O MALINGAN, MANGAD,
BARA VILLAGE, HOSDURG TALUK, KASARGOD. BY ADVS.
SMT.HEMALATHA SRI.BINU GEORGE

RESPONDENT/RESPONDENT/STATE: STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM. OTHER PRESENT: Sri. Ranjit George-PP THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 28.03.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

This Criminal Revision Petition is preferred impugning the

judgment of the Sessions Judge, Kasargod in Crl.Appeal No.385/2010

dated 02.02.2012.

2. The petitioner, Chandrahasan, was the second counter

petitioner in M.C.No.9/2010 on the file of the Assistant Sessions Judge, Hosdurg. The petitioner stood as surety to the accused in S.C.No.511/2006 on the file of Assistant Sessions Judge, Hosdurg. Later, the accused in S.C.No.511/2006 absconded and aforesaid MC was registered against the petitioner. Vide order dated 03.09.2010, the learned Assistant Sessions Judge, Hosdurg imposed a penalty of Rs.25,000/- on the petitioner.

3. Aggrieved by the order of the Assistant Sessions Judge,

the petitioner preferred Crl.Appeal No.385/2010 before the Sessions Judge, Kasaragod. The Sessions Judge dismissed the said appeal on the ground of limitation, through a non-speaking order. The judgment of the learned Sessions Judge reads thus: This appeal is barred by limitations. Hence dismissed.

4. The grievance of the revision petitioner is that, learned

Sessions Judge dismissed the Criminal Appeal, without affording an opportunity of hearing to the revision petitioner. The petitioner did not receive any notice from the Assistant Sessions Judge so that, he could not appear before the trial court.

Adv.Hemalatha, learned counsel for the petitioner further submitted that the petitioner has not deliberately violated the orders of the Assistant Sessions Judge and the non- appearance was not wilful or deliberate. The learned counsel further contended that the fine is too harsh and excessive.

5. The learned Public Prosecutor submitted that, fine

imposed by the Assistant Sessions Judge is fair and reasonable. Admittedly, Criminal Appeal was disposed of by the learned Sessions Judge, without affording an opportunity for a hearing to the revision petitioner. The non-speaking order is silent with respect to the fact that whether a petition for condonation of delay was filed before that Court or not. It is trite law that, once a Criminal Appeal is filed, it is to be disposed of on merits.

6. However, it would be a farcical/futile exercise to remand back this case to the Sessions Court after a long gap of 15 years. Considering the facts and circumstances of the case, I am of the view that,

the penalty imposed by the Assistant Sessions Judge is too harsh and excessive. Therefore, the impugned order of the Assistant Sessions Judge, Hosdurg in M.C.No.9/2010 is modified and the fine amount is reduced from Rs.25,000/- to Rs.15,000/-. In the result, Criminal Revision Petition is allowed in part with the above directions. Sd/- K. V. JAYAKUMAR JUDGE Sbna/

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