

Mohammed vs State of Kerala

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SooperKanoon Citation : sooperkanoon.com/1293766

Court : Kerala

Decided On : Feb-21-2024

Judge : Honourable Mr. Justice P.Somarajan

Appeal No. : Crl.Rev.Pet/553/2023

Appellant : Mohammed

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.SOMARAJAN
WEDNESDAY, THE 21ST DAY OF FEBRUARY 2024 / 2ND
PHALGUNA, 1945 CRIME NO.3/2011 OF KARULAI FOREST RANGE
OFFICE, MALAPPURAM AGAINST THE JUDGMENT IN CRL.A 77/2018
OF ADDITIONAL SESSIONS COURT (SPECIAL COURT FOR SC/ST
(POA) ACT & NDPS ACT CASES), MANJERI CC 27/2013 OF JUDICIAL
MAGISTRATE OF FIRST CLASS -II (FOREST OFFENCES), MANJERI
REVISION PETITIONER/1ST APPELLANT/1ST ACCUSED:
MOHAMMED AGED 61 YEARS S/O ALAVIKKUTTY,
MUDAVANKULAVAN HOUSE, CHOLAMUNDA, KARAPPURAM PO,
NILAMBUR TALUK, MALAPPURAM DISTRICT, PIN - 679331 BY ADVS.

P.SAMSUDIN JITHIN LUKOSE MILAN RACHEL MATHEW
RESPONDENT/RESPONDENT/STATE: STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, PIN - 682031 BY ADV.SMT. NIMA JACOB -PUBLIC
PROSECUTOR THIS CRIMINAL REVISION PETITION HAVING COME
UP FOR HEARING ON 21.02.2024, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

ORDER

A Gazette notification issued by the Government

primarily would come under the purview of public document. When a certified copy was produced by the Divisional Forest Officer after attestation as true copy can be accepted, unless found to be a forged one. That noble principle was not adhered to by the first appellate court, but has adopted an easy method of disposal of a crime registered alleging forest offence by ordering a remand on that flimsy ground. Production of original of Gazette notification shall

not be insisted invariably in all cases when attested copy is produced and that would be sufficient to discharge the initial burden. Section 78 of the Evidence Act permits admissibility of public documents including notification when it is certified by the head of the said department, if it forms the records kept by that department. Necessarily, a certification made by the head of the forest department, Divisional Forest Officer, pertaining to a document kept by them, a gazette notification, would be a valid document admissible in evidence by Section 78(1) of the Evidence Act. Necessarily, the remand order passed by the first appellate court is unwarranted and cannot be sustained. The impugned

judgment will stand set aside with a direction to

the first appellate court to dispose of the matter in accordance with law, for which the parties shall appear on 25/03/2024. The Criminal Revision Petition will stand allowed accordingly. Sd/- P.SOMARAJAN JUDGE SPV