

Antony vs State of Kerala

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Court : Kerala

Decided On : Aug-25-2023

Judge : Honourable Mr. Justice Bechu Kurian Thomas

Appeal No. : Crl.Rev.Pet/370/2004

Appellant : Antony

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS FRIDAY, THE 25TH DAY OF AUGUST 2023 / 3RD BHADRA, 1945 CRA 862/2001 OF ADDITIONAL SESSIONS COURT-II, ERNAKULAM CC 188/1999 OF JUDICIAL MAGISTRATE OF FIRST CLASS -I, KOCHI REVISION PETITIONER/ APPELLANT/ ACCUSED : ANTONY, S/O.PETER, KURISUMKAL VEETIL, KANDAKADAVU DESOM, KUMBALANGI. BY ADVS. DIVYA C BALAN P.D.SUBRAMANIAN NAMPOOTHIRI(K/34/1996) K.N.SUGATHAN(K/512/2008) RESPONDENTS/ RESPONDENTS :

1 STATE OF KERALA, REPRESENTED BY THE S.I. OF POLICE, KANNAMALY 2 STATE OF KERALA, REP.BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA. * ADDL.R3 IS IMPLADED 3 SURESH, AGED 53 YEARS, S/O VELUTHA, RESIDING AT PANATHARA HOUSE, KANDAKADAVU P.O., KUMBALANGI VILLAGE, ERNAKULAM, PIN - 682008 * ADDL. R3 IS IMPLADED AS PER ORDER DATED 26-07-2023 IN CRL.M.A. 1/2023 IN CRL.R.P. 370/2004) BY ADV SOBHA KURIAN BY SRI.C.N.PRABHAKARAN, PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 25.08.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

BECHU KURIAN THOMAS, J.

Crl.R.P.No.370 of 2004 Dated this the 25th day of August, 2023

ORDER

This revision petition is preferred against the judgment dated

31.05.2023 in Crl.A.No.862 of 2001 in C.C.No.188 of 1999 on the files of the Judicial First Class Magistrate's Court-I, Kochi. As per the impugned judgment, the revision petitioner who was found guilty for the offence under Section 435 of the Indian Penal Code, 1860 was convicted and sentenced to undergo simple imprisonment for two years and to pay a fine of Rs.3,000/-. At the appellate stage, the sentence was modified to six months imprisonment and a fine of Rs.1,000/-.

2. According to the prosecution, due to previous enmity, the accused set fire to the compound wall of the defacto complainant and caused a loss of Rs.500/-.

3. The Prosecution examined PW1 to PW8 and marked Ext.P1 to P3 while the defence examined DW1.

4. During the course of argument, the learned counsel for the

revision petitioner submitted that the entire disputes have been settled between the parties and the affidavit of the defacto complainant has already been filed. The learned counsel for the defacto complainant who has been impleaded as an additional respondent also submitted that the disputes have been settled between the parties.

5. The learned Public Prosecutor obtained instructions stating that the settlement pointed out by the learned counsel for the petitioner as well as the 2nd respondent was found to be genuine.

6. Notwithstanding the above, it was noticed that the trial court records have been misplaced and has not been able to be traced out till date.

7. In view of the settlement pointed out by the parties and in view

of the failure to retrieve the trial court records, I am of the view that no purpose would be served by confirming the conviction of the revision petitioner. In the circumstances, this is a fit case where conviction should be interfered with. Therefore, the conviction and sentence imposed upon the revision petitioner in C.C.No.188 of 1999 on the files of the Judicial First Class Magistrate's Court-I, Kochi, as affirmed in Crl.A.No.862 of 2001 on the files of the Additional Sessions Court-II, Ernakulam shall stand set aside and the revision petitioner is acquitted.
Sd/- BECHU KURIAN THOMAS, JUDGE RKM APPENDIX OF CRL.REV.PET 370/2004 RESPONDENTS' ANNEXURES : Annexure A1 TRUE COPY OF THE NOTARIZED AFFIDAVIT SIGNED BY PETITIONER DATED 20/07/2023

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