

Ratheesh vs State

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Court : Kerala

Decided On : Nov-30-2023

Judge : Honourable Mr. Justice P.Somarajan

Appeal No. : Crl.Rev.Pet/1142/2007

Appellant : Ratheesh

Respondent : STATE

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.SOMARAJAN
THURSDAY, THE 30TH DAY OF NOVEMBER 2023 / 9TH
AGRAHAYANA, 1945 AGAINST THE JUDGMENT IN CRL.A 565/2006
OF ADDITIONAL SESSIONS COURT, ERNAKULAM CC 2461/2003 OF
JUDICIAL MAGISTRATE OF FIRST CLASS -I,KOCHI

REVISION PETITIONER/APPELLANT/ACCUSED (IN CUSTODY):
RATHEESH, S/O. SASI, AGED 26, KATHITHARA HOUSE,
KADEKURISHINKAL, NAYARAMBALAM P.O. BY ADVS.
SRI.A.X.VARGHESE SRI.ROY THOMAS
RESPONDENT/RESPONDENT/COMPLAINANT: STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF

KERALA, ERNAKULAM. BY ADV SRI.SANGEETHARAJ, PUBLIC PROSECUTOR THIS CRIMINAL REVISION PETITION HAVING COME UP FOR HEARING ON 30.11.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

Against the finding of guilt of the accused for the offence under Sections 451, 323, and 427 IPC the accused came up in revision.

2. Initially, the accused was found guilty for the offence under Sections 452, 323, 324 & 427 IPC by the trial court. But in appeal, it was modified and found guilty for the offence under Sections 451, 323 & 427 IPC and he was acquitted for the offence under Sections 452 and 324 IPC. The offence under Section 452 was converted into Section 451 IPC being a minor offence and convicted thereunder. The concurrent findings rendered by both courts below appears to be proper in all respects, and nothing was brought to the notice of this Court in order to interfere with the abovesaid findings, except the

question that no charge was raised for the offence under Section 451 IPC. But, 451 IPC is a minor offence to Section 452 IPC. As such, it is permissible. Hence, there is no reason to interfere with the conviction rendered by both the courts below for the abovesaid offences punishable under Sections 323, 427, and conversion of the offence into 451 IPC and the conviction thereunder. But the sentence awarded seems to be exorbitant. It does not reflect a

proper balance, and as such, it will stand modified and reduced to one week simple imprisonment for the offence under Section 451 imprisonment for two months, and one week simple imprisonment for the offence under Section 323 imprisonment for two months and a fine amount of Rs.1,000/- (Rupees one thousand only) for the

offence punishable under Section 427 IPC. The substantive sentence shall run concurrently. The petitioner is also entitled to set off of the period of pre-trial detention, if any. The Criminal Revision Petition will stand allowed in part

accordingly. Sd/- P.SOMARAJAN JUDGE SPV

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