

P.V.George vs State of Kerala

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Court : Kerala

Decided On : Oct-31-2023

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Crl.Rev.Pet/279/2011

Appellant : P.V.George

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS TUESDAY,
THE 31ST DAY OF OCTOBER 2023 / 9TH KARTHIKA, 1945
CRL.REV.PET NO. 279 OF 2011 AGAINST THE JUDGMENT DATED
23.11.2010 IN CRA NO.30/2008 OF ADDITIONAL DISTRICT COURT
(ADHOC)-II, KALPETTA AGAINST THE JUDGMENT DATED
31.01.2008 IN CC NO.269/2003 OF JUDICIAL MAGISTRATE OF FIRST
CLASS, MANANTHAVADY REVISION
PETITIONER/APPELLANT/ACCUSED: P.V.GEORGE, S/O. VAREETH,
AGED 49 YEARS, PALISSERY HOUSE, PULINHAL, VELLAMUNDA
AMSOM. BY ADV SRI.GRASHIOUS KURIAKOSE
RESPONDENT/RESPONDENT/COMPLAINANT: STATE OF KERALA
SHO, VELLAMUNDA POLICE STATION, REP. BY PUBLIC

PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

OTHER PRESENT: SR PP SMT SEETHA S THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 31.10.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -:2:- Dated this the 31st day of October, 2023

ORDER

The revision petition is filed challenging the

judgment in Crl.A. No.30/2008 of the Court of the

Additional Sessions Judge, (Adhoc)-II, Kalpetta

(Appellate Court), confirming the judgment in C.C.No.269/2003 of the Court of the Judicial First Class Magistrate-I, Mananthavady (Trial Court), holding the revision petitioner guilty and convicting him for the offence under Section 113 of The Explosive Rules, 1983 and Section 5 of the Explosive Substance Act,1884, and sentencing him to undergo simple imprisonment for a period of one year.

2. The prosecution case is that: on 31.12.1998, the accused was unauthorisedly keeping dangerous explosive substances in his possession without any -:3:- valid licence. Thus, he committed the offences.

3. The accused pleaded not guilty to the substance of accusation read over to him.

4. In the trial, the prosecution examined PWs 1

to 13 and marked Exts P1 to P13 in evidence.

examination under Section 313 of the Code of Criminal Procedure,1973(in short, 'Code').

5. The Trial Court, after appreciating the materials placed on record, convicted and sentenced the revision petitioner to undergo simple imprisonment for a period of one year.

6. Aggrieved by the said judgment, the revision petitioner filed Criminal Appeal No.30/2008 before the Appellate Court.
7. The Appellate Court, after re-appreciating the materials placed on record, by the impugned judgment, -:4:- dismissed the appeal and confirmed the conviction and sentence passed by the Trial Court.
8. It is assailing the concurrent findings in the judgments passed by the courts below; the revision petition is filed.
9. Heard; Sri. George Mathew, the learned counsel appearing for the revision petitioner and Smt.Seetha S., the learned Senior Public Prosecutor appearing for the respondent - State.
10. When the revision petition came up for consideration on 11.10.2023, the learned counsel appearing for the revision petitioner submitted that the revision petitioner is dead. Consequently, this Court directed the learned Public Prosecutor to enquire, through the Jurisdictional Police, as to whether the revision petitioner is no more.
11. Today, when the revision petition was taken up for consideration, the learned Public Prosecutor -:5:- submitted that the whereabouts of the revision petitioner could not be traced. However, the learned counsel appearing for the revision petitioner handed over a letter that was addressed to the revision petitioner wherein the postal authority has endorsed that the revision petitioner is no more. Thus, it is only to be assumed that the revision petitioner is no more.
12. In Pazhani v. State of Kerala [2017(1) KLT 341(FB)], a Full Bench of this Court has categorically declared the law that, pending an appeal/revision petition, if the appellant/revision petitioner/accused dies and there is a sentence of fine imposed against him, then necessarily the revision petition/appeal is to be dismissed as abated, in view of Section 394 of the Code.

In the light of the above provision and the categoric declaration of law, I am of the definite view that the revision petition is only to be dismissed as -:6:- abated. Resultantly, the revision petition is dismissed as abated. Sd/- C.S.DIAS,JUDGE
DST/31.10.23 //True copy// P.A.To Judge

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