

Devan vs State of Kerala

Devan vs State of Kerala

SooperKanoon Citation : sooperkanoon.com/1350607

Court : Kerala

Decided On : Sep-19-2023

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Crl.Rev.Pet/2338/2011

Appellant : DEVAN

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS TUESDAY,
THE 19TH DAY OF SEPTEMBER 2023 / 28TH BHADRA, 1945
CRL.REV.PET NO. 2338 OF 2011 AGAINST THE JUDGMENT DATED
19.10.2009 IN CC 23/2009 OF JUDICIAL MAGISTRATE OF FIRST
CLASS -III,PALAKKAD AGAINST THE JUDGMENT DATED 08.06.2011
IN CRA 663/2009 OF I ADDITIONAL DISTRICT COURT-I, PALAKKAD
REVISION PETITIONER/APPELLANT/ACCUSED: DEVAN, S/O.
NARAYANAN, POOKKODE VEEDU, PAPADI, DHONI, PALAKKAD. BY
ADV SRI.P.K.MOHANAN(PALAKKAD) RESPONDENTS/
RESPONDENTS/COMPLAINANT: 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM. PIN-682031. 2 THANKAM, W/O.

VELAYUDHAN, VYATTAMKUNNU, PAZHAMPULLY, AKATHETHARA (PO), PALAKKAD IS IMPEADED AS ADDITIONAL 2ND RESPONDENT AS PER ORDER DATED 12.11.2011 IN CRL.M.A.NO.8766/2011.

OTHER PRESENT: SR PP PUSHPALATHA M K THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 19.09.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -:2:- Dated this the 19th day of September,2023

ORDER

The revision petition is filed assailing the

judgment passed by the Court of the Sessions,

Palakkad in Crl.Appeal No.663/2009, whereby the said court had confirmed the conviction of the revision petitioner passed by the Court of the Judicial First

Class Magistrate-III, Palakkad (Trial Court) in C.C.No.23/2009 for offences under Sections 452 and 324 of the Indian Penal Code, 1860. The Trial Court had sentenced the revision petitioner to undergo rigorous imprisonment for a period of three years and pay a fine of Rs.8,000/-, and in default to undergo imprisonment for a further period of six months and, if the find amount is realised, Rs.2000/- each to be paid to PWs1 to 3 and CW4 as compensation under Section

-:3:- 357 (1) of the Code of Criminal Procedure,1973.

2. When the revision petition came up for

admission on 30.09.2011, this Court had suspended the execution of sentence subject to the condition that the revision petitioner deposits the fine amount and executes a bond to the satisfaction of the Trial Court.

3. Subsequently, when the revision petition came up for consideration on 01.12.2015, it was

reported that the revision petitioner is dead. The learned Public Prosecutor was directed to produce the death certificate of the revision petitioner through the concerned Station House Officer(SHO).

4. Today, when the revision petition was taken up for consideration, it is seen that the SHO has not produced the death certificate as directed by this Court.

5. In Pazhani v. State of Kerala [2017(1) KLT -:4:-

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, then the near relatives of the deceased accused/ appellant/revision petitioner can come on record and prosecute the appeal/revision petition, within a reasonable time period. If no such application is filed, then the revision petition will have to be confined to the record room.

6. In view of the non-production of the death

certificate by the SHO and the fact that the entire fine amount has been remitted by the revision petitioner, and going by the law laid down in Pazhani (supra), I am of the definite view that nothing further survives in the revision petition and the revision petition is to be dismissed as abated. -:5:- Resultantly, the revision petition is dismissed as abated. Sd/- C.S.DIAS,JUDGE DST/19.09.23 //True copy// P.A.To Judge

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com