

Murukan vs State of Kerala

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Court : Kerala

Decided On : Feb-07-2022

Judge : Honourable Mr. Justice T.R.Ravi

Appeal No. : CRL.A/848/2008

Appellant : Murukan

Respondent : State of Kerala

Advocate for Pet/Ap. : Sri. M.P.Madhavankutty, Sri. V.K.Sunil

Judgement :

Crl.A.Nos. 802 & 848 of 2008 -1-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE T.R.RAVI MONDAY,
THE 7TH DAY OF FEBRUARY 2022 / 18TH MAGHA, 1943 CRL.A NO.
802 OF 2008 AGAINST THE JUDGMENT IN SC 135/2006 OF
ADDITIONAL SESSIONS COURT, KOTTAYAM CP 19/2003 OF
JUDICIAL MAGISTRATE OF FIRST CLASS, ETTUMANOOR

APPELLANT/2ND ACCUSED: SURENDRAN S/O
PADMANABHAN,CHARUPARAKUNNU HOUSE, VAMANAPURAM,

NEDUMANGADU, (NOW RESIDING IN PAZHOOPARAMBIL HOUSE, NEAR ALPHONSA BHAVAN, ARPOOKKARA, KOTTAYAM. BY ADV SRI.V.K.SUNIL RESPONDENT/COMPLAINANT: STATE OF KERALA REP.BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,, ERNAKULAM. BY SMT.S.L.SYLAJA, PUBLIC PROSECUTOR THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 10.11.2021, ALONG WITH CRL.A.848/2008, THE COURT ON 07.02.2022 DELIVERED THE FOLLOWING: CrI.A.Nos. 802 & 848 of 2008 -2-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE T.R.RAVI MONDAY, THE 7TH DAY OF FEBRUARY 2022 / 18TH MAGHA, 1943 CRL.A NO. 848 OF 2008 AGAINST THE JUDGMENT IN SC 135/2006 OF ADDL. SESSIONS COURT, KOTTAYAM CP 19/2003 OF JUDICIAL MAGISTRATE OF FIRST CLASS, ETTUMANUR

APPELLANT/ACCUSED No.3: MURUKAN S/O KRISHNAPILLAI, PULIPRAVILAKATHUMELEPUTHENPURA HOUSE, KALLIYOOR DESOM, DO VILLAGE, THIRUVANANTHAPURAM TALUK. BY ADV SRI.M.P.MADHAVANKUTTY RESPONDENT/COMPLAINANT: STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM. BY SMT.S.L.SYLAJA, PUBLIC PROSECUTOR THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 10.11.2021, ALONG WITH CRL.A.802/2008, THE COURT ON 07.02.2022 DELIVERED THE FOLLOWING: CrI.A.Nos. 802 & 848 of 2008 -3-

T.R.RAVI,J.

----- CrI.A.Nos. 802 & 848 of 2008

----- Dated this the 7th day of February, 2022

JUDGMENT

The accused Nos.2 and 3 in Sessions Case No.135 of 2006 on

the file of the Additional Sessions Court, Kottayam, have filed these appeals, being aggrieved by the judgment dated 3.4.2008 whereby they have been found guilty of offences under Section 489B and C of the Indian Penal Code and have been convicted and sentenced to undergo rigorous imprisonment for a period of 2 years and to pay a fine of Rs. 5,000/- each for the offence under Section 489B of I.P.C., and in default of payment of fine to undergo rigorous imprisonment for a further period of 3 months. For the offence under Section 489C of the I.P.C, they have been sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.5,000/- each, and in case of default in payment of fine to undergo rigorous imprisonment for a further period of 3 months. The substantive sentences are to run concurrently and set off has been allowed for the period of detention already undergone by both the accused.

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2. Heard Sri M.P.Madhavankutty, counsel for the appellant in Crl.Appeal No.848 of 2008 and Sri V.K.Sunil, counsel for the appellant in Crl.Appeal No.802 of 2008 and the Public Prosecutor on behalf of the State.

3. A total number of 10 persons were charge sheeted for

having committed the offences punishable under sections 489B and C read with Section 34 of the Indian Penal Code, by the Deputy Superintendent of Police, CBCID(CFS), Ernakulam in Crime No.

prosecution is that, the accused in furtherance of their common intention, engaged in the trafficking of counterfeit Indian currency notes having the denomination of Rs.100/- worth Rs.40,000/-, and counterfeit Saudi Riyal having a denomination of 500. On 1.8.1998, PW1, a Fish Vendor, received two Rs.100/- denomination Indian currency notes as the price for fish, which had been sold to Karuna hotel, situated at Gandhinagar near Medical College, Kottayam. On coming to know that the said currency notes were counterfeit currency notes, the matter was informed to the Gandhinagar Police on the same day itself. The prosecution proceeded

against the 1st accused, who was alleged to be the owner of Karuna Hotel. PW19 the Sub Inspector, on the same day, seized 2 counterfeit currency

Crl.A.Nos. 802 & 848 of 2008 -5- notes having denomination of Rs.100/- from Karuna Hotel, and subsequently during the course of investigation, on 3.8.1998, he is stated to have recovered counterfeit currency notes having denomination of Rs.100/- from the possession of the 2nd accused

and the 4th accused and counterfeit Saudi Riyal having denomination of 500, and counterfeit currency notes of Rs.100/- denomination from the possession of the 5th accused. It is the case of the prosecution that the accused were involved in the trafficking of counterfeit currency notes, knowing the same to be forged and intending to use the same as genuine. It is the specific case of the prosecution that on 3.8.1998 at 2:30 PM, PW19 apprehended the 2nd accused and on the basis of the information given by the 2nd accused, MO4 series of 94 counterfeit currency notes having denomination of Rs.100/- were recovered as per Exhibit P9 seizure mahazar. On the same day, MO6 series of 96 counterfeit currency notes were seized from the possession of the 4th accused Murukan and MO8 and MO9 series counterfeit currency notes having denomination of Rs.100/- and MO10 series of 17 Saudi Riyals having denomination of 500 were recovered from the possession of the 5th accused and the accused 4 and 5 were arrested at 6:15 PM on 3.8.1998. The seized contraband articles and accused 1, 2, 4

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and 5 were produced before the Committal Court. Subsequently they were released on bail. The investigation was handed over to C.B.C.I.D.(CFS), Ernakulam and CW23, who is no more, conducted further investigation and sent the seized counterfeit currency notes to the Government Note Press, Dewas for the purpose of getting expert opinion. Thereafter PW20 Deputy Superintendent of Police took over the investigation of the case and arrested accused No. 7 on 10.4.2001.

4. Accused No.9 surrendered before the Committal Court.

The investigating agency was not able to apprehend the accused Nos. 3, 6, 8 and 10 who were absconding at the time of trial. Even though the 5th accused appeared before the Committal Court, he also absconded later. The case against the accused 3,5,6,8 and 10 were split up by the Committal Court since they were absconding and the case was proceeded against remaining accused treating them as Accused 1 to 5. During the trial, Exhibits P1 to P34 were marked on the side of the prosecution and PW1 to PW21 were examined. Exhibits D1 and D2 were marked on the side of the defence and DW1 and DW 2 were examined. MO1 series to MO11 were produced and identified. After the trial, the court below found that the accused 1,4 and 5 are not guilty and they were acquitted.

Crl.A.Nos. 802 & 848 of 2008 -7- Accused 2 and 3 were found guilty of offence under Section 489B and C of the Indian Penal Code and were convicted and were imposed the sentence referred above. The 2 nd and 3rd accused have hence preferred these appeals.

5. Sections 489B and 489C of the Indian Penal Code are extracted below;

489B. Using as genuine, forged or counterfeit currency- notes or bank-notes.-Whoever sells to, or buys or receives from, any other person, or otherwise traffics in or uses as genuine, any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. 489C. Possession of forged or counterfeit currency-notes or bank-notes.-Whoever has in his possession any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit and intending to use the same as genuine or that it may be used as genuine, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

6. In order to make out an offence under Section 489B,

there should be a sale or purchase or a receipt by a person from any other person of any forged or counterfeit currency or bank note. Such sale, purchase or receipt should be knowing or having CrI.A.Nos. 802 & 848 of 2008 -8- reason to believe the same to be forged or counterfeit. Trafficking in or using as genuine any forged or counterfeit currency note or

bank note is also an offence under Section 489B. In the case of Section 489C, an offence is made out when a person is found to be in possession of any forged or counterfeit currency note or bank note, knowing or having reason to believe the same to be forged or counterfeit and intending to use the same as genuine or that it may be used as genuine. So, there is a primary requirement of being in possession coupled with knowledge about the forged or counterfeit nature of the currency note or bank note. There should also be an intention to use those notes as genuine.

7. In the decision in Anthru @ Abdurahiman v. State of

Kerala reported in [2020 (4) KHC 469], this Court had occasion to consider the nature of the offence under Sections 489B and 489C. This Court held that mere possession does not lead to a presumption that the possession is with knowledge that the note is a counterfeit note. This Court further held that if the notes seized were of such a nature, that a mere look at them would convince anybody that they were fake notes, it could be presumed that the accused had knowledge or reason to believe that they were counterfeit currency notes. It was further held that there should be

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positive evidence of the witness to the effect that the counterfeit notes were of such a nature or description that a mere look at them would convince any person of average intelligence that it was counterfeit notes, failing which there cannot be a conviction under Sections 489B or 489C. In Sukumaran v. SI of Police reported in [2016 (4) KHC 660], this Court held that mere possession of the notes in the absence of the requisite mens rea is not sufficient to make out a case under Sections 489B or 489C.

8. The counsel for the appellants pointed out that the

Sessions Court held that Ext.P9(a) disclosure statement attributed to the 2nd accused is not admissible under Section 27 of the Evidence Act, 1972. The Court specifically found that the disclosure statement does not say anywhere that the 2nd accused had put MO4 series currency notes under the stone. So there is no authorship of concealment in the statement. The Court further held that unless the authorship of concealment is established, the recovery cannot be termed as a discovery envisaged under Section 27 of the Evidence Act, 1872. It is hence the contention of the counsel that if the recovery is not established, there is nothing to connect the 2 nd

accused with the alleged crime. Reliance is placed on the judgment

of the Hon'ble Supreme Court in Mohmed Inayatulla v. State of Crl.A.Nos. 802 & 848 of 2008 -10-

Maharashtra reported in [AIR 1976 SC 483], wherein the Hon'ble Supreme Court held that Section 27 is in the nature of an exception to Section 25 and Section 26 of the Evidence Act. It has been held by the Court that the word 'distinctively' has been used in the Section to limit and define the scope of the provable information. In the case before the Supreme Court, the appellant who is accused of theft of certain chemical drums from the Bombay Port Trust on the basis of information supplied by the accused the

stolen drums were recovered. The information received from the accused was that I will tell the place of deposit of the three Chemical drums which I took out from the Haji Bunder on first August. The Hon'ble Supreme Court held that the later part of the statement which amounts to an outright admission cannot be admissible and what remains is only a statement that the accused will tell the place of deposit of the three chemical drums. The Sessions Court had held that the information given by the 2 nd accused cannot be considered as admissible under Section 27 for the reason that the authorship of concealment is not stated. However, the Court held that the conduct of the 2 nd accused, in recovering MO4, is admissible under

Section 8 of the Evidence Act,

1872. The judgment of the Sessions Court was in 2008. Later, a Full Crl.A.Nos. 802 & 848 of 2008 -11-

Bench of this Court had considered whether for admissibility of information given by the accused under custody under Section 27, authorship of concealment was sine qua non. In the judgment in *Ajayan @ Baby v. State of Kerala* reported in [2011 (1) KLT 8], the Full Bench held in paragraphs 23 and 24 as follows:

"23. Sec. 27 of the Act is based on the doctrine of confirmation by subsequent events. When the accused gives information to the Police Officer that a particular object is kept concealed at a particular place or given to a particular person and either points out that place wherefrom the said object is recovered by the Police or is produced by the accused or he points out the person who produces the object, recovery of the object confirms truth of the information given by the accused. For the application of Sec. 27, it makes no difference whether information given is that the article is concealed at a particular place or that it is given to a particular person. Section 27 does not say that for admissibility of the information authorship of concealment is essential. The expression distinctly only means directly, indubitably, strictly, unmistakably. That expression is used in Sec. 27 to limit and define the scope of information admissible in evidence. It refers to that part of the information supplied by the accused which is the direct and immediate cause of the discovery. The expression distinctly is used to show exclusivity of the information acquired by the Police Officer from the accused and leading to the discovery of the fact. The Supreme Court in *State of Rajasthan v. Bhup Singh* ((1997) 10 SCC 675) pointed out that the ratio in *Pulukuri Kottaya* has become locus classicus and even the lapse of half a century after its pronouncement has not eroded its forensic worth. The Supreme Court quoted with approval the decision in *State of Bombay v. Chhaganlal Gangaram Lavar* (AIR 1955 Bombay 1)

in Pandurang Kalu Patel v. State of Maharashtra which is thus: So long as the Supreme Court does not take a different view from the view taken by the Privy Council, the decisions of the Privy Council are still binding upon us, and when we say that the decisions of the Privy Council are binding upon us, what is binding is not merely the point actually decided but an opinion expressed by the Privy Council, which opinion is expressed after careful consideration of all the arguments and which is deliberately and advisedly given.

24. In view of what we have stated above, we hold that authorship

of concealment is not sine qua non to make information received from a person accused of an offence while in the custody of the Police Officer admissible under Sec. 27 of the Act and that if the information as deposed to by the Investigating Officer is otherwise admissible in evidence it would not become inadmissible solely for the reason that the information deposed by the Police Officer does not reveal authorship of concealment."

9. On the evidence available on record, I do not think it is

necessary to go into the question of admissibility or otherwise of the information under Sections 27 or under Section 8 of the Evidence Act, 1872. In so far as the 2nd accused is concerned, PW6 Philip Jacob who has signed in Ext.P9 mahazar and Ext.P11 search list, admitted the signature in the said documents but categorically denied having seen the recovery of the notes from under the hollow brick at 3.45 PM on 3.8.1998. He has specifically stated that he had signed the documents at the house of one Shanmughan, where the

Crl.A.Nos. 802 & 848 of 2008 -13- 2nd accused was residing, after midnight on 1.8.1998. He also

denied the statements that the 2nd accused belongs to Thiruvananthapuram and that the SI and party took away the 2nd accused after the witness had signed the mahazar on 3.8.1998. According to him the version of the prosecution as above is not true. Apart from resiling from the earlier version, the witness specifically says about arrest of 2nd accused on 1.8.1998. PW8 Antony Panjikkaran, who has also signed the mahazar and the Search list, has stated that he did not know about the search conducted on 1.8.1998 in the house of the 2nd accused and he has not gone to the said house on that day and that he had not signed any mahazar from the said house. He states that on 3.8.1998, he was taken by the Police to the property belonging to his sister at about 3.30 PM and that the 2nd accused was present there. He says that he does not remember having seen PW6 in the said place. This supports the version given by PW6. He also denied having seen the 2nd accused retrieving MO4 from under a hollow brick and handing it over to the Police. Instead, he says that when he reached the spot, he saw the bunch of notes in the hands of the Police. He denies having signed the mahazar, but says that he was asked to sign on a paper. He also denied the earlier statements attributed to him,

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which was marked as Ext.P15. PW13 Shanmughan, in whose house the 2nd accused was residing was, according to the prosecution, present at the time of search on 1.8.1998 and his name is also shown as witness in Ext.P11 search list. He has denied the statements attributed to him in the statement taken from him under Section 161 Cr.P.C and says that the police had gone over to his house on 1.8.1998 at about 1 AM and enquired about the 2nd accused and that he had shown the 2nd accused to the Police. According to him, the police immediately arrested the 2nd accused and took him away. The evidence of the independent witnesses do not support the prosecution case. Two of the witnesses and the 2nd accused in his Section 313 statement say that the 2nd accused was taken into custody on 1.8.1998 after midnight.

10. The only other evidence available are those tendered by

PW18 and PW19 police officers. They also do not have a consistent case. PW18 says that the 2 nd accused was arrested from his rented house. He also says that the arrest was at the place where MO4 was recovered. According to him, the 2 nd accused was questioned by the SI of Police at the residence, after arrest, for about 10 to 15 minutes. His evidence is not only self contradictory on many aspects, but also varies from the version of PW19. The SI of Police,

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who was examined as PW19, says that 2 nd accused was arrested from near the rented house where he was residing, at 2.30 PM on 3.8.1998. According to him, on questioning, the 2 nd accused had given information regarding the counterfeit notes, and it was on the basis of such information that the recovery of MO4 was carried out.

11. The statement attributed to the 2nd accused as deposed

by PW19, which has been marked as Ext.P9(a) on translation reads as Notes are kept under a stone in a property near my house. If I am taken there I will show the place where the notes are kept. That was the information allegedly received under Section 27 of the Evidence Act, 1872. The witness also says that he could identify the notes as fake notes by a mere look. The witness says that he had

gone to Thiruvananthapuram on 2.8.1998. He says that after returning to Kottayam, he had gone to the Police Station and questioned the accused 2, 3 and Kabeer (absconding). He states that he reached the police station at about 6.30 PM on 3.8.1998. According to the counsel for the appellant, if the questioning of the 2nd accused was in the police station after reaching there, the time of questioning and the time of recovery on the basis of information given by the accused do not match and it is a serious contradiction. So also, the said version is against the version of PW18 who claims

Crl.A.Nos. 802 & 848 of 2008 -16- to have been with PW19 at the house of the 2 nd accused while his statement was recorded.

12. The version of PW18 and PW19 have to be appreciated in

the light of Ext.P29 remand application submitted on 4.8.1998 before the Court, for the remand of Accused 2 and 3, which is a contemporaneous document. The specific case put forward in the application is that the 1st accused was arrested on 1.8.1998 and produced in court on 2.8.1998 and remanded, that PW19 had enquired about the accused 2, 3 and Kabeer (absconding) at Thiruvananthapuram and other places and that on 3.8.1998 he had arrested the 2nd accused at 2.30 PM from a place near Panambalam. In continuation it is stated that the 2 nd accused was taken to the police station, his arrest was recorded, his body search was conducted and his statement was taken. It is stated that the 2 nd accused had stated that himself, his brother Krishnan, Shajimon and Kunjumon had gone to Neyyattinkara and through Murukan, Kabeer and one Surendran had obtained the currency notes and that on knowing that Shajimon was apprehended, the notes were removed from his house and that except for one bundle, the rest were handed over to Murukan and Kabeer in the early morning of 3.8.1998 at Kottayam Railway Station. It is stated that thereafter

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the recovery of MO4 was conducted and from there PW19 had proceeded to the Kottayam Railway Station along with the 2 nd accused and the 2nd accused identified the accused 3 and Kabeer (absconding) at the Railway Station and they were arrested at 6.15 PM. It is worthwhile to note that Shajimon and Surendran, mentioned above were acquitted by the Court.

13. It can thus be seen that at the time of examination,

PW18 and PW19 have different versions about the incidents and enquiry. PW18 says that the 2nd accused was arrested from his house by PW19 and questioned from his house and thereafter taken to the place from where MO4 was recovered. He says that he was present when the 2nd accused was arrested and questioned. PW19 says he was arrested near his house in the road margin and later questioned. According to PW18, the 2 nd accused was residing at about half a kilometer distance from the place from where MO4 was recovered. According to PW19, the distance was only 20 metres. In Ext.P29, it is stated that the 2 nd accused was taken to the Police Station and arrest was recorded at the Police

Station and he was questioned from the Police Station. There is hence contradiction in the prosecution evidence even regarding the place of arrest and the place of questioning. The time of recovery of MO4 and the time of

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arrest of the 3rd accused and Kabeer also do not tally. When compared to the version of the independent witnesses and Section 313 statement of the 2nd accused, to the effect that the 2nd accused was taken into custody on 1.8.1998 itself, it can be seen that there are several contradictions and blank spaces to be filled. The

production of arrest memo relating to the accused bears considerable importance in such circumstances. Even though the prosecution had produced arrest memos of persons who were taken into custody subsequently, with regard to the arrests said to have been made on 3.8.1998, no arrest memos have been produced before the Court. Another fact which is very relevant is that the 2nd accused was linked to the crime on the basis of the statement said to have been made by the 1st accused. As far as the 1st accused is concerned, PW1 on whose complaint the crime was registered categorically stated that the 1st accused was not the person who gave him the fake notes. It was also brought out in evidence that the 1st accused was not the owner of Karuna Hotel and there was no search conducted in his house or any recovery made from him. The Sessions Court categorically held that there is nothing to connect the 1st accused to the crime and acquitted him. The complainant had not made any complaint against the accused 2 and 3 and they

Crl.A.Nos. 802 & 848 of 2008 -19- come into the picture only through the 1st accused, who is acquitted for having no connection with the crime. So there is nothing to attribute any common intention.

14. On an analysis of the entire evidence, I am of the opinion

that the evidence is not sufficient to arrive at a finding that MO4 was recovered from the possession of the 2nd accused or through the 2nd accused and hence

the question whether possession was with knowledge etc. do not even arise. There is also nothing in evidence to show that the ingredients of an offence under Section 498B are present. Along with the lack of clarity even regarding the arrest of the 2nd accused, I am of the considered opinion that the prosecution has not been able to establish the commitment of an offence either under Section 489B or under Section 489C. Since I find that the recovery is not proved, there is no necessity to go into the question whether MO4 was discovered under Section 27 of the Evidence Act or whether a conduct under Section 8 is said to have been established.

15. Regarding the case against the 3rd accused, the available

evidence is that of PW18 and PW19. The contradictions already pointed out in the evidence of PW18 and PW19 will apply while considering the case against the 3rd accused also. The allegation is CrI.A.Nos. 802 & 848 of 2008 -20- that MO6 series currency notes were seized from the possession of

the 3rd respondent on 3.8.1998. The independent witnesses who were porters working in the Kottayam Railway station were examined as PW7 and PW9. They are shown as witnesses in Ext.P12 seizure mahazar. They denied having seen either the search or the seizure of MO6. The defence version was that the 3rd accused was arrested from his house on 2.8.1998, at Thiruvananthapuram. The 3rd accused says that he was apprehended from his house by PW19 along with the officer attached to Nemom Police Station. He says that his house was searched and nothing was recovered. He says that he was taken to several other police stations and brought to Kottayam. PW19 admits having gone to Thiruvananthapuram and other places in search of the accused 2 to 4 on 2.8.1998. According to him, the arrests were made at Kottayam on 3.8.1998 at 6.15 PM from Kottayam Railway Station. According to the prosecution version in Ext.P29 the remaining currency notes other than MO4 were handed over by the 2nd accused to the 3rd accused in the early hours of 3.8.1998. If one were to accept the prosecution case, the 3rd accused who received the counterfeit notes from the 2nd accused in the early hours on 3.8.1998, waited till 6.15 PM for PW19 to arrive with the 2nd accused and apprehend him. To say the least, it

Crl.A.Nos. 802 & 848 of 2008 -21- is a highly unbelievable story. During cross examination, PW19 has stated that mistakes have happened while entering the details of the currency notes. On specific questions as to whether PW19 had reported in Nemom Police Station and Kanhiramkulam Police

Station on 2.8.1998 during the investigations conducted in Thiruvananthapuram, he says that he did not remember. He also says that he did not remember as to the police station under whose jurisdiction the 3rd accused was residing. The uncertainty contained in the statements of PW19 has to be read along with the evidence of DW1 and DW2 who have stated to the effect that the 3rd accused

was arrested from Thiruvananthapuram. There is no evidence to show that the 3rd accused was involved in any of the activities contemplated in Section 489B. Absence of arrest memo and independent evidence regarding the seizure of the currency notes from the person of the 3rd respondent coupled with the contradictory evidence tendered on behalf of the prosecution, I am of the considered opinion that the prosecution has not been able to establish the commitment of an offence either under Section 489B or under Section 489C as against the 3rd accused.

16. In the result, the appeals are allowed. The judgment of the Additional Sessions Judge, Kottayam, in Sessions Case No.135 Crl.A.Nos. 802 & 848 of 2008 -22-

of 2006 in so far as it finds the appellants (2nd and 3rd accused) guilty of the offences punishable under Sections 489B and 489C of the Indian Penal Code, is set aside and the appellants are found not guilty of the offences and are acquitted. Bail bonds if any executed by the appellants stand cancelled and the appellants are set at liberty.

Sd/- T.R.RAVI, JUDGE dsd

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