

**Raveendran vs State of Kerala**

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**SooperKanoon Citation :** [sooperkanoon.com/1453496](https://sooperkanoon.com/1453496)

**Court :** Kerala

**Decided On :** Jun-24-2022

**Judge :** Honourable Mr. Justice P.V.Kunhikrishnan

**Appeal No. :** CRL.A/2093/2006

**Appellant :** Raveendran

**Respondent :** State of Kerala

**Judgement :**

CRL.A NO. 2093 OF 2006 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN  
FRIDAY, THE 24TH DAY OF JUNE 2022 / 3RD ASHADHA, 1944 CRL.A  
NO. 2093 OF 2006 AGAINST THE ORDER/JUDGMENT IN SC  
384/2002 OF SPECIAL COURT FOR ABKARI ACT CASES,  
KOTTARAKKARA CP 104/1999 OF JUDICIAL MAGISTRATE OF FIRST  
CLASS -III, PUNALUR APPELLANT/S: RAVEENDRAN  
S/O.SREEDHARAN, SUNIL BHAVANAM VEEDU, CHEMBRAMAN,  
PUTHALA VILLAGE, PATHANAPURAM, KOLLAM DISTRICT. BY ADV  
RAVEENDRAN (PARTY) RESPONDENT/S: STATE OF KERALA  
REPRESENTED BY THE PUBLIC PROSECUTOR,, HIGH COURT OF

KERALA, ERNAKULAM. BY ADV PUBLIC PROSECUTOR OTHER  
PRESENT: SMT.DEEPA NARAYANAN, SR.GP THIS CRIMINAL  
APPEAL HAVING COME UP FOR ADMISSION ON 24.06.2022, THE  
COURT ON THE SAME DAY DELIVERED THE FOLLOWING: CRL.A  
NO. 2093 OF 2006 2 P.V.KUNHIKRISHNAN, J  
----- Crl.Appeal No. 2093 of 2006  
----- Dated this the 24th day of June, 2022

## JUDGMENT

This Criminal Appeal is filed against the conviction and sentence imposed on the appellant as per the judgment dated 29.9.2006 in SC No. 384/2002 on the file of the Addl. Sessions Judge (Abkari) Kottarakkara. The above case is chargesheeted against the appellant alleging offences punishable under Secs. 55(a) and (i) of the Abkari Act.

2. The prosecution case in brief is as follows : On 24.9.1999 at 6 p.m., the accused was found in

possession and engaged in the sale of 2 litres of arrack in a 5 litre black jerry can with a drinking glass by standing beneath the pepper wine in the rubber plantation owned by Salim at Chempraman which was detected by CW5, the Sub Inspector of Police, Pathanapuram and his party. CW5 has seized the CRL.A NO. 2093 OF 2006 3 contraband articles, arrested the accused, registered Crime No. 307/1999 of Pathanapuram Police Station, conducted the investigation and laid the charge.

3. To substantiate the case, the prosecution examined

PW1 to PW3. Exhibits P1 to P5 are the exhibits. MO1 and MO2 are the material objects. After going through the evidence and documents, the trial court found that the accused committed the offences under Sec.55(a) of the Abkari Act. He was acquitted under Sec.55(i) of the Abkari Act. He was sentenced to undergo simple imprisonment of one year and to pay a fine of Rs.1,00,000/- (One Lakh only). In default of payment of fine, the accused is directed to undergo simple imprisonment for three more months. Aggrieved by the conviction and sentence, this Criminal

Appeal is filed.

4. Heard.

5. The short point raised in this appeal is that the

forwarding note is not marked in this case. The forwarding note is an important document, which is to be marked in Abkari cases. The importance of forwarding note is considered CRL.A NO. 2093 OF 2006 4

by this Court in several judgments. In *Prakashan and anr. v. State of Kerala* [2016 KHC 96], *Vijayan @ Pattalam Vijayan and anr. v. State of Kerala* [2018 (2) KLT 814], *Gireesh @ Manoj v. State of Kerala* [2019 (4) KLT 79] and *Balachandaran v. State of Kerala* [2020 (3) KHC 697], this point is considered in detail. It will be beneficial to extract the relevant portion of the judgment in Gireesh's case (*supra*).

14. There is another lacuna in the prosecution case. The copy of the forwarding note prepared by PW5 for sending the samples for chemical analysis was not marked in evidence. The forwarding note is expected to contain the specimen impression of the seal used for sealing the bottles containing the samples. In the absence of the forwarding note marked in evidence, it cannot be found that the prosecution has proved beyond reasonable doubt that the very same samples taken at the spot of the occurrence had reached the chemical examiner for analysis in a tamper proof condition (See *Prakasan v. State of Kerala* (2016 KHC 96 : 2016 (1) KLD 311 : 2016 (1) KHC SN 40 : 2016 (1) KLT SN 96) and *Gopalan v. State of Kerala* (2016 KHC 541 : 2016 (2) KLD 469 : 2016 (3) KLT SN 16)).

6. In the light of the above dictum, I think the appellant is entitled the benefit of doubt. Therefore, this Criminal Appeal is allowed. The conviction and sentence imposed on the CRL.A NO. 2093 OF 2006 5 appellant as per the judgment dated 29.09.2006 in S.C. No. Kottarakkara is set aside and the appellant is set at liberty.

7. The bail bonds, if any, executed by the appellant, are cancelled. SD/-  
P.V.KUNHIKRISHNAN JUDGE SKS

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