

Harris vs State of Kerala

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Court : Kerala

Decided On : Apr-19-2022

Judge : Honourable Mr.Justice Mohammed Nias C.P.

Appeal No. : Crl.Rev.Pet/1437/2011

Appellant : Harris

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.
TUESDAY, THE 19TH DAY OF APRIL 2022 / 29TH CHAITHRA, 1944
AGAINST THE ORDER/JUDGMENT IN CRA 179/2002 OF
ADDITIONAL SESSIONS COURT (ADHOC)-II, THALASSERY CC
557/1997 OF JUDICIAL MAGISTRATE OF FIRST CLASS
,MATTANNUR REVISION PETITIONER/APPELLANT/ACCUSED:
HARRIS, S/O HAMZA, AGED 50 YEARS, CHIRAKKAL
HOUSE,CHIRAKKAL,KANNUR. BY ADV SRI.C.P.PEETHAMBARAN
RESPONDENT/RESPONDENT/COMPLAINANTS: 1 STATE OF
KERALA PROSECUTOR,HIGH COURT OF KERALA,ERNAKULAM. 2
ARAVINDAKSHAN, (SOUGHT TO BE IMPLEADED) (SOUGHT TO BE

IMPLEADED) THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 19.04.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -2-

ORDER

The revision petitioner, the accused in CC No. 557 of 1997 on the

file of the Judicial First Class Magistrate Court, Mattannur, which arose on the basis of the complaint filed under Sections 397 and 401 of the Code of Criminal Procedure, by the first respondent herein. The petitioner moved this Court seeking to quash all further proceedings in CC No. 557 of 1997 on the file of the Judicial First Class Magistrate Court, Mattannur.

2. The respondent alleged that the revision petitioner had

borrowed an amount of Rs.50,000/- by mis-representing that the defacto complainant will be given a visa for a job in Gulf Country and also executed an agreement to that effect on 05.11.1993. The accused neither arranged the visa nor paid back the amount. Therefore, it is alleged that he committed the aforesaid offence. Consequently, he was sentenced to undergo rigorous imprisonment for a period of six months and also to pay fine of Rs.5,000/-, in default of payment of fine to undergo simple imprisonment for a further period of one month.

-3-

3. Though an appeal was carried against the said order as

Crl.A.No.179 of 2002 before the Honble Addl. Sessions Court Adhoc II, Thalassery, the conviction was confirmed and the sentence was modified to one as rigorous imprisonment for three months and also to pay compensation of Rs.40,000/-. In default of payment of compensation, the petitioner was directed to undergo simple imprisonment for a further period of one month.

4. Along with the revision petition Crl.M.A.No.2 of 2022 is filed

jointly by the revision petitioner-accused and the first respondent- complainant seeking permission to compound the offence. In the said said application it is stated that the entire issue has been settled between them by paying the entire amount.

5. Considering the fact that the entire amount has been paid,

invoking the power under Sections 320 (6) and 320 (8) of the Cr.P.C. I am inclined to allow the request for compounding, which has the effect of acquittal under section 320 (8) of Cr.P.C. Consequently, the revision petition is only to be allowed.

-4- In the result, the Criminal revision petition is allowed. The judgments in C.C. No.557 of 1997 of the Judicial First Class Magistrate Court, Mattannur and Criminal Appeal No.179 of 2002 of the Addl. Sessions Court Adhoc II, Thalassery, are set aside and the revision petitioner is acquitted. The bail bond of the revision petitioner and sureties stands discharged. Sd/-MOHAMMED NIAS C.P. JUDGE uu /true copy/

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