

Subhash vs State of Kerala

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Court : Kerala Orders

Decided On : Jul-30-2021

Judge : Honourable Mr. Justice P.Somarajan

Appeal No. : Crl.Rev.Pet/157/2021

Appellant : Subhash

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.SOMARAJAN
FRIDAY, THE 30TH DAY OF JULY 2021 / 8TH SRAVANA, 1943
AGAINST THE ORDERS DATED 29.01.2021 IN CRL.M.P.NO.963/2020
IN SC NO. 603/2019 ON THE FILE OF ADDITIONAL DISTRICT &
SESSIONS COURT - VI, KOLLAM REVISION PETITIONER/ACCUSED:
SUBHASH AGED 49 YEARS S/O. CHELLAPPAN, KINATTAZHAKAM
VEEDU, NEAR TOWN MUSLIM PALLI, KOTTAPPURAM P.O.
KOTTAPPURAM VILLAGE, KOLLAM 691 301. BY ADVS. M.RAJESH
C.RAJENDRAN RESPONDENT/RESPONDENT: STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM 682 031. BY ADV. SRI.E.C.BINEESH, PUBLIC

PROSECUTOR THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 30.07.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

Aggrieved by the order rejecting discharge application by the Additional Sessions Court- VI, Kollam, the accused came up. The offence alleged is the attempt to commit rape on the victim, who was taken to a farm house situated in a rubber estate belonged to his brother-in-law in a car while returning from the house of his sister and attempted to commit rape on her by forcibly lifting her dress, hugged her forcibly and pressed on her breast applied his mouth on it so as to satisfy his lust. He had also removed her undergarments forcibly and seeing that she is not well, threatened her not to disclose it to anybody else. The learned Sessions judge found that there are reasons to presume commission of offence exclusively triable by a Court of Sessions and proceeded to frame charge for the alleged offences i.e. Section 511 and 376 IPC. It is also submitted based on the decisions rendered by the Apex Court in *Aman Kumar & Another v. State of Haryana* (2004(4) SCC 379) that prima facie there is no offence under Section 511 and 376 IPC. It is a matter to be adjudicated by the trial court. There is no merits in the revision. Hence, the revision petition is dismissed. Sd/- P.SOMARAJAN JUDGE SPV

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