

Sheeba K., vs State of Kerala,

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Court : Kerala

Decided On : Mar-17-2020

Judge : Honourable Mr. Justice Ashok Menon

Appeal No. : CRL.A/333/2020

Appellant : Sheeba K.,

Respondent : State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE ASHOK MENON
TUESDAY, THE 17TH DAY OF MARCH 2020 / 27TH PHALGUNA, 1941
CRL.A.No.333 OF 2020 AGAINST THE ORDER/JUDGMENT IN SC
214/2001 OF I ADDITIONAL DISTRICT COURT & ADDITIONAL
MOTOR ACCIDENT CLAIMS TRIBUNAL, KOLLAM
APPELLANT/APPLICANT: SHEEBA K., AGED 46 YEARS, D/O.LATE
HAYARUNNISA, SHEEBA SADANAM, KALLUVATHUKKAL VILLAGE,
KOLLAM TALUK, NOW RESIDING AT ASHANIKUNJAM,
KALLUVATHUKKAL P.O., KOLLAM TALUK. BY ADV.
SMT.SANGEETHA LAKSHMANA RESPONDENT/STATE: STATE OF
KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH

COURT OF KERALA AT ERNAKULAM, COCHIN-682018. OTHER
PRESENT: SRI.C.S.HRITHWIK, SR.PP THIS CRIMINAL APPEAL
HAVING COME UP FOR ADMISSION ON 17.03.2020, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 17th day of March 2020 The appellant is the daughter of one
Hayarunnisa,

who was the 1st accused in S.C.No.214/2001

appeal preferred was dismissed and the conviction has

been made absolute. While she w

gold ring with stone, MO-253 ring with picture of Matha Amruthananthamayi, MO-
254 ring and MO-225 locket, which were worn by petitioner's mother Hayarunnisa
are still in the custody of the Court. The appellant has produced the Legal Heirship
Certificate to prove that she is the only legal heir of the deceased, who is entitled
to get possession of the material objects. The learned Sessions Judge vide the
impugned order dated 19.02.2018 in CrI.M.P.No.99/2018 has observed thus In
para 389 of the judgment it is specifically stated all the material objects shall be
preserved even after the termination of appeal if any, as two accused are awaiting
trial and six are absconding. In view of the said observation in the original
judgment, the learned Sessions Judge found that the ornaments cannot be
released to the petitioner (appellant herein).

2. Heard the learned Counsel appearing for the appellant and the learned Senior
Public Prosecutor. It is pertinent to note that the material objects pointed out as
above are all personal belongings of

the deceased accused-Hayarunnisa,

something different, which need to be preserved till trial of all the accused is
completed. But the jewellery belonging to the 1st accused-Hayarunnisa does not
have any bearing on the trial, if it is to be commenced against the absconding

accused. There is no dispute that the ornaments belonging to the 1st accused absolutely was collected from her and there is also no dispute that the appellant is the only legal heir, as is evident from the Legal Heirship Certificate produced. The prosecution has no case that the ornaments did not belong to Hayarunnisa. There is no indication that the ornaments had anything to do with the crime. Under the above circumstances, I find that the impugned order of the learned Sessions Judge cannot

be sustained. The said order is

MO-254 and MO-225 in S.C.No.214/2001 on the files of the Additional Sessions Court-I, Kollam, are directed to be returned to the appellant as the personal belonging of her mother, on proper acknowledgment. Sd/- ASHOK MENON dkr
JUDGE APPENDIX PETITIONER'S/S EXHIBITS: ANNEXURE A1 COPY OF THE RELEVANT PAGES FROM PAGES 1 TO 9; 427 TO 436; AND 515 TO 522 OF THE

JUDGMENT DATED 16.07.2002 IN S.C.NO.

KOLLAM.

ANNEXURE A2

COPY OF THE ORDER DATED 11.12.2002 OF

PERTAINING TO THE APPELLANT'S MOTHER. ANNEXURE A4 COPY OF DEATH CERTIFICATE ISSUED BY THE DEPARTMENT OF URBAN AFFAIRS, GOVERNMENT OF KERALA ON THE DEATH OF HAYARUNNISA, THE APPELLANT'S MOTHER, ON 31.03.2009. ANNEXURE A5 COPY OF DEATH CERTIFICATE ISSUED BY THE DEPARTMENT OF URBAN AFFAIRS, GOVERNMENT OF KERALA ON THE DEATH OF RAJAN.S, THE APPELLANT'S FATHER ON 28.09.2011. ANNEXURE A6 COPY OF THE LEGAL HEIR SHIP CERTIFICATES DATED 28.05.2012 AND 21.08.2017 ISSUED BY THE THAHSILDAR, KOLLAM PERTAINING TO THE APPELLANT'S PARENTS.