

P.D. Devasaykutty Vs. State of Kerala

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Court : Supreme Court of India

Decided On : Aug-03-1988

Reported in : 1990Supp(1)SCC144

Judge : S. Natarajan and; S. Ranganathan, JJ.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 409, 467, 477-A; Prevention of Corruption Act - Section (2), 5(1)(c)

Appeal No. : Criminal Appeal Nos. 407-410 of 1988

Appellant : P.D. Devasaykutty

Respondent : State of Kerala

Judgement :

S. Natarajan and; S. Ranganathan, JJ.

1. Special leave granted. Heard counsel for the appellant and the respondent-State. In these appeals notice was issued confined to the question of sentence.

2. The appellant was charged under Sections 409, 467 and 477-A IPC and also under Section 5(1)(c) read with Section 5(2) of the Prevention of Corruption Act. He was acquitted of the charges under Sections 409, 467 and 477-A of the Indian Penal Code but was convicted under Section 5(1)(c) read with Section 5(2) of the Prevention of Corruption Act, and sentenced to undergo simple imprisonment for

one month and to pay a fine of Rs 250 and in default to undergo imprisonment for 15 days in each of the four cases in which he was awarded conviction. The learned Special Judge who awarded the conviction and sentence took into consideration the mitigating circumstances in favour of the appellant and did not therefore award him the minimum sentence prescribed under the Prevention of Corruption Act and deemed it proper to award a lesser sentence as stated above. The High Court confirmed the conviction and declined to modify the sentence any further.

3. Before us it is submitted that the appellant had paid the entire amount of tax which he had collected for the panchayat and that he has already undergone imprisonment for more than two months. It is also stated that the appellant is a heart patient and his health has deteriorated after his conviction in the case. It would also appear that the appellant is the sole bread-winner for the family consisting of himself, his mother, wife and two sons studying in school.

4. Taking into consideration these several factors we think the ends of justice would be met by modifying the sentence of imprisonment awarded to the appellant to the period of imprisonment already undergone and to set aside the fine of Rs 250 imposed in each case. Except for this modification of sentence the appeal will stand dismissed.

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