

Krishnan Sreevalsan Vs. State

Krishnan Sreevalsan Vs. State

SooperKanoon Citation : sooperkanoon.com/726459

Court : Kerala

Decided On : Apr-12-1991

Reported in : 1992CriLJ584

Judge : B.M. Thulasidas, J.

Acts : Code of Criminal Procedure (CrPC) , 1974 - Sections 363 and 363(2);
Practice Criminal Rules - Rules 36

Appeal No. : Cri. R.P. No. 254 of 1991

Appellant : Krishnan Sreevalsan

Respondent : State

Advocate for Def. : K.M. Stalin, Public Prosecutor

Advocate for Pet/Ap. : T.V. Prabhakaran, Adv.

Judgement :

ORDER

B.M. Thulasidas, J.

1. Petitioner was the accused in C.C. No. 505 of 1988 on the file of the Judicial Magistrate of Second Class, Attingal. He was represented by counsel in the case. The Court found him guilty, convicted and sentenced him to pay a fine of Rs. 500/-

by judgment dated 1-1-1991. His counsel applied for a free copy of the judgment under Section 363, Cr.P.C. By the impugned order, the memo filed by the counsel was rejected and a free copy was refused finding that there was breach of Sub-section (2) of Section 363, Cr. P. C.

2. When an accused is sentenced to imprisonment, copy of the judgment shall immediately be given to him free of cost. On his application a certified copy of the judgment or when he so desires, a translation in his own language if practicable or in the language of the Court, shall be given to him without delay, and such copy shall in every case, if the judgment is appealable by the accused, be given free of cost (Sub-section (2) of Section 363, Cr. P. C.) As pointed out already, by the judgment the petitioner had been sentenced to pay fine. The judgment is appealable. He has a right to get copy of the judgment under Sub-section (2) of Section 363, Cr. P. C. The Court below held that the accused and accused alone could apply for a free copy of the judgment and not his counsel who defended him. In my view, the words 'on the application of the accused' should not be interpreted restrictively to exclude application filed by counsel for the accused. The application for a copy of the judgment could be filed either by the accused or on his behalf by his counsel. Grant of copy of judgment to either of them will be in accordance with the letter and spirit of Sub-section (2) of Section 363, Cr. P. C.

3. I should also in this connection refer to Rule 36 of the Criminal Rules of Practice which reads:

36. Appointment of a pleader to continue for getting copies of judgment etc.:-- Notwithstanding the termination of all proceedings in the trial or enquiry, the appointment of a pleader in a criminal case shall, unless otherwise provided for therein or determined by the death of a party engaging him or of the pleader or by revocation in due course, be deemed to authorise him to appear or to take an application or to do any act in connection with getting copies of judgments and other documents.

The counsel indeed, was therefore entitled to apply to get a copy of the judgment. Rejection of his application and denial of a copy of the judgment were indeed unwarranted.

4. I set aside the impugned order and direct the Magistrate to restore the copy application and furnish a free copy of the judgment as prayed for.

Criminal R. P. is allowed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com