

Anty Vs. State of Kerala

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Court : Kerala

Decided On : May-28-2002

Reported in : 2003CriLJ299

Judge : M.R. Hariharan Nair, J.

Acts : Code of Criminal Procedure (CrPC) , 1974 - Sections 427

Appeal No. : Cri. R.P. No. 148 of 2000

Appellant : Anty

Respondent : State of Kerala

Advocate for Def. : Public Prosecutor and; T.K. Latiff, Adv.

Advocate for Pet/Ap. : Biju M. Jhon, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

M.R. Hariharan Nair, J.

1. The challenge in the revision is with regard to the conviction entered against the appellant as accused in C. C. 54/1997 for the offence punishable under Sections 457, 380 and 379 of the I.P.C. for which the sentence of R.I. for two years and R.

1. for one year were imposed under Sections 457 and 380 of the I.P.C. No separate sentence was given for the offence under Section 379 of the I. P.C.
2. The grievance of the petitioner projected in the revision memo is that the above sentences are not made concurrent with the sentences imposed in previous other cases namely C.C. 62/97, 65/97 and 160/97 initiated by the Kodungalloor Police as also C.C. 2/97, 5/97, 7/92 and R/97 initiated by the Trinjalakuda Police. This is sought to be achieved by invoking Sections 427 and 433 of the Cr. P. C.
3. In the nature of the prayer contained in the revision memo and in view of the concurrent findings of two Courts below it does not appear necessary to go into the justification for the conviction. Suffice it to say that there is adequate evidence available in the matter of recovery pursuant to confession of the accused himself to show MOs. 1 and 2 were actually stolen after house breaking into the house of PW-1.
4. The power under Section 433 of the Cr. P. C. is available only to the Government and it is for the petitioner to approach the Government if at all he feels that he has a genuine case justifying invocation of that power. As far as this Court is concerned, what can be considered is only the applicability of Section 427 of the Cr. P. C.
5. Under Section 427 when a person already undergoing a sentence of imprisonment is sentenced, on a subsequent conviction, to imprisonment, such imprisonment should commence at the expiration of the imprisonment to which he has been previously sentenced. This is subject to the conditions that the Court can direct that the subsequent sentence shall run concurrently with such previous sentence. A reading of the said provision itself would make it clear that consecutive running of sentences imposed in different cases is the normal rule though the Court has the special power to direct that they shall be concurrent.
6. In order that the special benefit as above can be granted the petitioner has to make out some special grounds. As far as the present case is concerned, what is evident from the revision memo itself is that the petitioner is a habitual offender prosecuted through crimes registered in two different Police Station. Absolutely no

connection between the various occurrences involved in the aforesaid causes has been brought out. In the circumstances, justice demands that the various sentences should run consecutively. The revision, in the circumstances, is found to be without merit and is dismissed.

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