

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

FRIDAY, THE 29TH DAY OF JANUARY 2016/9TH MAGHA, 1937

Crl.Rev.Pet.No. 2572 of 2006 ()

AGAINST THE JUDGMENT IN CRA 777/2005 of ADDL.SESIONS JUDGE
(ADHOC)-I, ERNAKULAM DATED 24-04-2006

AGAINST THE JUDGMENT IN SC 331/2002 OF PRINCIPAL ASSISTANT
SESSIONS JUDGE, NORTH PARAVUR, DATED 19-08-2005

REVISION PETITIONER(S)/APPELLANT/ACCUSED:

SOJU, S/O.OUSEPH, KOTTACKAL VEETIL,
CUTTING KARA, AYYAMPUZHA VILLAGE, ALUVA TALUK
ERNAKULAM DISTRICT.

BY ADV. SRI.C.C.THOMAS (SR.)

RESPONDENT(S)/COMPLAINANT:

STATE OF KERALA,
REP. BY THE EXCISE INSPECTOR, ANGAMALY RANGE
ERNAKULAM DISTRICT, BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

PUBLIC PROSECUTOR SRI. R. GITESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY
HEARD ON 29-01-2016, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

B. SUDHEENDRA KUMAR, J.

.....
Crl.R.P. No. 2572 of 2006
.....

Dated this the 29th day of January, 2016

ORDER

The first accused in S.C. No. 331 of 2002 on the files of the Principal Assistant Sessions Court, North Paravur, filed this Revision Petition challenging the concurrent finding of conviction and sentence passed by the courts below under Sections 55(b), (g) and 8(2) of the Abkari Act.

2. Heard.

3. The prosecution allegation is that on 20-5-2000 at about 12.15 night, the petitioner and the other accused were found in possession of 5 litres of illicit arrack in a 10 litre can along with tools for manufacturing arrack . It is alleged that the accused persons were manufacturing arrack in the rubber plantation owned by an orphanage of Mookkannur.

3. Before the trial Court , PW1 to PW9 were examined and Exts.P1 to P7 were marked for the prosecution, besides identifying MO1 to MO4. No evidence was adduced on the side of the revision petitioner.

4. The courts below correctly appreciated the oral and documentary evidence adduced by the prosecution and concurrently found that the revision petitioner committed the offence under Sections 55(b), (g) and 8(2) of the Abkari Act. No circumstance has been brought to the notice of this court to indicate that the appreciation of evidence or concurrent finding of conviction by the courts below is perverse or incorrect. In the said circumstances, the concurrent finding by the courts below that the revision petitioner committed the offence under Sections 55(b), (g) and 8(2) of the Abkari Act does not warrant any interference by this Court.

5. As regards the sentence, the learned counsel for the revision petitioner pleaded for leniency. No separate

sentence was awarded by the courts for the offence under Section 8(2) of the Abkari Act. There is no previous conviction against the revision petitioner. There is also no allegation that the revision petitioner was involved in any other offence of similar nature subsequent to the registration of the present crime on 20-05-2000. Considering the facts and circumstances of the case including the quantity of contraband seized, I am of the view that the sentence awarded by the courts below can be modified and reduced to simple imprisonment for three months and a fine of Rs. 1,00,000/- (Rupees one lakh only) and in default to simple imprisonment for three months under Sec. 55 (b) and (g) of the Abkari Act, to meet the ends of justice and accordingly, I order so.

In the result, this Revision Petition stands allowed in part as above.

Sd/-B. SUDHEENDRA KUMAR,
JUDGE.

ari/ 29-01-2016

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P.S.toJudge