

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

WEDNESDAY, THE 18TH DAY OF FEBRUARY 2015/29TH MAGHA, 1936

CRL.A.No. 728 of 2009 ()

**AGAINST THE JUDGMENT IN SC 571/2006 OF ADDITIONAL SESSIONS COURT
(FAST TRACK COURT NO.II- ADHOC) THRISSUR DATED 04-11-2008**

APPELLANT:

**MUHAMMED HANEEFA, S/O MUHAMMED VYDIAR,
KADUVETTICAL VEEDU, PUTHUPPADI P.O., THAMARASSERY
KOZHIKODE DIST., C.NO.6719, CENTRAL JAIL
KANNUR.**

BY ADV. SMT.K.K.CHANDRALEKHA (STATE BRIEF)

RESPONDENT:

**STATE -REPRESENTED BY
DETECTIVE INSPECTOR, CBCID, ERNAKULAM**

BY PUBLIC PROSECUTOR SRI. GITHESH R.

**THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 18-02-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

SHG/

K. ABRAHAM MATHEW, J.

Crl.A. No.728 of 2009

Dated this the 18th day of February, 2015

J U D G M E N T

The appellant was found guilty of the offence under Section 489 C of IPC and was sentenced to undergo simple imprisonment for five years and to pay a fine of Rs.10,000/- with a default clause. The allegation against him was that he, who was originally the first accused in S.C.No.571/2006 on the file of the Additional Sessions Judge (Fast Track Court-II Adhoc) Thrissur, along with three co-accused, was found to be in possession of counterfeit currency notes and materials used for making counterfeit currency notes. As the other accused were absconding, the appellant alone was tried.

2. The only witness examined by the prosecution to prove the incident from the very beginning to the very end is PW1 Sivan. The incident happened at 8.30 p.m. on 14.10.1994 at Althara near Perumbilavu which is a remote

village in Kerala. PW1 along with some others was returning to his home after visiting a house where a death had taken place. On the way they saw the appellant and the co-accused in a suspicious circumstance. They suspected that the appellant and the others were thieves. This prompted them to question the strangers. The appellant and the co-accused could not give any satisfactory explanation for their presence. One of the co-accused meanwhile escaped. PW1 and others detained the appellant and the other co-accused and informed the police about the incident. PW1 deposed that the police came within ½ an hour and opened the briefcase the appellant had with him. The contents of the briefcase were MO2 and MO3 counterfeit currency notes and MO4 to MO23 articles like pieces of paper, cotton, brush, a bottle containing some liquid, steel knife, four small bottles, insulation tape and camera.

3. It came out in the evidence of PW3 P.N. Unnirajan who was the C.I. of Police, Kunnampulam at the relevant

time that on getting the information about the occurrence he went to the place of occurrence and seized the articles mentioned above from the appellant. He took the appellant and his two co-accused to the police station and registered a case.

4. There is no dispute that MO2 and MO3 series are counterfeit currency notes. Ext.P8 series, Ext.P9 and Ext.P10 expert opinions prove it.

5. The crucial question is whether the counterfeit currency notes were seized from the possession of the appellant.

6. In the cross-examination of PW1 he said that the place of occurrence was 1 k.m. away from his house. He along with others was returning from visiting a house where a death had taken place. He has satisfactorily explained his presence at the place of occurrence. It came out in his evidence that at the place of occurrence itself the police wrote Ext.P1 seizure mahazar, in which he has signed as a witness. He gave a statement to the police on the next day

of the occurrence. In his cross-examination nothing could be brought out to show that he is not a reliable witness. His evidence is of a sterling quality.

7. The prosecution also relies on the evidence of PW2 Ali, who is the appellant's father-in-law. His evidence proves that at about 1 in the afternoon the appellant and two or three persons went to his residence; they came back to his house at about 9 in the night; their request to allow them to stay overnight at his house was turned down by him. Thereafter, the appellant was brought to his house by some persons; they wanted to ascertain whether the appellant was his son-in-law; he denied it. In his cross-examination the fact that the appellant and two or three persons visited his house as stated by him was not challenged. So his evidence corroborates the presence of the appellant and the co-accused near the place of occurrence, which is only about $\frac{3}{4}$ k.m. away from his house. That the appellant was taken to the house of PW2 Ali after the police came to the place of incident has been

mentioned in the evidence of PW1 also though PW3 police officer has suppressed it.

8. The prosecution has succeeded in proving its allegation that the appellant was found to be in possession of MO2 and MO3 series counterfeit currency notes. The learned Sessions Judge was fully justified in convicting him for the said offence. There is no merit in the appeal.

In the result, this appeal is dismissed.

Sd/-

**K. ABRAHAM MATHEW
JUDGE**

//True copy//

P.A. TO JUDGE

shg/