

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

FRIDAY, THE 6TH DAY OF NOVEMBER 2015/15TH KARTHIKA, 1937

CRL.A.No. 1798 of 2004 (C)

AGAINST THE JUDGMENT IN SC 586/2000 of ADDL.SESIONS COURT
(ADHOC-II), THALASSERY, DATED 20-09-2004

APPELLANT(S)/ACCUSED:

IRUTTAN AMBU, S/o. KORAN,
IRUTTAN HOUSE, KAKKAMPARA, RAMANTHALI AMSOM,
MOTTAKUNNU.

BY ADV. SRI.M.V.AMARESAN

RESPONDENT(S)/COMPLAINANT:

STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SMT. SEENA RAMAKRISHNAN

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 06-11-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

SS

K. RAMAKRISHNAN, J.

Crl. Appeal No.1798 of 2004

Dated this the 6th day of November, 2015

JUDGMENT

Accused in S.C.No.586/2002 on the file of the Additional Sessions Court (Adhoc-II), Thalassery, is the appellant herein. The appellant was charge-sheeted by the Sub Inspector, of police, Payyannur police station in Crime No.19/2000 of that police station under Section 55(a) of Abkari Act.

2. The case of the prosecution in nut shell was that, on 19.01.2000 at about 07.00 p.m., at a place called Kakkampara in Ramanthali amsom, the accused was found to be in possession of 3^{1/2} liters of arrack, found selling the same near his house with No.X/217 of Ramanthali Panchayath and thereby he had committed the offence punishable under Section 55(a) of Kerala Abkari Act.

3. After investigation, final report was filed and it was taken on file before the Judicial First Class Magistrate Court, Payyannur, where it was taken on file as

C.P.No.123/2000 and thereafter it was committed to the Sessions Court, Thalassery, by the learned magistrate under Section 209 of the Code of Criminal Procedure. After committal, the Sessions Court, Thalassery had taken cognizance of the case as S.C.No.586/2000 and originally it was made over to Assistant Sessions Court, Payyannur, for disposal by the Sessions Court and thereafter it was withdrawn by the Sessions Court and made over to Additional Sessions Court (Ad-Hoc-II), Thalassery for disposal.

4. When the accused appeared before the court below, after hearing both sides, charge under Section 55(a) of Abkari Act was framed and the same was read over and explained to him and he pleaded not guilty. In order to prove the case of the prosecution, PWs 1 to 4 were examined and Exts. P1 to P5 and MOs 1 and 2 were marked on their side. After closure of the prosecution evidence, the accused was questioned under Section 313 of the Code of Criminal Procedure and he denied all the incriminating

circumstances brought against him in the prosecution evidence and he had further stated that, he had not committed any offence and he has been falsely implicated in the case. Since the evidence in this case did not warrant an acquittal under Section 232 of the Code of Criminal Procedure, the Additional Sessions Judge directed the accused to enter on his defence. But no defence evidence was adduced on his side. After considering the evidence on record, court below found the appellant guilty under Section 55(a) of Abkari Act and convicted him there under and sentenced him to undergo rigorous imprisonment for one year and also to pay a fine of ₹1,00,000/-, in default to undergo simple imprisonment for three months more. Set off was allowed for the period of detention already undergone by him in this case under Section 428 of the Code of Criminal Procedure. Aggrieved by the same, the present appeal has been preferred by the appellant/accused before the court below.

5. When the appeal came up for hearing today,

the counsel for the appellant submitted that the appellant is no more and when notice has been issued to legal heirs, the son of the appellant informed that, since their father is no more and they did not inherit any property from him, they did not want to prosecute the appeal and he had produced a letter said to have been given by one of the son's of the appellant for perusal of this court. The counsel representing the counsel for the appellant submitted that in view of this fact, they are not interested in prosecuting the appeal and the appeal may be dismissed as not pressed. The above submissions made by the counsel for the appellant is recorded and the appeal is dismissed as not pressed due to the death of the appellant and non-interest of the legal representatives in prosecuting the appeal.

Office is directed to communicate the judgment to the court below at the earliest.

Sd/-

K. Ramakrishnan, Judge

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P.A. to Judge