

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.D.RAJAN

WEDNESDAY, THE 19TH DAY OF AUGUST 2015/28TH SRAVANA, 1937

CRL.A.No. 1731 of 2005 ()

**AGAINST THE JUDGMENT IN SC 1499/2004 of ADDL. SESSIONS COURT (ADHOC)-IV,
TRIVANDRUM**

APPELLANT(S)/1ST ACCUSED::

**VISWANATHAN ALIAS MONIAY,
AGED 64 YEARS, S/O. SUBBAYYAN,
MAMKULATHU VEEDU,
T.C.3/1280, KIZHAKKEPATOM,
MAMKULAM DESOM,
KOWDIAR VILLAGE.**

BY ADV. SRI.D. AJITH KUMAR

RESPONDENT(S)/COMPLAINANTS::

- 1. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.**
- 2. EXCISE INSPECTOR,
THIRUVANANTHAPURAM RANGE.**

R1 & R2 BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE

**THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 19-08-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

STK

P.D. RAJAN, J.

Crl.A. No.1731 of 2005

Dated this the 19th day of August, 2015

JUDGMENT

This appeal is preferred against the conviction and sentence in SC 1499/04 of Additional Sessions Judge (Adhoc)- IV, Thiruvananthapuram for offence punishable under Section 8(1) (2) and 55(a) of the Abkari Act.

2. The prosecution allegation is that, Excise Circle Inspector, Excise Enforcement and Anti-Narcotic Special Squad, while conducting patrol duty, seized 106 litres of spirit from the house of the appellant. After completing investigation, he laid charge before Judicial First Class Magistrate-II, Trivandrum. From there, the case was committed to Sessions Court (Adhoc)-IV, Thiruvananthapuram.

3. To prove the offence, prosecution examined PW1 to PW5 and marked Exts.P1 to P5 and MO1 to MO4 in evidence. The trial court after sifting and weighing the evidence on record, convicted the appellant.

4. When this appeal is came for hearing, the learned counsel appearing for the appellant submitted that on 20.03.08 appellant died. Based upon that submission, I directed the Excise Inspector, Excise Range Office, Thiruvananthapuram to produce the death certificate of the appellant. Today, the Public Prosecutor submitted the death certificate obtained by the Excise Inspector, which is marked as Ext.C1. A close scrutiny of Ext.C1 shows that S.Viswanathan died on 20.03.2008.

Hence, this appeal is abated on the death of the accused and disposed under Section 394 of Cr.P.C. as abated.

STK

Sd/-
P.D. RAJAN,
JUDGE

//TRUE COPY//

P.A. TO JUDGE