

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.D.RAJAN

WEDNESDAY, THE 3RD DAY OF JUNE 2015/13TH JYAISHTA, 1937

Crl.Rev.Pet.No. 2259 of 2003 ( )

-----  
AGAINST THE JUDGMENT IN CC 528/1998 of J.M.F.C.-III, TRIVANDRUM DATED  
28-06-2003

REVISION PETITIONER(S)/DEFACTO COMPLAINANT:

-----  
P.K. DAS, S/O. KRISHNAN, AGED 57,  
RAMA MANDIRAM,  
VATTAVILA, CHEMPAZHANTHY P.O.,  
THIRUVANANTHAPURAM.

BY ADVS.SRI.R.T.PRADEEP  
SRI.V.VIJULAL  
SRI.T.A.PRASANTH

RESPONDENT(S)/COMPLAINANT/ACCUSED:

- 
1. THE STATE OF KERALA,  
REP. BY THE DIRECTOR GENERAL OF PROSECUTION,  
HIGH COURT OF KERALA, ERNAKULAM.
  2. SASIDHARAN, S/O. RAGHAVAPANICKER,  
KIDANGUVILAKATHU VEEDU,  
PUTHIYATHURA, KADINAMKULAM VILLAGE,  
KADINAMKULAM DESOM.

R,R2 BY ADV. SRI.V.N.ACHUTHA KURUP (SR.)  
BY ADV. SRI. JUSTIN JACOB - PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD  
ON 03-06-2015, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:

acd

**P.D. RAJAN, J.**

-----  
Crl.R.P.No.2259 of 2003  
-----

Dated this the 3<sup>rd</sup> day of June, 2015

**ORDER**

This Criminal Revision Petition arises out of the judgment in C.C.No.528/1998 of Judicial First Class Magistrate Court-III, Thiruvananthapuram. The accused in the above case was acquitted by the trial Court, against that, one P.K. Das, who is the complainant approached this Court with this revision petition.

2. The facts necessary for the indictment were that on 3.11.1995, PW1 lodged a petition at Kazhakkuttom Police Station that on 3.11.1995 at 3 p.m., one prabhakaran assaulted him with chumadukol. The second respondent, who was the Head Constable of Kazhakkuttom Police registered

Crime 295/95 FIR only on 7.11.1995 with material alterations regarding the weapon used and time of occurrence. He forged the signature of PW1 in the above case. Against that offence, Kazhakkuttom Police registered Crime No.237/97 and after investigation, Sub Inspector of Police, Kazhakkuttom laid charge in the Judicial First Class Magistrate Court. To prove the offence, prosecution examined PWs 1 to 4 and marked Exts.P1 to P4. The accused was also questioned u/s.313 Cr.P.C. He did not adduce any defence evidence. After analysing the evidence on record, lower Court acquitted the accused.

3. The power of the revisional jurisdiction of the High Court in criminal cases is narrower and limited than its appellate power, which is discretionary and it cannot be invoked as of right as in the case of appellate jurisdiction.

The object of conferring revisional power is to clothe the High Court with a jurisdiction of the general supervision in order to correct grave miscarriage or failure of justice arising from erroneous or defective orders. While exercising this power, it is justified only to set right grave failure of justice and not merely to rectify every error. The fact that the lower court has taken a wrong view of law or misapprehended the evidence on record cannot be a reason to interfere unless it has resulted in grave justice. In this context I have considered as to whether the revisional jurisdiction can be invoked in this case.

4. The learned counsel appearing for the revision petitioner contended that a wrong appreciation of evidence was made by the trial Court while dealing with the offence u/s.465 IPC. The first limb provides that dishonestly

making a document by a person without his authority is of making a false document. Therefore, this first limb was not considered by the Court below. If the first information statement was not obtained to prove the alleged forgery, it is a wrong appreciation. Hence, he prays to remand the matter for fresh reconsideration.

5. The revisional jurisdiction of the High Court has been discussed by the Apex Court in Pratap v. State of U.P. and others [1973 SCC (Cri.) 496], in which it is held as follows:

"29. The power of revision in criminal cases vesting in the High Court, though wide and also exercisable suo motu is a power which, generally speaking, is narrower and more limited than its appellate power, though in certain respects it has a somewhat wider scope. It is discretionary and cannot be invoked as of right such as is the case of appellate power. Broadly stated, the object of conferring revisional power on the High Court under S. 435 and S. 439, Cr.P.C. is to clothe the highest Court in a State with a jurisdiction of general supervision and superintendence in order to correct grave

failure or miscarriage of justice arising from erroneous or defective orders. The error or defect may arise from mis-conception of law, irregularity of procedure, misreading of evidence, misapprehension or misconception about law or facts, mere perversity or even undue hardship or leniency. The real core of this power is that its exercise is justified only to set right grave failure of justice and not merely to rectify every error however inconsequential. Merely because the lower Court has taken a wrong view of law or misapprehended the evidence on the record cannot by itself justify interference on revision unless it has also resulted in grave injustice. It is no doubt not possible and is also not practicable to lay down any rigid test of uniform application and the matter has to be left to the sound judicial discretion of the High Court in each case to determine if it should exercise its extraordinary power of revision to set right injustice. Administration of criminal justice is as a matter of general policy of function which the State performs and private parties who may be inspired by a feeling or spirit of vengeance or vindictiveness are ordinarily not encouraged to prosecute criminal proceedings except when for special reason the cause of justice so demands. The High Court is, therefore, ordinarily disinclined to interfere with the orders of subordinate criminal Courts in which the State is the prosecutor at the instance of private parties except where for some exceptional reason it considers proper to do so in the larger interests of justice.

6. In this case, the 2<sup>nd</sup> respondent strongly contended that there was no evidence to prove the alleged forgery and therefore, there is no reason to interfere in the findings of the trial Court. The appellant was examined as PW1 in the trial Court. His evidence shows that on 31.10.1995, a person trespassed into his property, for that, he went to Kazhakuttom Police Station and gave statement to the Head Constable on 3.11.1995 of that station. The 1<sup>st</sup> respondent recorded that statement in a white paper and obtained his signature in it. When he obtained the copy of the first information from the Court, he noticed the signature in the statement, at that time, he realised that somebody has purposefully forged his signature and there was material alteration with regard to the facts alleged at the time of giving statement. Moreover, the date of occurrence was also changed. The

weapon used by the accused was 'chumadukol', which was stated to the 1<sup>st</sup> respondent, but deliberately in the F.I. Statement, it was changed as 'Kattukambu'. PW1 categorically stated that he did not put his signature in any FIR and he denied the signature in the FIR in the trial Court. He produced Ext.P2 in support of his contention. Therefore, after realising the material alteration in the document he filed a petition before the Kazhakuttom Police Station which was marked as Ext.P1 in this case.

7. On the basis of Ext.P1, PW2 registered Ext.P3 FIR. PW4 did not support the prosecution evidence and he was cross examined by the prosecutor. PW3 conducted investigation and laid charge before Court. He filed Ext.P4 report with regard to the address of the first respondent. In order to attract the offence, prosecution has to prove that the accused had made a false document or a part of a

document with intention to cause damage or injury to the public or to any person or to support any claim or title or to cause any person to part with property or to enter into any express or implied contract or with intend to commit fraud or that fraud may be committed. No documentary evidence has been produced by PW1 in the trial Court to show that there was a forgery in his original version and his signature was forged in crime 295/95. The intention of the 2<sup>nd</sup> respondent was to cause injury or damage actually to PW1, which was not proved in the trial Court during the trial of this case. The specimen signatures, forged signature and forged documents were not obtained by the investigating officer for obtaining an expert opinion from handwriting expert. It is the primary responsibility of the prosecution to bring all those documents in support of the alleged forgery. While the trial Court analysing the

evidence, it is found that there was vital flow in the prosecution case, on the ground that no documents were produced before the trial Court for proving the alleged forgery. In the absence of any such evidence, the trial Court acquitted the 1<sup>st</sup> respondent in this case.

Therefore, I do not find any illegality in the above order and there is no merit in this revision petition and it is dismissed accordingly.

**P.D. RAJAN, JUDGE.**

acd



