

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

TUESDAY, THE 15TH DAY OF DECEMBER 2015/24TH AGRAHAYANA, 1937

Crl.Rev.Pet.No. 1899 of 2009 ()

Crl.A 238/2007 OF THE ADDITIONAL SESSIONS COURT (ADHOC)
FAST TRACK-II, MANJERI

CC 94/2004 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-I,
PERINTHALMANNA

REVISION PETITIONER/APPELLANT/ACCUSED:

MAJEED, S/O.NAGHUR VEERAN SAHIB,
MAMMAMBRA ILLATH HOUSE, MELE KODAKKATTU
THACHANATTUKARA AMSOM, MANNARKAD.

BY ADV. SRI.SIRAJ KAROLY

RESPONDENT(S)/RESPONDENT/COMPLAINANT:

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

BY ADV. PUBLIC PROSECUTOR SRI.V.S.SREEJITH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 15-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

SCL.

B. SUDHEENDRA KUMAR, J.

Crl.R.P. No.1899 of 2009

Dated this the 15th day of December, 2015.

ORDER

The accused in C.C.No.94 of 2004 on the files of the Court of the Judicial Magistrate of First Class-I, Perinthalmanna has filed this revision petition challenging the concurrent finding of conviction and sentence passed by the courts below under Section 379 IPC.

2. Heard.

3. The prosecution allegation is that on 8.1.2002 at 10 a.m., the revision petitioner committed theft of a mobile phone from the shop of PW1

4. Before the trial court, PW1 to PW4 were examined and Exts.P1 to P6 were marked for the prosecution. No evidence was adduced on the side of the revision petitioner.

5. The courts below correctly evaluated the oral and documentary evidence adduced by the prosecution and

concurrently found that the revision petitioner committed the offence under Section 379 IPC, repelling the contentions of the revision petitioner. No circumstance is available before the court to indicate that the appreciation of the evidence or concurrent finding 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 Section 379 IPC does not warrant any interference by this court.

6. As regards the sentence, the learned counsel for the revision petitioner has pleaded for leniency. The incident was during the year 2002. 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 crime in this case. The stolen article is a second-hand mobile phone.

Considering the facts and circumstances of the case, including the antecedent of the revision petitioner and also

taking into consideration of the fact that the stolen article is a second-hand mobile phone, I am of the view that the sentence awarded by the courts below Section 379 IPC can be modified and reduced to imprisonment till the rising of the court and a compensation of Rs.10,000/- (Rupees ten thousand only) to PW1 under Section 357 (3) Cr.P.C. to meet the ends of justice and accordingly, I order so. In default of payment of compensation, the revision petitioner shall undergo simple imprisonment for two months.

In the result, this revision petition stands allowed in part as above.

The revision petitioner shall surrender before the court below on **14.1.2016** to suffer the sentence.

Sd/-

**B. SUDHEENDRA KUMAR
JUDGE**

ScI/15.12.2015

True Copy

PA to Judge