

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

THURSDAY, THE 29TH DAY OF OCTOBER 2015/7TH KARTHIKA, 1937

Crl.Rev.Pet.No. 2410 of 2009 ()

AGAINST THE JUDGMENT IN CRA 411/2007 of ADDL.SESIONS COURT
(ADHOC)III, MANJERI DATED 11-11-2008

AGAINST THE JUDGMENT IN CC 552/2006 of JFCM-I,MANJERI DATED
16-11-2007

REVISION PETITIONER(S):

ABDUREHIMAN, S/O. KOHAMMED, AGED 23 YEARS,
VALLIKKAPRAMBIL HOUSE, NARIYAKKAM POYIL,
THUVOOR DESOM, MALAPPURAM DISTRICT

BY ADVS.SRI.K.M.JAMALUDHEEN
SMT.LATHA PRABHAKARAN

RESPONDENT(S):

STATE OF KERALA, REPRESENTED BY ITS PUBLIC PROSECUTOR,
HIGH COURT FO KERALA, ERNAKULAM

BY PUBLIC PROSECUTOR SRI. R. GITHESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY
HEARD ON 29-10-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

B. SUDHEENDRA KUMAR, J.

.....
Crl.R.P. No. 2410 of 2009
.....

Dated this the 29th day of October, 2015

ORDER

The revision petitioner is the accused in C.C. No. 552 of 2006 on the files of the Court of the Judicial Magistrate of First Class-I, Manjeri. The trial court convicted the revision petitioner under Section 379 IPC and sentenced him thereunder to simple imprisonment for six months . The appeal filed against the said conviction and sentence was dismissed by the appellate Court.

2. The prosecution allegation is that at about 2 a.m. on 24-4-2006, the revision petitioner along with a juvenile in conflict with law committed theft of 150 kilogram of rubber sheets by committing lurking house trespass of the smoke house of PW1.

3. Before the trial court, PW1 to PW11 were examined and Exts. P1 to P5 were marked for the prosecution, besides identifying MO1 series. No evidence was adduced on the

side of the defence.

4. PW2 was the Manager of the rubber estate from where the theft was committed. PW2 stated that in the morning on 24-4-2006, the estate watchman reported that the theft was committed from the smoke house of the estate by breaking open the lock of the smoke house. He stated that 150 kilogram of rubber sheets were found missing from the smoke house. PW3 is the proprietor of a rubber dealership firm. He stated that on 24-4-2006, the revision petitioner along with another person brought 150 kilogram of rubber sheets to his shop for sale and PW3 purchased the same for Rs. 8,000/-. He further stated that on 8-7-2006, the police came to his shop with the revision petitioner, and at that time, on the request of the police, PW3 produced MO1 series of rubber sheets, sold by the revision petitioner to PW3, to the police. PW5 was an employee of PW3, who also supported the evidence of PW3 that the police

came to the shop of PW3 with the revision petitioner and recovered 150 kilogram of rubber sheets from there as produced by PW3.

5. PW10 was an attester to Ext. P4 mahazar prepared by PW11 in connection with the seizure of MO1 series of rubber sheets from the shop of PW3. PW11 was the Sub Inspector of Police, who arrested the revision petitioner on 6-7-2006 in connection with another crime. When questioned, the revision petitioner had given disclosure statement and pursuant to the disclosure statement and as led by the revision petitioner, PW11 and party reached the shop of PW3 along with the revision petitioner and recovered MO1 series as produced by PW3 as per Ext. P4 mahazar.

6. The courts below, after evaluating the oral and documentary evidence adduced by the prosecution, concurrently found that the revision petitioner committed the offence under

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Sec. 379 IPC. Since there is concurrent finding on facts, this Court will not be justified in interfering with the same unless the finding is perverse or incorrect. No circumstance has been brought to my notice to indicate that the 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 Sec. 379 IPC does not warrant any interference by this Court. The sentence awarded by the courts below also does not call for any interference by this Court

In the result, this revision petition stands dismissed.

Dated this the 29th day of October, 2015.

Sd/-B. SUDHEENDRA KUMAR,
JUDGE.

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/true copy/

P.S. To Judge