

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.D.RAJAN

THURSDAY, THE 1ST DAY OF OCTOBER 2015/9TH ASWINA, 1937

Crl.Rev.Pet.No. 756 of 2008 ()

AGAINST THE JUDGMENT IN CC 744/2004 of J.M.F.C., KODUNGALLUR DATED
17-12-2007

REVISION PETITIONER(S)/PW1 DEFACTO COMPLAINANT:

SIVARAMAN, S/O.PULIPARAMBIL GOVINDAN,
SECRETARY, EZHAVA SEVA SANGHAM, EDAVILANGU
KODUNGALLUR, THRISSUR DISTRICT.

BY ADVS.SRI.ARIKKAT VIJAYAN MENON
SRI.HARISANKAR V. MENON
SMT.MEERA V.MENON
SRI.MAHESH V.MENON

RESPONDENT(S)/ACCUSED & STATE:

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1. SANTHA SURENDRAN, W/O.SURENDRAN,
AGED 54 YEARS, RAMANKULATH HOUSE, EDAVILANGU.
 2. AJITH, S/O.SURENDRAN, RAMANKULATH
HOUSE, EDAVILANGU.
 3. ALLY PRADEEP, W/O.PRADEEP, AINIPULLY,
S.N.PURAM.
 4. STATE OF KERALA REPRESENTED BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

R4, BY PUBLIC PROSECUTOR SRI. DHANESH MATHEW MANJOORAN

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 01-10-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

acd

P.D. RAJAN, J.

Crl.R.P.No.756 of 2008

Dated this the 1st day of October, 2015

ORDER

Revision petitioner, who is the defacto complainant in C.C.No.744/2004 of Judicial Magistrate of First Class, Kodungallur, challenges the judgment of acquittal u/s.468 and 120(b) r/w.34 IPC. The revision petitioner and others were subscribers of kuries conducted by the accused. The defacto complainant deposed that A1 to A3 had conspired together with an intention to cheat him by falsifying the accounts gained unlawful gain and caused a loss of ₹12,000/-. On the basis of information, the Sub Inspector of Police, Kodungallur registered Crime No.298/2004 and after completing investigation, laid charge in the trial Court.

2. During trial, the prosecution examined PW1 to PW3 and marked Ext.P1. PW1 is the defacto complainant in this case. CW3 was given up by the prosecution. Cws 5 and 6 were not appeared before Court inspite of coercive steps. The incriminating circumstances brought out in evidence were denied by the accused while questioning them. They did not adduce any defence evidence. The trial Court acquitted them. Being aggrieved by that, the defacto complainant preferred this revision petition.

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

4. It is the specific case of PW1 that he was the Secretary of the Edvinlangu Ezhava Seva Sangham. According to him, the 2nd accused, Ajith changed the kuri 1/98 in the name of Kochileema to the his name and at the time of bidding the kuri, it was again changed in the name of the debtor to A1, Santha Surendran, who had another kuri No.2/98 and subsequently the documents relating to kuri 1/98 is destroyed by A2 and thus caused a loss of ₹12,000/-. Even though PW1 stated so, no documentary evidence has been produced in the trial Court to prove the above allegation. The only available evidence is the oral testimony of PW1 to PW3. In the circumstances, the trial Court acquitted the accused.

5. In order to attract an offence u/s.468 IPC, the prosecution has to prove that the accused made false

document or a part of a document with intent to cause damage or injury to the public or to any person or to support any claim or title or to cause any person or part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed the offence of forgery. Even though PW1 alleged that the documents were forged by A1 and A2, nothing has been produced in the trial Court to substantiate that contention. In the absence of such evidence, the trial Court acquitted the accused. I do not find any illegality in the judgment passed by the trial Court and therefore, there is no merit in this petition and it is dismissed accordingly.

P.D. RAJAN, JUDGE.

acd

