

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

FRIDAY, THE 6TH DAY OF NOVEMBER 2015/15TH KARTHIKA, 1937

Cr1.Rev.Pet.No. 3512 of 2009 ()

JUDGMENT IN Cr1.A 383/2007 OF THE ADDITIONAL SESSIONS COURT, FAST
TRACK COURT-III (ADHOC), MANJERI

JUDGMENT IN CC 11/2007 OF THE JUDICIAL FIRST CLASS MAGISTRATE
COURT-I, MANJERI

REVISION PETITIONER/APPELLANT/ACCUSED:

ABDUL LATHEEF, S/O. MUHAMMED,
PALAKKATHONDI HOUSE, PALLIKKUNNU, WANDOOOR AMSOM
MALAPPURAM DISTRICT.

BY ADVS.SRI.C.S.MANILAL
SRI.K.VIDYASAGAR

RESPONDENT/RESPONDENT/COMPLAINANT:

THE STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM.

BY PUBLIC PROSECUTORW SRI.R.GITESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 06-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

SCL.

B. SUDHEENDRA KUMAR, J.

Crl.R.P. No.3512 of 2009

Dated this the 6th day of November, 2015

ORDER

The revision petitioner is the accused in C.C.No.11 of 2007 on the files of the court of the Judicial Magistrate of First Class-I, Manjeri.

2. The revision petitioner was convicted by the trial court under Section 379 IPC and sentenced him thereunder to rigorous imprisonment for two years. The appeal filed against the said conviction and sentence was dismissed. Aggrieved by the said conviction and sentence, this revision petition has been filed.

3. Heard.

4. The prosecution allegation is that during the midnight of 26.08.1999, the revision petitioner and the other accused committed theft of a Jeep bearing registration No.KL-10/G-4411 from the car shed of the house of PW1 and

thereafter the same was sold to PW6.

5. Before the trial court, PW1 to PW9 were examined and Exts.P1 to P6 were marked for the prosecution, besides identifying MO1. No evidence was adduced on the side of the revision petitioner.

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 Section 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 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 call for any interference by this Court.

7. As regards the sentence, the learned counsel for the

revision petitioner has submitted that the revision petitioner had already undergone detention for 1½ years in connection with this case. There is no material before the court to indicate that the revision petitioner was ever convicted in any other offence of similar nature.

Considering the facts and circumstances of the case, including the fact that there is no previous conviction against the revision petitioner, I am of the view that the sentence awarded by the courts below can be modified and reduced to rigorous imprisonment for 1½ years under Section 379 IPC to meet the ends of justice. Accordingly, I order so.

In the result, this revision petition stands allowed in part,

(i) confirming the verdict of guilty and conviction passed by the courts below under Section 379 IPC.

(ii) the sentence awarded by the courts below stands modified and reduced to rigorous imprisonment for 1½ years under Section 379 IPC.

The revision petitioner is entitled to set off for the period of his detention in connection with this case.

Sd/-
B. SUDHEENDRA KUMAR
JUDGE

Sc/7.11.2015

True Copy

PA to Judge