

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

TUESDAY, THE 3RD DAY OF NOVEMBER 2015/12TH KARTHIKA, 1937

Crl.Rev.Pet.No. 783 of 2015 ()

AGAINST THE JUDGMENT IN CRL. A. 487/2013 of VTH ADDL.
SESSIONS COURT, ERNAKULAM DATED 11-09-2014

AGAINST THE JUDGMENT IN CC 308/2010 of J.M.F.C.-I, KOCHI
DATED 23-09-2013

REVISION PETITIONER(S)/APPELLANT/ACCUSED:

LLOYD.N.T.
S/O.THOMAS, NADUVILAPARAMBU, KARIPALAM
MATTANCHERRY,
NOW RESIDING AT RENTED HOUSE AT PATHISSERRY
FIGRETHO MARY, NEAR PUTHUVYPPU WATER TANK, VYPPIN
ERNAKULAM DISTRICT.

BY ADVS.SRI.K.B.DAYAL
SRI.SIBI KARUN
SRI.S.MOHAMMED FEBIN

RESPONDENT(S)/RESPONDENT/CLAIMANT:

THE STATE OF KERALA
REP. BY THE SHO, FORT KOCHI POLICE STATION
REP. BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM-682031.

R BY PUBLIC PROSECUTOR SRI.V.S. SREEJITH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR
ADMISSION ON 03-11-2015, THE COURT ON THE SAME DAY PASSED
THE FOLLOWING:

B. SUDHEENDRA KUMAR, J.

.....
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.....

Dated this the 3rd day of November, 2015

ORDER

The revision petitioner is the accused in C.C. No. 308 of 2010 on the files of the court of the Judicial Magistrate of First Class-I, Kochi.

2. The trial Court convicted the revision petitioner under Section 20(b)(ii)(A) read with Section 8 (c) of the NDPS Act, and sentenced him thereunder to rigorous imprisonment for six months and a fine of Rs. 10,000/- with a default clause for simple imprisonment for one month. 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 both sides.

4. The prosecution allegation is that on 1-05-2009 at about 2.50 p.m., the revision petitioner was found in possession of 10.310 gram of ganja in contravention of the provisions of the N.D.P.S. Act.

5. Before the trial Court, PW1 to PW3 were examined and Exts. P1 to P5 were marked for the prosecution, besides identifying MO1 to MO3. No evidence was adduced on the side of the revision petitioner.

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6. The courts below, after evaluating the oral and documentary evidence adduced by the prosecution, concurrently found that the revision petitioner possessed 10.310 gram of ganja in contravention of the provisions of the N.D.P.S. Act. 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, I find no reason to interfere with the concurrent finding by the courts below that the revision petitioner committed the offence under Section 20(b)(ii)(A) read with Section 8 (c) of the NDPS Act.

8. As regards the sentence, the learned counsel for the revision petitioner pleaded for leniency. There is no material before the court to indicate that there was any previous conviction against the revision petitioner. Considering the facts and circumstances of the case, including the quantity of contraband seized from the revision petitioner, I am of the view that the sentence awarded by the courts below can be modified and reduced to imprisonment till the rising of the court and a fine of Rs. 10,000/- (Rupees ten thousand only) to secure the ends of justice. Accordingly, I order so.

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

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- i) confirming the verdict of guilty and conviction passed by the courts below under Section 20 (b) (ii) (A) read with Sec. 8 (c) of the N.D.P.S. Act
- ii) the sentence awarded by the courts below stands modified and reduced to imprisonment till the rising of the court and a fine of Rs. 10,000/- (Rupees ten thousand only) .
- iii) in default of payment of fine, the revision petitioner shall undergo simple imprisonment for 45 days.

The revision petitioner shall surrender before the trial court on 01-12-2015 to suffer the sentence.

Dated this the 3rd day of November, 2015.

Sd/-B. SUDHEENDRA KUMAR,
JUDGE.

Ani/ 3-11-2015.

/truecopy/

P.S. To Judge