

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

WEDNESDAY, THE 16TH DAY OF SEPTEMBER 2015/25TH BHADRA, 1937

Crl.Rev.Pet.No. 1137 of 2015 ()

AGAINST THE JUDGMENT IN Crl.A 604/2011 of Ist
ADDL.SESIONS COURT, THRISSUR DATED 05-09-2013

AGAINST THE JUDGMENT IN CC 1427/2011 of THE JUDICIAL
MAGISTRATE OF THE FIRST CLASS -II, THRISSUR DATED 25-08-2011

REVISION PETITIONER/APPELLANT/ACCUSED (IN CUSTODY):

SUHEEL AGED 38 YEARS
S/O. SHAMSUDHIN, RAYAMMARAKKAR HOUSE,
KADAVIL BUILDING
VADANAPILLY VILLAGE, CHAVAKKAD TALUK
THRISSUR DISTRICT.

BY ADV. SRI.RAJIT

RESPONDENT(S) /RESPONDENT/RESPONDENT/STATE:

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

BY PUBLIC PROSECUTOR SRI.V.S. SREEJITH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR
ADMISSION ON 16-09-2015, THE COURT ON THE SAME DAY PASSED
THE FOLLOWING:

B. SUDHEENDRA KUMAR, J.

.....
Crl.R.P.No. 1137 of 2015
.....

Dated this the 16th day of September, 2015

ORDER

The revision petitioner is the accused in C.C. No. 1427 of 2011 on the files of the Court of the Judicial Magistrate of First Class- II, Thrissur. The trial Court convicted the revision petitioner under Sections 457, 461 and 380 IPC and sentenced him thereunder to simple imprisonment for two years and a fine of Rs. 1000/- under Section 457 IPC, simple imprisonment for two years under Section 461 IPC and simple imprisonment for two years and a fine of Rs. 1000/-under Section 380 IPC. The appeal filed challenging the above conviction and sentence was dismissed by the appellate court as per judgment in Crl.Appeal

604 of 2011. Aggrieved by the said conviction and sentence, this revision petition has been filed.

2. Heard the learned counsel for the petitioner and the learned Public Prosecutor.

3. The prosecution case is that the revision petitioner criminally trespassed into the Government Higher Secondary School, Manalur by breaking open the lock of the office room and took the keys from the drawer of the table and committed theft of MO1 to MO6.

4. Before the trial court, PW1 to PW9 were examined and Exts. P1 to P4 were marked for the prosecution, besides identifying MO1 to MO6. DW1 was examined for the defence.

5. PW8 was the Sub Inspector of Police, Thrissur West Police Station. He arrested the accused on 10-7-2009 in connection with crime No. 445 of 2009 of Thrissur West Police Station. When questioned, the revision petitioner had given Ext. P3 (a) disclosure statement and pursuant to Ext. P3 (a) disclosure

statement and as led by him, MO1 to MO6 were recovered by PW8 from the shop of PW5.

6. PW1 was the PTA President of the School who had given Ext. P1 complaint before the police in connection with the theft. PW6 is an attester to Ext. P3 mahazar whereby MO1 to MO6 were recovered. PW7 registered Ext. P4 FIR pursuant to Ext. P1 complaint given by PW1 on 12-6-2009. PW5 had handed over MO1 to MO6 to the police. PW1 to PW3 identified the material objects. The courts below, after relying on the oral and documentary evidence adduced by the prosecution, concurrently found the revision petitioner guilty under Sections 457, 461, and 380 IPC. The defence set up by the revision petitioner through DW1 was repelled by the courts below. Since there is concurrent finding on facts, this Court will not be justified in interfere with the same unless the finding is perverse or incorrect. No circumstance has been brought to my notice to indicate that the finding is perverse or incorrect. In the said circumstances, the

concurrent finding of the courts below that the revision petitioner committed the offence under Section 457, 461 and 380 IPC does not warrant any interference by this Court.

7. A letter addressed to the learned Public Prosecutor by the Superintendent in-charge of Central Jail, Viyyur, has been produced before me for my perusal by the learned Public Prosecutor. In the said letter, it is stated that the substantive term of imprisonment in this case is already complete. It is also stated in the said letter that the petitioner has already undergone detention in this case for about 794 days including the set off.

8. Considering the facts and circumstances of the case, I am of the view that the sentence awarded by the courts below can be modified and reduced to imprisonment already undergone by the revision petitioner and a fine of Rs. 1000/- under Section 380 IPC, simple imprisonment for 1½ years and a fine of Rs. 1000/- under Section 457 IPC and simple imprisonment for 1½ years under Section 461 IPC to secure the ends of justice.

Accordingly, I order so.

In the result, this revision petition stands allowed in part confirming the verdict of guilty and conviction passed by the courts below under Sections 457, 461 and 380 IPC. The sentence awarded by the courts below stands modified and reduced to imprisonment already undergone by the revision petitioner and a fine of Rs. 1000/- and in default to simple imprisonment for one month under Section 380 IPC, simple imprisonment for 1½ years and a fine of Rs. 1000/- and in default to simple imprisonment for one month under Section 457 IPC and simple imprisonment for 1½ years under Section 461 IPC. The substantive sentence of imprisonment shall run concurrently.

Sd/-B. SUDHEENDRA KUMAR,
JUDGE.

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P.S. to Judge