

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

WEDNESDAY, THE 28TH DAY OF OCTOBER 2015/6TH KARTHIKA, 1937

Crl.Rev.Pet.No. 1975 of 2011 ()

AGAINST THE JUDGMENT IN CRA 115/2009 of ADDL.SESIONS COURT
(ADHOC-III),NORTH PARAVUR DATED 18-08-2010

AGAINST THE JUDGMENT IN CC 238/2004 of J.M.F.C.-II, ALUVA DATED
30-01-2009

REVISION PETITIONER(S)/REVISION PETITIONER/APPELLANT/ACCUSED:

BIJU, S/O.GEORGE, KANIYAPURAM VEEDU
ALUVA EAST VILLAGE, EDATHALA, KUZHUVELIPADY.

BY ADVS.SRI.GOPAKUMAR G. (ALUVA)
SMT.ANUPAMA JOHNY

RESPONDENT(S)/RESPONDENT/COMPLAINANT:

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

BY PUBLIC PROSECUTOR SRI.V.S. SREEJITH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 28-10-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

B. SUDHEENDRA KUMAR, J.

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.....

Dated this the 28th day of October, 2015

ORDER

The revision petitioner is the accused in C.C. No. 238 of 2004 on the files of the Court of the Judicial Magistrate of First Class- II, Aluva. The trial Court convicted the revision petitioner under Sections 461 and 380 IPC and sentenced him thereunder to rigorous imprisonment for one year each under Section 461 and 380 IPC. He was further directed to pay fine of Rs. 1,000/- under Sec. 380 IPC. The appeal filed against the said conviction and sentence was dismissed by the appellate court.

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

3. The prosecution allegation is that on 10-11-2003 at about 11 a.m., the revision petitioner trespassed into the house of PW1 and committed theft of gold ornaments worth Rs. 1,15,000/- from the almirah kept inside the said house.

4. Before the trial court, PW1 to PW8 were examined and Exts. P1 to P7 were marked for the prosecution, besides

identifying MO1 and MO2. Ext. D1 was marked for the defence.

5. PW1 is the owner of the gold ornament stolen by the revision petitioner. PW5 is the jewellery owner who produced MO1 and MO2 before the police. He stated that he purchased 23 gram of gold ornament from the accused, for which Rs. 4,400/- was paid to the accused. PW7 arrested the revision petitioner and when questioned, Ext. P4 (a) disclosure statement was given by him. Pursuant to Ext. P4 (a) disclosure statement and as led by the revision petitioner, MO1 gold ingot and MO2 pair of ear rings were recovered from the shop of PW5 as per Ext. P4 recovery mahazar. PW1 identified MO2 gold ear rings.

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 Secs. 461 and 380 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 that the revision petitioner committed the offence under Sections 461 and 380 IPC does not warrant any interference by this Court. Considering the

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nature of the offence, the sentence awarded by the courts below does not warrant any interference by this Court.

In the result, this Revision petition stands dismissed.

Dated this the 28th day of October, 2015.

B. SUDHEENDRA KUMAR,
JUDGE.

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