

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

MONDAY, THE 23RD DAY OF NOVEMBER 2015/2ND AGRAHAYANA, 1937

Crl.Rev.Pet.No. 1518 of 2015 ()

Crl.A 94/2014 OF THE ADDITIONAL SESSIONS COURT-IV, THODUPUZHA

CC 120/2009 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-I,
PEERUMADE

REVISION PETITIONER/3RD APPELLANT/ACCUSED NO.5:

AMMINI VIJAYAN, AGED 45 YEARS,
W/O.VIJAYAN, PONGAZHAYIL HOUSE,
MEENADAM VILLAGE, MEENADAM KARA,
KOTTAYAM DISTRICT.

BY ADV. SRI.M.T.SURESHKUMAR

RESPONDENT/RESPONDENT/COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM - 682 031.

R BY PUBLIC PROSECUTOR SRI.R.GITESH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 23-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

SCL.

B. SUDHEENDRA KUMAR, J.

Crl.R.P. No. 1518 of 2015

Dated this the 23rd day of November, 2015.

ORDER

The fifth accused in C.C.No.120 of 2009 on the files of the Court of the Judicial Magistrate of First Class-I, Peermade, has filed this revision petition challenging the concurrent finding of conviction and sentence passed by the courts below under Section 15 (c) r/w Section 63 of the Abkari Act.

2. Heard.

3. The prosecution allegation is that on 3.3.2009 at 8.30 p.m., the revision petitioner and the other accused were found consuming liquor at Thattathikkanam Junction, which was a public place, in contravention of the provisions of the Abkari Act. When the police tried to arrest them, the accused persons attacked the police.

4. Before the trial court, PW1 to PW4 were examined and Exts.P1 to P11 were marked for the prosecution, besides identifying MO1 to MO4 series. No evidence was adduced on

the side of the revision petitioner.

5. The courts below correctly evaluated the oral and documentary evidence adduced by the prosecution and concurrently found that the revision petitioner committed the offence under Section 15 (c) r/w Section 63 of the Abkari Act. No circumstance has been brought to my notice to indicate that the appreciation of the evidence or concurrent 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 15 (c) r/w Section 63 of the Abkari Act does not warrant any interference by this court.

6. As regards the sentence, the learned counsel for the revision petitioner has pleaded for leniency. The revision petitioner was sentenced to imprisonment for three months under Section 15 (c) r/w Section 63 of the Abkari Act by the courts below. The revision petitioner is a woman, presently aged 51 years. There is no allegation that the revision

petitioner was previously convicted in any other offence. It appears that the revision petitioner was in custody from 3.3.2009 to 7.3.2009.

Considering the facts and circumstances of the case, I am of the view that the sentence awarded by the courts below under Section 15 (c) r/w Section 63 of the Abkari Act can be modified and reduced to the period of detention already undergone by the revision petitioner in connection with this case and a fine of Rs.3000/- to meet the ends of justice and accordingly, I order so. In default of payment of fine, the revision petitioner shall undergo simple imprisonment for 15 days.

In the result, this revision petition stands allowed in part as above.

Sd/-
B. SUDHEENDRA KUMAR
JUDGE

Scl/23.11.2015

True Copy

PA to Judge