

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

SATURDAY, THE 21ST DAY OF NOVEMBER 2015/30TH KARTHIKA, 1937

Crl.Rev.Pet.No. 2139 of 2011 ()

Crl.A 336/2007 of ADDL.DISTRICT & SESSN.COURT (ADHOC-II)KASARAGODE
CC 346/2005 of C.J.M.,KASARAGOD

REVISION PETITIONER/APPELLANT/ACCUSED:

HAMEED @ ABDUL HAMEED,S/O.PALLIKUNHI,
AGED 38 YEARS, MANDEKAPPU VEEDU, SUBRAYYAKATTA
KUMBLA, KASARAGOD.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENTS/COMPLAINANT & STATE:

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1. STATION HOUSE OFFICER,MANJESHWAR,
KASARAGOD-671121.
 2. STATE OF KERALA REP:BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR, SHRI.V.S.SREEJITH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON
21-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P.No.2139 of 2011

Dated this the 21st day of November 2015

ORDER

The accused in C.C. No.346 of 2005 on the files of the Court of the Judicial Magistrate of First Class, Kasaragod has filed this revision petition challenging the concurrent finding of conviction and sentence passed by the courts below under Section 379 read with Section 34 I.P.C.

2. Heard.

3. The prosecution allegation is that during the early hours of 15.5.1999, the revision petitioner committed theft of Jeep bearing Reg.No.KL-14B 3601 belonging to PW1

from the premises of the house of PW1.

4. Before the trial court, PW1 to PW6 were examined and Exts.P1 to P5 were marked for the complainant. No evidence was adduced on the side of the revision petitioner.

5. PW1 is the owner of the jeep, who stated about the incident in tune with the prosecution case. According to PW1, during the early morning on 15.5.1999, his jeep was stolen by somebody from the premises of his residential building. PW3 is an independent person examined by the prosecution to prove the prosecution case. PW3 stated about the incident in tune with the prosecution case.

6. The learned counsel for the revision petitioner has submitted that the courts below did not appreciate the evidence of PW3 correctly. PW3 stated that jeep driven by

the accused persons was moving just ahead of his jeep when the said jeep was intercepted by the police. He stated that the said jeep had no number plate on its back side. However, the evidence of PW5 and Ext.P3 seizure mahazar would show that the said jeep was having a number plate with registration No.UP 324/4235 on its back side. According to the prosecution, the registration number of the jeep of PW1 is KL-14B 3601. However, the number found on the jeep seized was a different number. Whether the accused had changed the number or not was not spoken to by PW5, who detected the offence. The arrest memo of the revision petitioner was also not produced or marked before the court by PW5 to prove that the revision petitioner was arrested by him on 15.5.1999, as stated by

PW5. No explanation has been given by the prosecution with regard to the difference in registration number of the jeep of PW1 and the jeep seized by the police in this case. The evidence of PW1 would show that he was conducting parallel service at that odd time. Having gone through the evidence of PW3 and PW5, I am of the view that the evidence of PW3 and PW5 is not sufficient to connect the revision petitioner with the commission of the offence. Therefore, the revision petitioner is entitled to benefit of doubt.

In the result, this revision petition stands allowed, setting aside the conviction and sentence passed by the courts below under Section 379 read with Section 34 I.P.C. and the revision petitioner is acquitted for the said

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offence. The bail bond of the revision petitioner stands cancelled and he is set at liberty.

Sd/-

**B.SUDHEENDRA KUMAR,
JUDGE**

dl/23.11.2015

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PA to Judge