

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

FRIDAY, THE 4TH DAY OF DECEMBER 2015/13TH AGRAHAYANA, 1937

Crl.Rev.Pet.No. 1613 of 2015 ()

Crl.A 274/2014 of ADDL. DISTRICT & SESSIONS COURT - II, NORTH PARAVUR
CC 134/2011 of J.M.F.C.-II, ALUVA

REVISION PETITIONERS/ACCUSED:

1. SREENESH , AGED 29 YEARS
S/O.LOHITHAKSHAN, PALAKKAPARAMBU VEEDU
MARAPARAMBU KARA, CHERANALLOOR
ERNAKULAM DISTRICT-682 034.
2. SUNIL, AGED 31 YEARS
S/O.ASHRAF, PALAKATTUPARAMBU HOUSE, VELI, PALLURUTHY,
COCHIN - 682 006
ERNAKULAM DISTRICT.

BY ADVS.SRI.C.ANILKUMAR (KALLESSERIL)
SRI.C.Y.VINOD KUMAR
SRI.P.M.MANASH

RESPONDENT/COMPLAINANT:

STATE OF KERALA
THROUGH THE SUB INSPECTOR OF POLICE
KALAMASSERY POLICE STATION, CRIME NO.675/2011
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM, PIN-682 031.

BY PUBLIC PROSECUTOR, SHRI.V.S.SREEJITH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 04-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P. No.1613 of 2015

Dated this the 4th day of December 2015

O R D E R

The accused persons in C.C. No.134 of 2011 on the files of the Court of the Judicial Magistrate of First Class - II, Aluva have filed this revision petition challenging the concurrent finding of conviction and sentence passed by the courts below under Section 20(b)(II)(A) of NDPS Act. (Wrongly quoted the section as 22(b)(II)(A) by the courts below.)

2. Heard.

3. The prosecution allegation is that 30.3.2011 at 5.45 p.m., the first revision petitioner was found in possession of 27 gm. of ganja and the second revision petitioner was

found in possession of 28 gm. of ganja, for the purpose of sale in contravention of the provisions of the NDPS Act.

4. Before the trial court, PW1 to PW3 were examined and Exts.P1 to P4 were marked for the prosecution, besides identifying MO1 to MO4. Ext.C1 Chemical Analysis Report was also marked. 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 revision petitioners and concurrently found that the revision petitioners committed the offence under Section 20(b)(II)(A) of NDPS Act, repelling the contentions of the revision petitioners. No circumstance has been brought to my notice to indicate that the appreciation of evidence by the courts below was perverse or incorrect. In the said circumstances, the

concurrent finding by the courts below that the revision petitioners committed the offence under Section 20(b)(II) (A) of NDPS Act does not warrant any interference by this court.

6. As regards the sentence, the learned counsel for the revision petitioners has pleaded for leniency. In this case, the first revision petitioner was found in possession of 27 gm. of ganja and the second revision petitioner was found in possession of 28 gm. of ganja. There is no allegation that the revision petitioners were previously convicted in any other offence of similar nature. The revision petitioners had already undergone detention from 30.3.2011 to 4.4.2011 in connection with this case. Considering the facts and circumstances of the case, including the quantity of the contraband seized from the

revision petitioners and also the fact that the revision petitioners are first time offenders, 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 petitioners and a fine of Rs.10,000/- each, to secure the ends of justice. Accordingly, I order so. In default of payment of fine, the revision petitioners shall undergo simple imprisonment for two months each.

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

The revision petitioners shall surrender before the trial court on 6.1.2015 to suffer the sentence.

Sd/-

**B.SUDHEENDRA KUMAR,
JUDGE**

dl/7.12.2015

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PA to Judge