

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

TUESDAY, THE 15TH DAY OF DECEMBER 2015/24TH AGRAHAYANA, 1937

Crl.Rev.Pet.No. 3446 of 2010 ()

Crl.A 370/2009 OF THE ADDITIONAL SESSIONS COURT-III, KOLLAM

CC 679/2005 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-I,
KOTTARAKKARA

REVISION PETITIONER(S) /APPELLANT/ACCUSED:

MUHAMMED BASHEER, AGED 63 YEARS,
S/O.IBRAHIM KUTTY, SASTHAMUKKALIL, WARD NO.1
MUSLIM STREET, KOTTARAKKARA, KOLLAM DIST.

BY ADV. SMT.G.VIDYA

RESPONDENT(S) /RESPONDENT/COMPLAINANT:

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

R BY PUBLIC PROSECUTOR SRI.R.GITESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 15-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

SCL.

B. SUDHEENDRA KUMAR, J.

Crl.R.P. No.3446 of 2010

Dated this the 15th day of December, 2015.

ORDER

The accused in C.C.No.679 of 2005 on the files of the Court of the Judicial Magistrate of First Class-I, Kottarakara, has filed this revision petition challenging the concurrent finding of conviction and sentence passed by the courts below under Section 20 (b) (ii) (A) of the N.D.P.S. Act.

2. Heard.

3. The prosecution allegation is that on 6.1.2005 at 1.00 p.m., the revision petitioner was found in possession of 120 gram of gunja, in contravention of the provisions of the N.D.P.S. Act.

4. Before the trial court, PW1 to PW4 were examined and Exts.P1 to P3 were marked for the prosecution, besides identifying MO1 and MO2 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 20 (b) (ii) (A) of the N.D.P.S. Act, repelling the contentions of the revision petitioner. No circumstance is available before the court 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 20 (b) (ii) (A) of the N.D.P.S. 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. Considering the facts and circumstances of the case, including the quantity of contraband involved in this case, I am of the view that the sentence awarded by the courts below under Section 20 (b) (ii) (A) of the N.D.P.S. Act can be modified and reduced to a fine

of Rs.8000/- (Rupees eight thousand only) 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 20 days.

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

Sd/-

**B. SUDHEENDRA KUMAR
JUDGE**

Scl/15.12.2015

True Copy

PA to Judge