

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

FRIDAY, THE 22ND DAY OF MAY 2015/1ST JYAISHTA, 1937

Crl.Rev.Pet.No. 2228 of 2014

AGAINST THE JUDGMENT IN CRL.A.NO. 657/2012 of ADDITIONAL
DISTRICT & SESSIONS COURT, NORTH PARAVUR DATED
17-07-2014.

AGAINST THE JUDGMENT IN CC 1071/2005 of J.M.F.C.-I, ALUVA
DATED 15-02-2012.

REVISION PETITIONER(S)/APPELLANT/ACCUSED:

RASAQ, AGED 31 YEARS,
S/O.RASHEED, KADAVANTHUVALAPIL HOUSE,
PUZHADI VILLAGE,
KANNUR DISTRICT.

BY ADV. SRI.SALIM V.S.

RESPONDENT(S)/RESPONDEDNTS/COMPLAINANT:

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

BY PUBLIC PROSECUTOR SMT. MADHU BEN

THIS CRIMINAL REVISION PETITION HAVING COME UP
FOR ADMISSION ON 22-05-2015, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING:

K. HARILAL, J.

Crl.R.P. No.2228 of 2014

Dated this the 22nd day of May, 2015

ORDER

The petitioner herein is the accused in C.C.No.1071 of 2005 on the files of the Judicial First Class Magistrate's Court-I, Aluva, as well as the appellant in Crl. Appeal No.657 of 2012 on the files of the Additional District and Sessions Judge, North Paravur. He was charged and prosecuted for the offences punishable under Sections 419, 468 and 471 of the Indian Penal Code and Sec.12(1)(d) of the Indian Passport Act, 1967. After trial, the trial court found the petitioner herein guilty of the said offences, convicted and sentenced to undergo simple imprisonment for one year each under Secs.419 and 471 of the IPC and

under Sec.12(1)(d) of the Passport Act. He was sentenced to undergo simple imprisonment for one year and to pay a fine of Rs.6,000/- and in default, to undergo simple imprisonment for three months under Sec.468 of the IPC also.

2. Though the petitioner challenged the legality and propriety of the said judgment in Crl. Appeal No.532 of 2010, the appellate court, after re-appreciating the evidence on record, affirmed the findings of conviction; but set aside the sentence imposed on the petitioner and remanded back the case to the appellate court to consider and pass sentence afresh in view of the judgment passed in appeal. After remand, the trial court considered the sentence afresh and sentenced him to undergo simple imprisonment for one year each under Sections 419 and 471 of the IPC and under Sec.12(1)(d) of the Passport Act. The accused was further sentenced to undergo simple imprisonment for one year and to pay a fine of ₹6,000/- and in default, to undergo simple

imprisonment for three months under Sec.468 of the IPC.

3. The petitioner again challenged the sentence in Crl. Appeal No.657 of 2012. The appellate court, after considering the nature and gravity of offences with aggravating and mitigating circumstances, again modified the sentence as follows: He is sentenced to pay a fine of ₹5,000/- each under Secs.419 and 471 of the IPC and under Sec.12(1)(d) of the Passport Act and in default, to undergo simple imprisonment for three months each. For the offence punishable under Sec.468 of the Indian Penal Code, the accused is sentenced to undergo imprisonment for the period he has already undergone during crime stage and also to pay a fine of ₹6,000/-, in default, to undergo simple imprisonment for three months. The accused was in custody from 26/3/2004 to 1/04/2004. The accused is directed to appear before the lower court on or before 18/8/2014 to undergo the sentence failing which, the lower court is directed to execute the sentence as per

law. The legality, propriety and the proportionality of the sentence imposed on the revision petitioner are under challenge in this revision petition.

4. Heard the learned counsel for the petitioner. The learned counsel for the petitioner advanced arguments highlighting the disproportionality of the sentence imposed on the revision petitioner. According to the leaned counsel for the petitioner, the sentence imposed on the revision petitioner is disproportionate with the nature and gravity of the offence.

5. The short question that arises for consideration in this revision petition is whether, the sentence imposed on the revision petitioner is just and proper? Going by the impugned judgment, it is seen that the court below has considered the entire facts and circumstances of the case, including aggravating and mitigating circumstances. The court below has observed that the accused was only 23 years at the time of commission of the offence and he had no

criminal antecedents. In that view of the matter, the court below had already taken a lenient view in the matter of imposition of sentence. It is also observed that a long period of imprisonment, as imposed by the lower court, will destroy the life of a young citizen who has an opportunity to reform himself. In that view of the matter, the period of imprisonment already undergone by the petitioner during the investigation stage was taken into account and the sentence was limited to fine only. It is to be remembered that misplaced sympathy has no place in the criminal adjudicatory process. On an overall evaluation of the reasoning, I am satisfied that the sentence imposed on the revision petitioner is just and proper and warranting no interference under the revisional jurisdiction.

This revision petition is dismissed.

Sd/-

(K. HARILAL, JUDGE)

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