

# V. Surendran Nair vs The State Of Kerala on 10 January, 2020

**Bench: R. Banumathi, A.S. Bopanna**

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IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). 58 OF 2020  
(Arising out of SLP (CRL.)No.10152 of 2019)

V. SURENDRAN NAIR

VERSUS

THE STATE OF KERALA & ANR.

O R D E R

R. BANUMATHI, J.:

Leave granted.

(2) Being aggrieved by order dated 01.08.2019 passed by the High Court of Kerala at Ernakulam in Criminal Revision Petition NO.1816 of 2020, the appellant has preferred this appeal. (3) The appellant was a member of the Board of Directors of Thiruvananthapuram Service Co-operative Bank. It is alleged that the appellant and other accused have abused their position as public servants and they are said to have alleged to cause loss to the co-operative bank. By order dated 19.05.2007, learned Sessions Judge has taken cognizance of the matter under Sections 13(2) read with 13(1)(c) and 13(1)(d) of the Prevention of Corruption Act and Section 120-B IPC. The said order of taking cognizance was challenged by the appellant before the High Court by filing Criminal Revision Petition NO.1816 of 2012. The said Revision Petition came to be dismissed on 01.08.2019 by the High Court on the ground that the appellant has challenged the order of taking cognizance dated 19.05.2007 only in the year 2012 and there is long delay of five years in filing the revision and that the revision has been filed by the appellant without filing any application praying for condonation of delay of five years. Being aggrieved the appellant has preferred this appeal. (4) We have heard Mr. Raghenth Basant, learned counsel appearing for the appellant and Mr. Nishe Rajen Shonker, learned counsel appearing for the respondent-State and also perused the impugned order and the materials on record. (5) The grievance of the appellant is that the High Court having entertained the criminal revision petition in the year 2012, the same should have been considered by the High Court on merits. Mr. Raghenth Basant, learned counsel appearing for the

appellant, has submitted that filing of an application for condonation of delay is only a technical defect and the High Court should have given an opportunity to the appellant to file such an application in this regard. It was submitted that having entertained and admitted the revision, the High Court should have considered the matter on merits instead of dismissing the same on delay. It was also submitted that another revision filed by another co-accused, Criminal Revision Petition No.3092 of 2011, has been heard and the matter has been reserved on 19.12.2019 for pronouncement of Order by the High Court. Learned counsel for the petitioner prayed that the matter be remitted back to the High Court for consideration of the matter on merits.

(6) Though there was delay of five years in challenging the order of taking cognizance having taken the revision, in our view, the High Court could have examined the revision on merits rather than dismissing the same on the question of delay.

Considering the submissions advanced on behalf of the appellant, the impugned order is set aside and the matter is remitted back to the High Court for consideration of the same afresh.

(7) In the result, the impugned order dated 01.08.2019 passed by the High Court in Criminal Revision Petition NO.1816 of 2012 is set aside and this appeal is allowed. (8) The appellant shall file a formal application for condonation of delay in filing the revision before the High Court. We request the High Court to allow the application for condonation of delay so filed and hear the Criminal Revision Petition NO.1816 of 2012 on merits and dispose of the same in accordance with law as expeditiously as possible. We make it clear that we have not expressed any opinion on the merits of the matter. Since the appellant had the benefit of stay of the proceedings before the Trial Court during the pendency before the High Court as well as before this Court, the interim stay to continue till the revision petition is finally decided by the High Court.

.....J. (R. BANUMATHI) .....J. (A.S. BOPANNA) NEW DELHI, JANUARY 10, 2020.

ITEM NO.33

COURT NO.5

SECTION II-B

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.)

No(s). 10152/2019

(Arising out of impugned final judgment and order dated 01-08-2019 in CRLRP No. 1816/2012 passed by the High Court Of Kerala At Ernakulam) V. SURENDRAN NAIR Petitioner(s) VERSUS THE STATE OF KERALA & ANR. Respondent(s) (FOR ADMISSION and Interim Relief) Date : 10-01-2020 This petition was called on for hearing today. CORAM :

HON'BLE MRS. JUSTICE R. BANUMATHI HON'BLE MR. JUSTICE A.S. BOPANNA

For Petitioner(s) Mr. Raghenth Basant,Adv.

Ms. Liz Mathew, AOR Mr. Raghav Mehrotra,Adv.

Ms. Mahamaya Chaterjee,Adv.

For Respondent(s) Mr. Nishe Rajen Shonker, AOR Mr. Anu K. Joy,Adv.

Mr. Alim Anvar,Adv.

Mr. Shaji J. Kodankandath,Adv.

UPON hearing the counsel the Court made the following O R D E R Leave granted.

In terms of the signed non-reportable order, the appeal is allowed.

Pending applications, if any, shall also stand disposed of.

(MAHABIR SINGH)  
COURT MASTER

(BEENA JOLLY)  
BRANCH OFFICER

(Signed non-reportable order is placed on the file)