

Kerala High Court

Prasad vs State Of Kerala on 26 March, 2009

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Crl.Rev.Pet.No. 803 of 2009()

1. PRASAD, S/O.KOCHUKUNJU,  
... Petitioner

Vs

1. STATE OF KERALA,  
... Respondent

For Petitioner :SRI.M.V.THAMBAN

For Respondent :PUBLIC PROSECUTOR

The Hon'ble MR. Justice V.RAMKUMAR

Dated :26/03/2009

O R D E R

V. RAMKUMAR, J.

= = = = =

Crl.R.P.No.803 of 2009

= == = = =

Dated: 26.03.2009

O R D E R

In this revision filed under Sec. 397 read with Sec. 401 Cr.P.C. the petitioner who is the accused in C.C. No.....of..... on the file of the J.F.C.M.... for offences punishable under Sections..... challenges the conviction entered and the sentence passed against him for offences punishable under Sections.....I.PC.

2. The case of the prosecution can be summarised as follows:

.....

3. On the accused pleading not guilty to the charge framed against him by the trial court for the aforementioned offences, the prosecution was permitted to adduce evidence in support of its case. The prosecution altogether examined ..... witnesses as P.Ws 1 to ..... and got marked ..... documents as Exts. P1 ..... and ..... material objects as MOs.....

4. After the close of the prosecution evidence, the accused was questioned under Sec. 313 (1)(b) Cr.P.C. with regard to the incriminating circumstances appearing against him in the evidence for the prosecution. He denied those circumstances and maintained his innocence. He did not adduce any defence evidence when called upon to do so.

5. The learned Magistrate, after trial, as per judgment dated..... found the revision petitioner guilty of the offences punishable under Sections .....I.P.C. and sentenced him to..... On appeal preferred by the revision petitioner before the Sessions Court ..... the lower appellate court as per judgment dated..... confirmed the conviction entered and the sentence passed against the revision petitioner. Hence, this Revision.

6. Eventhough the learned counsel appearing for the revision petitioner assailed on various grounds the conviction entered against the revision petitioner, in as much as the conviction has been recorded by the courts below concurrently after a careful evaluation of the oral and documentary evidence in the case, this Court sitting in revision will be loathe to interfere with the said conviction which is accordingly confirmed.

7. What now survives for consideration is the question regarding the adequacy or otherwise of the sentence imposed on the revision petitioner. Having regard to the facts and circumstances of the case, I do not think that the revision petitioner deserves penal servitude by way of incarceration for the said conviction. I am of the view that interest justice will be adequately met by imposing a sentence to be passed hereinafter. Accordingly, the sentence imposed on the revision petitioner is set aside and instead he is sentenced to .....

In the result, this Revision is disposed of confirming the conviction entered but modifying the sentence imposed as above.

V.Ramkumar, Judge.

sj