

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1173 OF 2010

ANANDAN

APPELLANT

VS.

STATE OF KERALA

RESPONDENT

O R D E R

The present appeal arises from a conviction sentencing the appellant to seven years imprisonment with fine of Rs.1,00,000/- under Section 55(a) of the Akbari Act for transportation of spirit illegally. The High Court reduced the sentence to a period of three years.

Learned counsel for the appellant referring to the evidence of PW-8 submits that the appellant was only a temporary cleaner of the Truck. It is next submitted that therefore, he was unaware of the fact that spirit was being transported in a concealed cavity of the truck. Disputing his arrest at the time of checking of the vehicle it is submitted that PWs. 3 & 4, the independent witnesses have also turned hostile.

Learned counsel for the State has submitted that any minor contradiction in the evidence of the official witness is irrelevant. No animosity has been alleged against the official witness for false implication.

We have considered the submission on behalf of the parties.

The appellant was the cleaner of the Truck. The driver who

was also made an accused, has since been deceased. The owner of the Truck remains absconding and had never faced trial. The occurrence is stated to be long back on 16.11.1997. The High Court in its judgment has observed that the cleaner alone became the material victim. He could not be said to be the brain behind these types of activities. It was unfortunate that the persons who were the brain behind such occurrences were seldom apprehended, and the poor people were caught hold of and became the sufferers.

On the aforesaid reasoning the period of imprisonment was reduced to three years and the default imprisonment to six months.

Learned Counsel for the appellant has relied on *Sasikumar & Another vs. State of Kerala*, (2013) 11 SCC 680, para 6 of which reads as follows:

"6. We would like to further observe that from the facts of the case it is evident that the appellants and the other accused in this case are not the real men behind the nefarious trade of illicit intoxicants in the State. From the quantity seized from the possession of the accused and the manner in which it was being carried, it is evident that the three accused were only small-time operators in the illicit trade of arrack and though visible, they constitute the weakest link in the chain of illicit trade in arrack. In these circumstances, we think a further reduction of the sentence would be quite in order. We, accordingly, reduce the sentence of imprisonment from 18 months, as awarded by the High Court, to one year and further reduce the sentence in default of payment of fine from six months to fifteen days."

Having considered the matter from all aspects, the long passage of time, that the appellant was only a temporary cleaner, while the owner of the truck remained absconding, the class of society from which the appellant comes, we are satisfied to modify

the order of the High Court by sentencing him to the period undergone.

The default period in case of non-payment of fine may be adjusted against the period already undergone to the extent possible.

The appeal is disposed of with the aforesaid modification of sentence.

.....J  
[NAVIN SINHA]

.....J.  
[KRISHNA MURARI]

NEW DELHI;  
FEBRUARY 23, 2021

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No(s). 1173/2010

ANANDAN

Appellant(s)

VERSUS

STATE OF KERALA

Respondent(s)

Date : 23-02-2021 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE NAVIN SINHA  
HON'BLE MR. JUSTICE KRISHNA MURARIFor Appellant(s) Mr. Senthil Jagadeesan, AOR  
Ms. Sonakshi Malhan, Adv.For Respondent(s)  
Mr. C. K. Sasi, AORUPON hearing the counsel the Court made the following  
O R D E RThe appeal is disposed of with modification of  
sentence in terms of signed order.

Pending application(s) shall stand disposed of.

(RAJNI MUKHI)  
COURT MASTER (SH)(DIPTI KHURANA)  
COURT MASTER (NSH)

(Signed order is placed on the file)