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ITEM NO.50

COURT NO.10

SECTION IIB

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).3903/2012

(From the judgement and order dated 17/11/2011 in CRLR No.1769/2011, of  
The HIGH COURT OF KERALA AT ERNAKULAM)

SHAJI @ SHAJAHAN

Petitioner(s)

VERSUS

STATE OF KERALA

Respondent(s)

(With appln(s) for bail and office report )

Date: 26/07/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.L. GOKHALE  
HON'BLE MR. JUSTICE J. CHELAMESWAR

For Petitioner(s)

Mr. P.V. Dinesh,Adv.  
Mr. Bineesh K.,Adv.  
Mr. S.K.Tripathi,Adv.

For Respondent(s)

Ms. Bina Madhavan,Adv.

UPON hearing counsel the Court made the following  
O R D E R

Leave granted.  
The Appeal is disposed of.

[SUMAN WADHWA]  
AR-cum-PS

[SNEH LATA SHARMA]  
COURT MASTER

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1053 OF 2013  
(Arising out of SLP(Crl.)No. 3903 of 2012)

SHAJI @ SHAJAHAN

.. APPELLANT(S)

vs.

STATE OF KERALA

.. RESPONDENT(S)

O R D E R

Leave granted.  
Heard Mr. P.V. Dinesh, learned counsel in support of this  
appeal and Ms. Bina Madhavan, learned counsel appearing on behalf of  
the respondent-State.

2. The appellant seeks to challenge the judgment and order dated 17.11.2011 rendered by the High Court of Kerala in Criminal Revision No. 1769 of 2011 wherein his conviction under Section 292 sub-section (2)(a) of I.P.C., as imposed by the concerned Magistrate and confirmed by the Sessions Court, has been left undisturbed. He has been sentenced to undergo simple imprisonment for six months and fine of Rs.1000/-

3. We have seen the orders passed by the Courts below. The ingredient of the concerned offence is to sell and circulate the books which are obscene. That finding has been rendered by all the Courts below on evidence and therefore we have no reason to take a different view. The conviction of the appellant therefore remains.

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4. With regard to the question of sentence we may note that the Section provides that for this offence there shall be imprisonment for a term which may extend to two years and a fine which may extend to two thousand rupees if it is the first offence. There is no dispute that this is the first time that the appellant has been convicted.

5. The reported incident is of the year of 2006. We record the statement of the counsel for the appellant that the appellant is no longer indulging in any such activity. He submits that considering the fact that the incident is of 2006 and the appellant had to face all this litigation all these years, a lenient view be taken. We have noted the submission. We have noted the assurance of appellant's counsel that such activity will not be indulged into again. Besides the incident had occurred when he was a much younger person. Hence, we reduce the sentence of imprisonment to one week, but increase the fine to Rs.2000/-.

6. The appeal is disposed of accordingly.

.....J.  
(H.L.GOKHALE)

.....J.  
(J. CHELAMESWAR)

New Delhi,  
July 26, 2013.