

**IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION**

**Criminal Appeal No 147 of 2021**

(Arising out of SLP (Crl) No 1537 of 2020)

**A Abdul Salam**

**.... Appellant(s)**

**Versus**

**State of Kerala**

**....Respondent(s)**

**ORDER**

1 Leave granted.

2 This appeal arises from a judgment and order of a learned Single Judge of the High Court of Kerala dated 26 September 2019 in Criminal Appeal 1194 of 2006.

3 The appellant was the sole accused in Sessions Case No 192 of 2004 and was convicted of offences under Sections 489B and 489C of the Indian Penal Code 1860<sup>1</sup>. He has been sentenced to suffer imprisonment for a period of five years and to a fine of Rs 5,000 with a default sentence of one year's simple imprisonment.

4 The case of the prosecution is that on 23 September 1998, the appellant was apprehended at about 1.10 pm in Kasaragod when he was found to be in possession of 100 counterfeit currency notes, each of a denomination of Rs 100 and that he was in possession with the intent of transferring them to prospective beneficiaries. In support of the prosecution, among other witnesses, PW-1, who

1 "IPC"

is the Head Constable, who accompanied the detecting officer was examined in evidence. The currency notes, as mentioned in the mahazar (Exhibit P-3) were shown to be counterfeit. The expert's report established that the notes were counterfeit. The conviction which was rendered by the Sessions Court was confirmed in appeal by the High Court.

5 Learned counsel appearing on behalf of the appellant submits that the offence under Section 489B requires selling or buying or receiving from or otherwise trafficking or using as genuine any forged or counterfeit currency note or bank note. In the present case, it has been submitted that the ingredients of Section 489B have not been established.

6 Another ground which has been urged in support of the appeal is that the offence is alleged to have taken place in 1998 and that the appellant is about 70 years old at present and is suffering from serious medical conditions. Hence, it has been submitted that the sentence may be reduced.

7 Section 489B provides as follows:

“489B. Using as genuine, forged or counterfeit currency-notes or bank-notes.—Whoever sells to, or buys or receives from, any other person, or otherwise traffics in or uses as genuine, any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”

8 Having regard to the evidence on the record, we find merit in the contention that while the offence of being in possession of forged or counterfeit currency notes or bank notes under Section 489C has been established, the crucial ingredients of Section 489B have not been proved in the evidence. Section 489C provides a maximum term of imprisonment of seven years, whereas, Section 489B provides that the sentence can extend up to ten years, together with fine.

9 Having regard to the above facts and circumstances, we are of the view that the conviction of the appellant under Section 489C alone should be maintained in substitution of the conviction which has been awarded by the Sessions Court as affirmed by the High Court. In consequence, the sentence of five years which has been imposed upon the appellant would have to be suitably scaled down. We accordingly order and direct that the appellant shall be sentenced to suffer a sentence of two years imprisonment in substitution of the five years' sentence which was awarded by the Sessions Court and affirmed by the High Court. The fine which has been imposed by the order of the Sessions Court shall be maintained.

10 The appeal is allowed to the above extent.

.....J.  
**[Dr Dhananjaya Y Chandrachud]**

.....J.  
**[R Subhash Reddy]**

**New Delhi;**  
**February 19, 2021**  
**-S-**

