

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1927 OF 2017

(Arising out of SLP (Criminal) No. 7463 of 2017)

KOCHAPPI ALIAS PAULOSE ... Appellant

VERSUS

THE STATE OF KERALA ... Respondent

O R D E R

Delay condoned.

Leave granted.

We have heard the counsel appearing for the parties finally.

Many persons were arrayed as accused in a trial conducted on account of murder of one Chandran and his wife Thankamani. Insofar as the appellant (accused No. 8) is concerned, he was chargesheeted for the offence under Section 118 of the Indian Penal Code (IPC). On going through the impugned judgment of the High Court, it is manifest that the only allegation against him was that he intimated the second accused through a letter that the deceased Chandran was making problems in the plantation and had obstructed the activities relating to cultivation of Tapioca in the farm land belonging to accused Nos. 2 to 6.

It is not in dispute that the conspiracy which was hatched to commit murder of Chandran and his wife was entered into much after the writing of the said letter. Therefore, we are of the opinion that insofar as the writing

of the letter is concerned, it has no bearing on the matter and, thus, the conviction of the appellant under Section 118 IPC is unsustainable.

This appeal is, accordingly, allowed and the judgment of the High Court affirming that of the trial Court insofar as the conviction of the appellant is concerned, is set aside. The appellant shall be released from jail forthwith if not required in any other case.

....., J.
[A.K. SIKRI]

....., J.
[ASHOK BHUSHAN]

New Delhi;
November 13, 2017.

ITEM NO.50

COURT NO.6

SECTION II-B

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

Petition(s) for Special Leave to Appeal (Crl.) No. 7463/2017

(Arising out of impugned final judgment and order dated 05-04-2017 in CRLA No. 888/2009 passed by the High Court of Kerala at Ernakulam)

KOCHAPPI ALIAS PAULOSE

Petitioner(s)

VERSUS

THE STATE OF KERALA

Respondent(s)

(With IA No.70178/2017-CONDONATION OF DELAY IN FILING, IA
No.70179/2017-EXEMPTION FROM SURRENDERING, IA
No.83983/2017-PERMISSION TO FILE ADDITIONAL DOCUMENTS and IA
No.83984/2017-EXEMPTION FROM FILING O.T.)

WITH

SLP(Crl) No. 8088/2017 (II-B)

(With IA 70507/2017 - FOR EXEMPTION FROM SURRENDERING, IA
70508/2017 - FOR EXEMPTION FROM FILING O.T., IA
No.112941/2017-PERMISSION TO FILE ADDITIONAL DOCUMENTS and IA
No.112942/2017-EXEMPTION FROM FILING O.T.)

Date : 13-11-2017 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE ASHOK BHUSHAN

For Petitioner(s) Mr. V. Giri, Sr. Adv.
Mr. Mohammed Sadique T.A., AOR
Ms. Anu K. Joy, Adv.

Mr. Roy Abraham, Adv.
Ms. Reena Roy, Adv.
Ms. Seema Jain, Adv.
Mr. Akhil Abraham, Adv.
Mr. Himinder Lal, AOR

For Respondent(s) Mr. C. K. Sasi, AOR

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

SLP (Crl.) No. 7463/2017

Delay condoned.

Leave granted.

The appeal is allowed in terms of the signed order.

SLP(Crl) No. 8088 of 2017

Issue notice. Mr. C. K. Sasi, learned counsel, accepts notice on behalf of the respondent.

Heard learned counsel for the parties.

Insofar as the conviction of the petitioner under Section 204 and 218 of the Indian Penal Code is concerned, after going through the judgment of the trial Court as well as that of the High Court, we are not inclined to interfere with the same. The special leave petition is dismissed.

However, the sentence awarded to the petitioner is reduced from 3 years Rigorous Imprisonment to two years Rigorous Imprisonment.

(NIDHI AHUJA)
COURT MASTER

(MALA KUMARI SHARMA)
COURT MASTER

[Signed order is placed on the file.]