

Corruption Act, 1988 has been affirmed by the High Court. The High Court has also affirmed the sentence of rigorous imprisonment of two years along with fine and default sentence awarded by the learned trial Court.

3. The challenge in the appeal arising out of Special Leave Petition (Criminal) Nos.1577-1601 of 2017 is to an order of the High Court dated 19th February, 2016 by which the conviction of the accused appellant under the same provisions of the Prevention of Corruption Act, 1988 as made by the learned trial Court has been affirmed by the High Court. The High Court has also affirmed the sentence of rigorous imprisonment of three years along with fine and default sentence awarded by the learned trial Court.

4. It may be recalled at this stage that there was an earlier Special Leave Petition i.e. Special Leave Petition (Criminal) No.8249 of 2016 which was filed challenging the order of the High Court of Kerala dated 8th January, 2016 by which the accused appellant had been similarly convicted under Section 13(1)(c) read with Section 13(2) of the Prevention of Corruption Act, 1988 and sentenced to undergo rigorous imprisonment for one year along with fine and default sentence. The said Special Leave Petition (Criminal) No.8249 of 2016 has been dismissed by this Court by its order dated 11th November, 2016.

5. Shri R. Basant, learned Senior Counsel appearing for the accused appellant has submitted that though three separate prosecutions were instituted against the

accused appellant, from the materials on record it is possible to cull out a block period during which the offences were committed which pertained to the different periods in which the accused appellant was employed as the Employment Officer in three different stations of the State of Kerala. The prosecution could have been a combined one but have been split up purely for the purposes of convenience. Hence, according to the learned Senior Counsel, the present is a fit case where the discretionary power of this Court under Section 427 of the Code of Criminal Procedure, 1973 ought to be invoked and all the sentences ought to be directed to run concurrently and not separately in respect of each of the offences.

6. Alternatively, Shri Basant has submitted that sentence of rigorous

imprisonment for two years and three years respectively should be reduced to a period of one year for each of the offences keeping in mind that in the first offence (i.e. subject matter of Special Leave Petition (Criminal) No.8249 of 2016) the sentence imposed is one year.

7. No submission has been made on behalf of the respondent - State and the matter has been left for determination by the Court.

8. The three prosecutions against the accused appellant were in respect of the acts and conduct of the accused appellant while serving as the Employment Officer at Shoranur, Allapuzha and Cherthala in the State of Kerala. The periods during which the offences were found to have been committed also are different and there is no overlapping in this regard. In such a

situation, if three different cases were registered on the basis of three different FIRs and each of the said offence was tried separately we cannot find any fault with the conduct of the prosecution. The offences being in respect of different periods of time and with regard to employment of the accused appellant at different stations we are of the view that the present is not an appropriate case where we ought to invoke power under Section 427 of the Code of Criminal Procedure, 1973 to make the sentence in the first case (i.e. one year rigorous imprisonment) as the common sentence in the other two cases also. The first contention of Shri Basant, therefore, is rejected.

9. So far as the second contention advanced before us is concerned we have seriously considered the matter. The

minimum sentence under Section 13(2) of the Prevention of Corruption Act, 1988 at the relevant point of time was one year. The accused appellant was convicted in the first case and sentenced to under rigorous imprisonment of one year. No special grounds have been recorded for the higher sentence of rigorous imprisonment of two years and three years respectively awarded to the accused appellant in the other two cases. The instant allegations are in respect of the acts committed way back between the year 1989 and 1992.

10. Taking into account the totality of the above facts, we are of the view that the ends of justice would be met if the sentence in the appeal arising out of Special Leave Petition (Criminal) Nos.1605-1610 of 2017 is reduced from rigorous imprisonment of two years to rigorous

imprisonment of one year and sentence in the appeal arising out of Special Leave Petition (Criminal) Nos.1577-1601 of 2017 is reduced from rigorous imprisonment of three years to rigorous imprisonment of one year. We order accordingly.

11. The accused appellant has completed the sentence of one year imposed in connection with the matter out of which Special Leave Petition (Criminal) No.8249 of 2016 had arisen. He is stated to be presently under custody in connection with the second case (i.e. subject matter in the appeal arising out of Special Leave Petition (Criminal) No.1605-1601 of 2017). We direct that on completion of one year's custody in connection with the second case (i.e. subject matter in the appeal arising out of Special Leave Petition (Criminal) No.1605-1601 of 2017) the accused appellant

will serve further rigorous imprisonment of one year in connection with the third case (i.e. subject matter in the appeal arising out of Special Leave Petition (Criminal) No.1577-1601 of 2017) and on completion thereof he will be set at liberty.

12. With the aforesaid modification in the sentence the appeals shall stand disposed of.

....., J.
(RANJAN GOGOI)

....., J.
(R. BANUMATHI)

NEW DELHI
DECEMBER 05, 2017

ITEM NO.16

COURT NO.3

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(S). 1605-1610/2017

(ARISING OUT OF IMPUGNED FINAL JUDGMENT AND ORDER DATED 29-01-2016 IN CRLA NO. 1104-1109/2001 PASSED BY THE HIGH COURT OF KERALA AT ERNAKULAM)

K. VIJAYAKUMAR

PETITIONER(S)

VERSUS

THE STATE OF KERALA

RESPONDENT(S)

(FOR [PERMISSION TO FILE ANNEXURES] ON IA 3593/2017)

WITH

SLP(Cr1) No. 1577-1601/2017 (II-B)

Date : 05-12-2017 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE RANJAN GOGOI
HON'BLE MRS. JUSTICE R. BANUMATHI

For Petitioner(s)

Mr. Basant R., Sr. Adv.
Mr. Ragenth Basant, Adv.
Mr. Mithun Verghese, Adv.
Ms. Aanchal Tikmani, Adv.
Ms. Liz Mathew, AOR

For Respondent(s)

Mr. Nishe Rajen Shonker, AOR
Ms. Anu K. Joy, Adv.
Ms. Abraham Mathews, Adv.

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

Leave granted.

The appeals shall stand disposed of in terms of
the signed order.

[VINOD LAKHINA]

AR-cum-PS

[ASHA SONI]

BRANCH OFFICER

[SIGNED ORDER IS PLACED ON THE FILE]