



2026:KER:3967

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE M.B. SNEHALATHA

WEDNESDAY, THE 14TH DAY OF JANUARY 2026 / 24TH POUSHA, 1947

CRL.REV.PET NO. 588 OF 2018

AGAINST THE JUDGMENT DATED 29.03.2007 IN Crl.A NO.697 OF 2006 OF SESSIONS COURT, THRISSUR ARISING OUT OF THE JUDGMENT DATED 12.10.2006 IN SC NO.71 OF 2004 OF PRINCIPAL ASSISTANT SESSIONS COURT, IRINJALAKUDA

REVISION PETITIONER/APPELLANT/ACCUSED:

HARI
S/O CHANDRAN, MADAVANPLACKAL HOUSE,
KOPPIPADAM DESOM, MATTATHUR VILLAGE.

BY ADV SRI.V.A.VINOD

RESPONDENT/RESPONDENT/STATE:

THE STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682031.

MAYA M N -PP

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR HEARING ON 14.01.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

CR

M.B.SNEHALATHA, J.

Crl.R.P.No.588 of 2018

Dated this the 14th January, 2026

O R D E R

This revision petition is filed by the accused challenging the judgment in Crl.A No.697/2006 of Sessions Court, Thrissur, by which it confirmed the judgment of conviction and sentence against him in S.C.No.71/2004 of Assistant Sessions Court, Irinjalakkuda for the offence punishable under Section 399 Indian Penal Code (for short 'IPC').

2. Prosecution case is that on 1.12.2002 at around 10 pm, while the Circle Inspector of Police, Puthukkad, along with his police team were on patrolling duty, accused herein along with two other accused named in the final report were found travelling in a car bearing registration No.KL7C-459 carrying deadly weapons and they were making preparation for committing dacoity.

3. The crime was initially registered under Section 41(1)(a)(d) and Section 102 of the Code of Criminal Procedure and Section 27 of

the Arms Act, 1959. After investigation, the investigating officer filed final report against three accused for the offence punishable under Section 399 IPC and Section 27 of the Arms Act.

4. Revision petitioner herein is A1 in the final report and he faced trial before the Assistant Sessions Court, Irijalakkuda in S.C.No.71/2004.

5. To substantiate the prosecution case, prosecution examined PW1 to PW6 and marked Exts.P1 to P9 and identified MO1 to MO8 series material objects. No defence evidence was adduced by the accused.

6. After trial, the learned Assistant Sessions Judge found the revision petitioner/A1 guilty of the offence under Section 399 IPC and he was sentenced thereunder. He was found not guilty under Section 27 of the Arms Act and was acquitted of the said offence. The appeal preferred by the revision petitioner/A1 as Crl.A No.697/2006 was dismissed by the Sessions Court by confirming the conviction and sentence against him for the offence under Section 399 IPC.

7. Challenging the conviction and sentence, the revision petitioner/1st accused has preferred this revision petition, contending inter alia that none of the ingredients of the offence under Section 399 IPC have been made out by the prosecution; that the prosecution failed to establish that the accused had done any preparation for committing

dacoity as alleged. It was further contended that there is inordinate delay in filing Ext.P7 report which would show the falsity of the prosecution case.

8. The learned Public Prosecutor on the other hand, submitted that the prosecution has succeeded in establishing that A1 along with two other accused named in the final report were preparing for committing dacoity and therefore there are no reasons to unsettle the finding entered by the trial court and the appellate court.

9. PW6, the then Circle Inspector of Police, Puthukkad, testified that on 1.12.2002, at around 10 pm, while he, along with his team, was on patrolling duty and was conducting vehicle checking at Vellikulangara Junction, an ambassador car bearing registration No.KL-7C-459 was seen coming through Kuttichira-Kodakara Road; that though he shown hand signal to stop the vehicle, the car did not stop there. Accordingly, the police team chased the said car and intercepted the said vehicle. His further version is that A1 to A3 were seen inside the car. On inspection of the said car, four knives, two iron rods, one idikatta, four gloves, one helmet, one monkey cap and two stickers with No.KL8-632 were seen in the dicky of the car. All the three accused found inside the car were arrested. Ext.P8 is the arrest memo. Crime 228/2002 of Vellikulangara Police Station was registered under Section 41(1)(a)(d), 102 of Cr.P.C and Section 27 of the Arms Act. MO1 to MO8

series are the weapons and other articles seized from the vehicle as per Ext.P2 seizure mahazar.

10. PW1 the then Assistant Sub Inspector of Police, Varanthalappilly, also testified in tune with PW6. He too testified that on 1.12.2002 at around 10 pm while he along with PW5 namely the Circle Inspector of Police, Puthukkad, were on patrolling duty, the car bearing registration No.KL7C-459 was intercepted by the police team; that A1 to A3 were found travelling in the said car. On inspection of the dicky of the car, four knives, two iron rods, one idikatta, four gloves, one helmet, one monkey cap and two stickers bearing No.KL8-632 were seen in the dicky of the car and accordingly, the Circle Inspector of the Police seized the said articles after preparing Ext.P2 mahazar. PW5 identified MO1 to MO8 series as the articles seized from the said car.

11. PW2 to 4 turned hostile to the prosecution and did not support the prosecution case. They testified that they have not witnessed the seizure of any weapons from the car bearing registration No.KL7C-459.

12. PW5 testified that his brother Soji was the owner of the car bearing registration No.KL7C-459; that the said car was entrusted with 'Periyar Autos' for sale; that the car was sold to A1 for an amount of ₹68,000/- of which A1 had paid only ₹20,000/- and had agreed to

pay the balance within 30 days and the car was handed over to A1. His further version is that subsequently, he came to know that the said car was seized by the police.

13. The versions of PW1 and PW6, namely the police officials is to the effect that on 1.12.2002 at about 10 pm. while they were on patrolling duty at Vellikulangara Junction, they intercepted a car bearing registration No.KL7C-459 driven by the accused herein, which was found coming through the Kuttichira-Kodakara Road; that though the police party led by PW6 showed hand signal to stop the vehicle, the car did not stop and accordingly, they chased the said car and intercepted it. The further version of PW1 and PW6 would show that apart from A1, there were two other persons also inside the car, namely, A2 and A3, who are named in the final report. PW1 and PW6 have further testified that upon inspection of the vehicle, they could see MO1 to MO8 series weapons and articles in the dicky of the said car. According to PW1 and PW6, accused 1 to 3 were preparing to commit dacoity and they were travelling with MO1 to MO8 weapons and articles with the design to commit dacoity.

14. Now let us see whether the materials and evidence produced by the prosecution is sufficient enough to attract the offence under Section 399 IPC.

15. Section 399 IPC deals with making preparation to commit dacoity. To understand its scope, it must be read along with Section 391 IPC which defines dacoity. Section 391 IPC reads as under:

"Dacoity."-When five or more persons conjointly commit or attempt to commit a robbery, or where the whole number of persons conjointly committing or attempting to commit a robbery, and persons present and aiding such commission or attempt, amount to five or more, every person so committing, attempting or aiding, is said to commit "dacoity".

16. Section 399 IPC reads as follows:

"Making preparation to commit dacoity."-Whoever makes, any preparation for committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine."

17. A reading of Section 391 of IPC would show that the essential or core ingredient of the offence of dacoity is that there should be five or more persons. Section 399 IPC deals with making preparation to commit dacoity and therefore, the numerical requirement applicable to dacoity is equally applicable to preparation for it. If the number is less than five, the offence of dacoity or the offence of preparation to commit dacoity under Section 399 IPC will not attract. If fewer than five persons are involved, the preparation cannot be said to be for committing dacoity, because the numerical requirement of five or more persons mandatory under Section 391 IPC is equally applicable to Section 399 IPC. The numerical requirement of five or more persons is a mandatory and indispensable ingredient of the offence under Sections 391 and 399 IPC.

18. The fact that A1, along with two other accused named in the charge sheet were found travelling with MO1 to MO8 articles by itself is not a ground to hold that they were making preparations to commit dacoity as alleged by the prosecution. There is absolutely no evidence to show that the revision petitioner/A1 made preparations for committing dacoity. In this context, it is also to be borne in mind that though FIR was registered on 1.12.2002, under Section 41(1)(a)(d), 102 of Cr.P.C and Section 27 of the Arms Act, the offence under Section 399 IPC was added only on 31.1.2003 ie. after two months of the arrest of the accused. Though the prosecution would allege that the revision petitioner/A1 was travelling in the car with the preparation to commit dacoity, the prosecution failed to establish the ingredients of the offence under Section 399 IPC.

19. Accordingly, the Criminal Revision Petition is allowed. Revision Petitioner/A1 is found not guilty of the offence under Section 399 IPC and he is acquitted. His bail bond stands discharged.

Registry shall transmit the records to the trial court forthwith.

Sd/-

**M.B.SNEHALATHA
JUDGE**

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