

(2016) 01 KL CK 0075
In the High Court Of Kerala
Case No : Crl. M.C. No. 7342 of 2015

Prithviraj

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 20-01-2016

Acts Referred:

Citation : (2016) 1 KerLJ 507 : (2016) 1 KHC 843 : (2016) 1 KLT 483

Hon'ble Judges : B. Kemal Pasha, J.

Bench : Single Bench

Advocate : A. Abdul Kharim and M. Sreekumar, for the Appellant; P. Sareena George, Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

B. Kemal Pasha, J.—1. A film actor named Prithviraj, who had occasion to act in the lead role in a film titled "Seventh Day, has presently the ordeal to face the trial in C.C. No. 1869 of 2014 before the Judicial First Class Magistrate's Court-III, Thiruvananthapuram, for an offence punishable under S. 551(1) and (2) of the Abkari Act. The prosecution case is that the statutory warning that "CONSUMPTION OF ALCOHOL IS INJURIOUS TO HEALTH", had to be exhibited in a particular scene in the film and that such a statutory warning exhibited in the film was not really legible and also that it did not conform to the size prescribed under S. 551(1) of the Abkari Act.

2. As per S. 551(2) of the Abkari Act, "whoever exhibits or causes to exhibit any cinema having a scene in contravention of the provisions of sub-section (1) in any theatre shall be punishable for such an offence". Here the question to be considered is as to who are the persons, who can be clothed with criminal liability under S. 551(1) and (2) of the Abkari Act. When sub-section (2) says, "whoever exhibits or causes to exhibit", necessarily it means that the owner of the theatre, who exhibits such a film, can be an accused in such a case. The next question to be considered is as to who are the persons, who can be brought within the purview of "whoever causes to exhibit any cinema" under Section 551(2) of the

Abkari Act.

3. In fact, it is a vague term. If an interpretation to the effect that the actor in the film can also be considered as a person, who causes to exhibit the cinema is taken, then not only the actor in the film; but also all the other persons behind the production and processing of the film can also be brought within the purview of that term. Therefore, such an interpretation is not possible. An interpretation of such a provision has to be strictly done. It should be meant for advancing the remedy and suppressing the mischief. In such case, it seems that the person, who produces the film and also the person, who distributes such a film can only be the persons, who can be brought within the purview of the term "whoever causes to exhibit any cinema." Otherwise, even the light boy, who had participated in the production of a film has also to be brought within the purview of the said terms. From such an aspect, this Court is of the view that the actor of the film, whether he has done the lead role or not, cannot be brought within the purview of the term "whoever causes to exhibit any cinema" under S. 551(2) of the Abkari Act. Matters being so, the prosecution proceedings against the petitioner in C.C. No. 1869 of 2014 of the Judicial First Class Magistrate's Court-III, Thiruvananthapuram, based on Annexure-A Final Report, are liable to be quashed.

In the result, this Crl. M.C. is allowed and the prosecution proceedings against the petitioner in C.C. No. 1869 of 2014 of the Judicial First Class Magistrate's Court-III, Thiruvananthapuram, based on Annexure-A Final Report, are hereby quashed.