

(1954) 11 KL CK 0005
In the High Court Of Kerala

Thanuvan Retnakaran

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 12-11-1954

Acts Referred:

Constitution of India, 1950 — Article 134
Penal Code, 1860 (IPC) — Section 302, 364

Citation : (1955) CriLJ 851

Hon'ble Judges : T.K. Joseph, J;Govinda Pillai, J

Bench : Division Bench

Judgement

Govinda Pillai, J.—These petitions are by the appellants in Cri. Appeals Ti and 83 of 1954 respectively, for certificates under Article 134(c). Constitution of India that these are fit cases for appeal to the Supreme Court. They were accused Nos. 1 and 2 in Sessions Case No. 5 of 1954 on the file of the Additional Sessions Judge, Trivandrum, and they were tried and convicted for offences Under Sections 302 and 364, IPC They were sentenced to transportation for life u/s 302 and for rigorous imprisonment for five years under the latter section. The sentences were to run concurrently. They had also been sentenced to pay fine under the above sections. In appeal we confirmed the conviction and sentence except as regards the imposition of fine.

2. The act alleged against them was that they put to death a girl by name Sumathi who was on terms of intimacy with accused 1 and who became pregnant thereby. It was held by the court below and by us that accused 1 had promised to provide this girl with a separate residence and to marry her. He got the help of his companion accused 2 and on the representation to her that a house had been arranged for her they took her away on a night to a reserve forest ten miles away from her house and put her to death there.

There was no direct evidence as to the actual act; but there were circumstances to show that the present petitioners were the persons responsible for this gruesome murder. They were absconding and on arrest both had given

confessional -statements before different magistrates as to the part played by them. The learned Additional Sessions Judge and this Court had accepted the circumstantial evidence and the confessions, though retracted and entered conviction against them.

3. In these petitions, it had been indicated that they had already moved the Supreme Court for leave to appeal. We would not have therefore considered these petitions on the merits but for the statement made by Shri M. K. Govinda Pillai, the Advocate for the petitioners, that the Supreme Court had ordered that the petitions were to be moved here first. So we shall consider these petitions on their merits.

Following, the decisions in ? AIR 1931 111 (Privy Council) and ? "Kapildeo Singh v. The King" AIR 1950 FC 50 (B), this Court had held in ? "Parameswaran Pillai Bhaskara Pillai v. State" AIR 1951 Ker-C 45 (C), that leave to appeal is not to be granted except where some clear departure from the requirements of justice exists, nor unless by a disregard of the form of legal process or by some

In this case we do not think that such circumstances exist. We agreed with the conclusions arrived at by the learned Sessions Judge after carefully and anxiously considering the evidence & in our view none of the grounds urged in the petitions really exists. No flagrant error of law or procedure had been pointed to us in our judgment or in the judgment of the Sessions Judge and the observations made by the Supreme Court in ? A.J. Peiris Vs. State of Madras, , will apply to the facts of this case.

So we do not think that this is a fit case where the certificate applied for can be granted. The petitions are dismissed.