

Kassim Pillai Abdul

Vs

State of Kerala

Criminal Appeal No. 29 of 1972

(P. N. Singhal, Syed M. Fazal Ali JJ)

28.02.1978

JUDGMENT

FAZAL ALI, J. -

1. In this appeal by special leave the appellant has been convicted under Section 409, I.P.C. and sentenced to two years R.I. and a fine of Rs. 500, in default simple imprisonment of two months. The Sessions Judge on appeal upheld the convicted but reduced the sentence to six months R.I. the accused has pressed this appeal only on the question of sentence. In view of the concession, made by the Counsel for the appellant, we are not called upon to examine the legal question arising in the case as to the applicability of Section 197 of the Code of Criminal Procedure to the facts of this case. It is submitted that having regard to the peculiar circumstances of this case, the inexperience of the appellant, and further having regard to the fact that he also deposited the money as ordered by the Collector a lenient view may be taken. We are of the opinion that the contention is well founded and must prevail.

2. Having regard to the special circumstances of the case we do to see any reason to send the appellant back to jail. We, therefore, allow this appeal to the extent that while upholding the conviction of the appellant we reduce the sentence to the period already undergone maintaining the fine as also the sentence in default of payment thereof.

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