

SUPREME COURT OF INDIA

Paul Kuriakose

Vs.

The Excise Inspector & Anr.

Crl.A.No.234 of 2016

(Dipak Misra and Shiva Kirti Singh,JJ.)

18.03.2016

JUDGMENT

S.L.P.(Crl.)No.1522 of 2016

Shiva Kirti Singh, J.

1. Heard the parties. Leave granted.
2. This appeal is directed against final judgment and order dated 25.11.2015 whereby the High Court of Kerala at Ernakulam has dismissed Criminal Appeal No.34/2006 preferred by the appellant by confirming his conviction for the offence under Section 55(a) of the Abkari Act. However, the High Court granted a limited relief by reducing the sentence of rigorous imprisonment for a period of five years to that for a period of three years and also by reducing the amount of fine of Rs.5 lacs to Rs.1 lac with a default clause of six months' simple imprisonment.
3. Having heard the learned counsel for the rival parties and on perusal of relevant materials on record including the judgment under appeal, we find that the High Court was correct in affirming the conviction because right from the initial stage when the car of the appellant was searched leading to recovery of 450 litres of spirit which on analysis was found to be 80.70 per cent by volume of Ethyl Alcohol, the prosecution has proved all the necessary ingredients of the offence in question by adducing reliable evidence.
4. Hence we also find no good ground to interfere with appellant's conviction.
5. So far as the challenge to sentence is concerned, the High Court interfered and reduced the period of imprisonment after noticing that the appellant has no criminal antecedents. Considering the said mitigating factor and also the fact that occurrence in question is of the year 2000 and the appellant has suffered agony of criminal trial and pendency of appeal for more than 15 years, in the facts of the case we are persuaded to further reduce the period of

imprisonment from three years to rigorous imprisonment for two years. The amount of fine determined by the High Court as Rs. 1 lac along with default clause is however left intact.

6. With the aforesaid modification in sentence of imprisonment, the appeal is disposed of.