



Crl.Appeal No.475/2006

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

WEDNESDAY, THE 17TH DAY OF JUNE 2026 / 27TH JYAISHTA, 1948

CRL.A NO. 475 OF 2006

AGAINST THE JUDGMENT DATED 31.01.2006 IN SC NO.74 OF 2005 OF
II ADDITIONAL DISTRICT COURT, ERNAKULAM

APPELLANT/ACCUSED:

SATHYAN, S/O.SANKARAN,
AGED 36 YEARS
S/O SANKARAN, PUTHIYAMADAM, OORAKKATTUKARA,
KIZHAKKAMBALAM, ERNAKULAM DISTRICT.

ADV.ADITHYA RAJEEV AMICUS CURRIAE

RESPONDENT/COMPLAINANT:

STATE OF KERALA
REP.BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY SENIOR PUBLIC PROSECUTOR SRI VIPIN NARAYAN.A

THIS CRIMINAL APPEAL HAVING COME UP FOR ADMISSION ON
26.05.2026, THE COURT ON 17.06.2026 DELIVERED THE FOLLOWING:



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“C.R”***A. BADHARUDEEN, J.***

Crl.Appeal No.475 of 2006

*Dated this the 17th day of June, 2026****J U D G M E N T***

The judgment in S.C.No.74/2005 dated 31.01.2006 on the files of the IInd Additional Sessions Court, Ernakulam, is under challenge in this appeal moved by the sole accused therein. Since the counsel, who had filed this appeal, had relinquished his engagement, this Court appointed Adv.Adithya Rajeev as Amicus Curiae and heard him in detail. Also heard the learned Public Prosecutor. Perused the verdict under challenge and the evidence available.

2. In the present case, the prosecution alleges the commission of offences punishable under Sections 489B and 489C of the Indian Penal Code (for short, "IPC"), by the accused on the premise that, at about 8.15 p.m. on 19.01.1998, the accused possessed and used a counterfeit currency note of Rs.50/-. It is further alleged that a total eight



counterfeit currency notes of the denomination of Rs.50/- were recovered from his possession.

3. The learned Sessions Judge had tried the case. The evidence of the prosecution is confined to that of PW1 to PW4, Exts.P1 to P6 and M.O1 series. No defence evidence was adduced. On evaluation of the evidence, the learned Sessions Judge found commission of offences punishable under Sections 489B and 489C, by the appellant/accused and was convicted and sentenced as under:

“Accused is sentenced to undergo Rigorous Imprisonment for three years and pay fine of Rs.5,000/- (Rupees Five thousand only) u/s.489B of IPC. In default of payment of fine, the accused shall undergo Rigorous Imprisonment for one year. The accused is also sentenced to undergo Rigorous Imprisonment for one year under Sec.489 C of IPC. The substantial sentence shall run concurrently. The remand period undergone by the accused shall be set off towards the substantial sentence of imprisonment.”

4. The learned Amicus Curiae argued that the 8 numbers of counterfeit currency notes of the denomination Rs.50/- were alleged to be recovered from the possession of the accused, in which one counterfeit currency note reached the court only on 06.07.1999 and the remaining seven forged notes reached on 01.06.1998 and the same could be seen



from Exts.P4 and P4(a) property lists respectively. Thus the argument mooted by the learned Amicus Curiae is that when there is inordinate delay in producing the alleged counterfeit currency notes before court, the same is fatal to the prosecution. He also pointed out that in this case the arrest memo also was not tendered in evidence and in the decision reported in [2013 (3) KHC 308], *Ramankutty v. Excise Inspector, Chelannur Range*, a learned Single Judge of this Court held that if the arrest failed to be proved beyond reasonable doubt, the entire case set up by the prosecution would fall down and in such case the accused would be entitled to benefit of doubt.

5. Whereas it is submitted by the learned Public Prosecutor that the evidence available as that of the detecting officer and PW2 would suggest the recovery of 8 numbers of 50 rupee fake currency notes from the possession of the accused, when he attempted to use one out of the same; and therefore the offences are proved beyond reasonable doubts and in such a case, the delay in forwarding the counterfeit currency notes to the court, as pointed out by the learned Amicus Curiae, is of no serious consequence. Therefore, the conviction and sentence are liable to be



sustained.

6. The points arise for consideration are:

(i) Whether delayed production of the counterfeit currency notes alleged to be recovered from the possession of the appellant/accused before the court is fatal to the prosecution?

(ii) Whether the learned Sessions Judge is justified in holding that the appellant/accused committed the offence punishable under Section 489B of IPC?

(iii) Whether the learned Sessions Judge is justified in holding that the appellant/accused committed the offence punishable under Section 489C of IPC?

(iv) Is it necessary to interfere with the judgment in any manner?

(v) The order to be passed?

Point Nos.(i) to (v)

7. In the instant case PW1, who was doing business at his own shop situated at Chunangamveli deposed that the accused reached his shop and purchased a cool drink and 2 Wills cigarettes, and then he had



given a 50 rupee note. Since the note was found to be merely a piece of paper, he suspected it as counterfeit note and he had examined the same in the light of kerosene lamp. Then he had found that the same as a fake note. Thereafter PW1 along with the other persons in the locality questioned the accused regarding his place of residence and the necessity of his presence at the place, at the relevant time. Since the accused failed to give rational answers PW1 went to the shop of PW2 and informed this matter to him. Soon PW2 telephoned the police and the police party arrived there and recovered the notes including the notes kept at the pocket of the accused. PW2 also supported the above version of PW1 and PW2 identified M.O1 series notes as the fake notes recovered from the accused.

8. PW3 is the Circle Inspector of Police who reached the shop on getting telephone call and he supported the prosecution case including recovery of M.O1 series notes by preparing Ext.P1 mahazar. In the instant case, on perusal of Exts.P4 and P4(a) property lists, whereby the counterfeit currency notes reached the court, it could be gathered that one among the 8 counterfeit currency notes having value of Rs.50/- reached the court, on 06.07.99 and 7 notes reached the court on



01.06.1998. Thus the alleged counterfeit currency notes recovered on 19.01.1998 reached the court about 6 months and one year later. Inasmuch as cases where the nature of contraband or the nature of the offending substance would make the possessor and user of the same as an offender, prosecution has a duty to produce the disputed contraband to the court concerned at the earliest and within a reasonable time, which is justifiable; since the nature of contraband is decisive as far as the offence or offences committed by the accused is/are concerned. In such cases, delay in producing the contraband, here the counterfeit currency notes to the court within a period of six months and one year, would definitely a matter which would create strong doubts regarding detection and recovery of the counterfeit notes even though as per Ext.P6, the expert opined that M.O1 series are counterfeit currency notes. When the prosecution failed to produce the counterfeit notes before the court within a reasonable time and the same were produced within 6 months and one year the same definitely would be fatal to the prosecution and in such cases it is not fair to fasten criminal culpability on the accused since the recovery of counterfeit notes is in the midst of doubts because of its delayed production before the court.



Therefore, the benefit of doubt in the delayed production of contraband shall go in favour of the accused and in such view of the matter it is held that the prosecution failed to prove the case beyond reasonable doubt and contra finding recorded by the learned Sessions Judge is found to be unsustainable. In such a case, the conviction and sentence would not sustain and are liable to be reversed.

9. In the result, this appeal succeeds and the Appeal is allowed. Accordingly, the verdict under challenge is set aside. The appellant is acquitted for the offences punishable under Sections 489B and 489C of IPC and he is set at liberty forthwith. His bail bond stands cancelled.

Registry is directed to forward a copy of this judgment to the jurisdictional court, for information and further steps.

Sd/-

A. BADHARUDEEN, JUDGE

rtr/