

ITEM NO.8 Court 14 (Video Conferencing)

SECTION II-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (CrI.) No(s). 9195/2021

(Arising out of impugned final judgment and order dated 11-06-2021 in CRLA No. 800/2011 passed by the High Court Of Kerala At Ernakulam)

GOPINATHAN

PETITIONER(S)

VERSUS

THE STATE OF KERALA

RESPONDENT(S)

(FOR ADMISSION and I.R. and IA No.138971/2021-EXEMPTION FROM FILING O.T.)

Date : 03-12-2021 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE AJAY RASTOGI

HON'BLE MR. JUSTICE ABHAY S. OKA

For Petitioner(s) Mr. Abhilash M.R., Adv
Mr. Sayooj Mohandas M., Adv
Mr. Sandeep Singh, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Learned Counsel for the petitioner submits that PW1 and PW3 are the members of the search team and PW3 himself was the Investigating Officer after the crime was registered at his own instance. There is a requirement of law that if such search are taking place, the authorities are under obligation to comply with Section 36 of the Kerala Abkari Act, 1 of 1977, and that clearly contemplates that there shall at least be two independent witnesses

to accompany in such alleged search, if take place.

Learned Counsel submits that there is only one independent witness who has been examined as a prosecution witness, PW2, who was declared hostile and at least in the given circumstances, the conviction is not sustainable in law.

Issue notice in the Special Leave Petition as well as the bail application, returnable in four weeks.

Dasti, in addition, is permitted to be served.

List after service.

(POOJA SHARMA)
COURT MASTER (SH)

(BEENA JOLLY)
COURT MASTER (NSH)