

IN THE HIGH COURT OF KERALA

Present : L. Manoharan and P. A. Mohammed JJ.

*State of Kerala v. Venga Gopalan and others*

Criminal Trial - Corpus delicti - Superimposition report as such is admissible in evidence - Non furnishing of details contained in the report to the accused is not fatal to the prosecution.

Held: Ext. P29 report is issued under Section 293 of the 'Code' and it is a piece of evidence which does not require any formal authentication. The superimposition report as such is admissible in evidence. The evidentiary value of report cannot be minimised by reason of the non-attendance of the scientific expert who issued the certificate. It is needless to say that, the accused persons have the right to ask for an opportunity to examine the expert in case they did not agree with the conclusions contained in such report or the procedure adopted for superimposition. In the present case Ext. P29 report which is an incriminating piece of evidence was put to the accused during the examination under Section 313. The non-furnishing of details, contained in the report to the accused is therefore not fatal to the prosecution case.

(Para 5)

Section 113B, Cr.P.C. - Sec. 3 - Circumstantial evidence - 'last found together' theory - It is not an absolute rule or inflexible formula, but is dependent on the facts of each case - When motive of a person is established the rule assumes importance.

Held: The person or persons in whose company the victim was last seen together last may be innocent and no involvement in the crime can be attributed to him or them. The presence of a victim in the company of the accused may be accidental. In the ordinary course of social life the accused may be some times faced with strange situations and miraculous circumstances which are difficult to explain. Therefore the 'last found together' rule is not an absolute rule or inflexible formula but it is totally dependent on the facts of each case. When the motive of a person or persons is established an offence is sufficiently established this rule assumes importance.

(Para 10)

Cr.P.C. 113B ; 1982 KLT 772

State v. Bhanu and Smt. Raziya

General of Prosecutions (M Retna Singh)

Advocate Nambiar

— Referred to

— For Appellants

— For State

— For Respondent in

Cr.A. 316/1953