



CASE COMMENT: JOSEPH KURIAN V. STATE OF KERALA, AIR 1995 SC 4

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INTRODUCTION

In *Joseph Kurian v. State of Kerala*,¹ the Punalur Liquor Tragedy of 1981 was discussed, which is one of the worst incidents in Kerala involving poisonous and illegal liquor. Several people died, and many others were badly injured after drinking arrack (country liquor) that had been mixed with deadly methyl alcohol. At that time, such illicit liquor tragedies were unfortunately common in Kerala and caused huge loss of life and suffering.

This case became widely known not only because of the deaths, but also it raised important legal questions about public safety and responsibility. It showed how dangerous and difficult it is when toxic substances enter the illegal liquor trade and how to control such activities.

The tragedy also highlighted that people who manage or control liquor supply operations can be held accountable under Indian criminal law and excise laws when poisonous or adulterated liquor reaches the public.

FACTS

On 19 February 1981, rumours were spread in Punalur that poisonous liquor was being sold. Acting on this information, the local Circle Inspector raided a few small pan shops. He seized small plastic packets (pouches) of arrack which were being sold without permission. These pouches had come from the Punalur arrack depot.

The next day, 20 February 1981, the Sub-Inspector searched the Punalur arrack depot itself. This depot was controlled by Philip Jose (A-1) and managed by Joseph Kurian (A-4). Samples of arrack were collected and sent for chemical testing. The chemical report showed that the liquor contained 2.64% methyl alcohol, making it poisonous and unfit for human consumption.

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¹ *Joseph Kurian v State of Kerala AIR 1995 SC 4.*

A new case was filed under Section 272, 328 of the Indian Penal Code (IPC) for adulteration of food or drink and Section 57(a), (i) of the Kerala Abkari Act, which deals with illegal liquor.

On 22 February 1981, three people died after drinking the adulterated arrack, and over the next few days, ten people were arrested in connection with the tragedy.

ISSUES

1. Whether the act of the accused about the possession, sale, and distribution of the adulterated arrack attracts the offences under Section 272, 328 of IPC and Sections 55(a), 55(i) of the Kerala Abkari Act.
2. Whether the prosecution successfully proved that the accused had the necessary mens rea under Section 328 IPC to cause hurt by mixing a poisonous substance, especially when several deaths resulted from consuming the adulterated liquor.
3. Whether the accused A-1 and A-4 were responsible for mixing the poisonous methyl alcohol in the arrack, with intent or knowledge that it would be sold as liquor likely to cause harm or endanger life.
4. Whether the accused A-4 could be held liable as a principal offender for the offences charged, or only as an abettor under Section 109 IPC, by considering the extent of his role and the evidence linking him to the adulteration and sale of the liquor.

ARGUMENTS

By the Prosecution:

1. The prosecution maintained that Philip Jose (A-1) was in complete charge of the Punalur arrack depot. They said he looked after every aspect of the business and the adulterated liquor that contained deadly methyl alcohol, which was supplied from this depot. Because he managed the depot fully, he was directly responsible for the mixing and distribution of the poisonous liquor.
2. According to the prosecution, although Joseph Kurian (A-4) acted as the manager of the depot during the crucial period, his presence when the excise officers collected samples and his signature on the search and seizure records was highlighted as a proof that he was actively involved in the operations and showed that he was not only a mere bystander but a person with managerial authority and knowledge of the adulteration.

3. The prosecution heavily relied on the chemical analysis report, which confirmed that the seized arrack contained a highly toxic substance called methyl alcohol. This finding proved that the liquor was poisonous and unsafe for human consumption. Because of this, the prosecution claimed that the ingredients of Section 272 of the Indian Penal Code (adulteration of food or drink) and Section 328 IPC (causing hurt by means of poison) were fully satisfied.

4. It was further argued that both A-1 and A-4 either knew or at least should have reasonably foreseen that adding methyl alcohol to arrack would cause serious injury or death to those people who consume it. Such knowledge is enough to establish the necessary guilty intention (*mens rea*) for the offence under Section 328 IPC.

5. Finally, the prosecution contended that by possessing, selling and distributing the adulterated liquor, the accused violated Sections 55(a) and 55(i) of the Kerala Abkari Act, which penalise the illegal possession, sale, and distribution of liquor which is dangerous or unfit for consumption.

By the Defence:

1. The defence countered that A-1 was not the legal licensee of Punalur depot; instead, A-2 hold the official licence. On the basis of this, they argued that A-1 cannot be made criminally liable for the adulteration that took place in a depot he did not officially own.

2. For A-4, the defence argued that neither was there direct evidence that he personally mixed or ordered the mixing of methyl alcohol into the arrack nor that he supervised its sale. Moreover, he was only a temporary employee brought in to settle labour disputes and not the operational manager.

3. The defence emphasised that the prosecution had not produced any positive evidence showing that either A-1 or A-4 had the intention or knowledge to cause hurt or death. Without proof of such intention, the strict requirement of *mens rea* under Section 328 IPC could not be met.

4. Lastly, the defence highlighted that A-4 was never specifically charged with abetment at the initial stage. Convicting him under Section 109 IPC (abetment of an offence) without framing a proper charge, as well as clear evidence of aiding the offence, would be illegal and prejudicially affect him.

DECISIONS

All the cases that were filed were combined and tried together in the Sessions Court. The Court found that Philip Jose (A-1) and Joseph Kurian (A-4) are responsible for supplying the deadly liquor and both were convicted under Sections 272, 328 of IPC and Sections 55(a) and 55(i) of the Kerala Abkari Act and the Court did not convict them under Sections 302/304 IPC because there was no proof of intent or knowledge that the adulterated liquor would cause death. The other accused were either fined or acquitted.

On appeal, the High Court confirmed the convictions and sentences of A-1 as imposed by the Court of Session. It, however, set aside the similar convictions and sentences of A-4 recorded by the Court of Session and instead convicted him under Section 109 I.P.C. for having abetted the commission of offences, without specifying that he was awarded rigorous imprisonment for a period of two years.

Finally, the Supreme Court partly modified the High Court's judgment by setting aside the conviction for A-1 under Section 328 IPC and by maintaining his convictions under Section 272 IPC and Sections 55(a) and 55(i) of the Abkari Act. The Court also reduced his sentences to six months' simple imprisonment for each count, with fines as prescribed under the Abkari Act. For A-4 (Joseph Kurian), the Supreme Court acquitted him of all charges, including Section 109 IPC.

CRITICAL ANALYSIS

Liability under Section 272 IPC and Sections 55(a) & 55(i) of Kerala Abkari Act: Section 272 IPC criminalises adulteration of food or drink intended for sale if it renders the article harmful; the offence completes upon introduction of the adulterant with intent or knowledge of sale.

In this case, Chemical tests confirmed that the arrack was adulterated with 2.64% methyl alcohol. Punalur Depot is the place where this adulterated liquor was stored and distributed, which was managed and controlled by A-1.

Although A-1 was not the official licensee (that was A-2), his control and management of the depot meant that he was rightly held liable under the Abkari Act provisions for possession and sale, irrespective of formal license ownership.

On this basis, the Court held that A-1 is liable for the offence under Section 272 IPC as well as Sections 55(a) and (i) of the Kerala Abkari Act, which not only criminalise illegal possession and sale of liquor - punishable by imprisonment and fine but also impose liability on the effective controller (even to a non-licensor).

Here, the Court took a purposive approach for protecting public health and preventing harm. The court emphasised constructive possession and management control as sufficient for establishing the liability. This is crucial in matters of illicit liquor tragedies, because it may be hard to get the direct evidence regarding who adulterated the item, but responsibility should attach to those controlling the chain of supply.

But it raises a concern about the scope of criminal liability, which was purely based on control without proving direct participation or mens rea, and raises a tension between strict liability principles and traditional criminal law (which requires specific intent or knowledge to be proved). Even though strictness serves as a deterrence, it may risk penalising the individuals whose knowledge of adulteration is not proven.

The judgment could have benefited if it were taken from a deeper inquiry into A-1's knowledge or awareness of methyl alcohol by looking into aspects like internal communications or supplier instructions, which might add stronger evidence on criminal intent rather than just having possession or control.

Liability Under Section 328 of the Indian Penal Code (IPC): Section 328 IPC punishes anyone who administers (or causes to be taken) poison with intent or knowledge that it is likely to cause hurt to a person, requiring intentional action and proof of causation. Although deaths occurred from the consumption of arrack, which was mixed with methyl alcohol, there was no evidence about it that A-1 personally administered the poison or arranged for its consumption with the requisite intent or knowledge. So, the conviction under Section 328 was set aside. Without such proof, charges under Section 302 (murder) or Section 304 (culpable homicide not amounting to murder) were also rejected. There are two contrasting views on this issue:

1. From an individual perspective, as this particular section requires proof, it prevents convicting people for consequences that occur indirectly or without deliberate intent.
2. But from a view of public health and moral perspective, this strict approach creates a lacuna between the persons who are controlling or responsible for the production and supply of adulterated poisonous liquor by evading the heavier liability under Section 328 simply due to

lack of direct evidence of administration to each victim (which is an almost impossible evidentiary standard)

Therefore, this suggests a need for legal reforms that impose intermediate liability standards to address public health.

Conviction of A-4 under Section 109 IPC (Abetment): Section 109 IPC punishes a person who abets an offence if the offence is actually committed as a consequence of the abetment, and where no separate provision exists for abetment punishment. Initially, the High Court found that A-4 was guilty under Sections 272, 328 IPC, and Sections 55(a) & 55(i) of the Kerala Abkari Act.

Later on, due to the absence of direct evidence that A-4 mixed methyl alcohol by himself, the High Court set aside the convictions under Sections 272 and 328 IPC but convicted under Section 109 IPC for abetment by reasoning that although he might not be personally present at the time of mixing, but he was primarily responsible for facilitating or instigating the act and as per this section, abettors also share liability when the act they abetted actually occurs.

But the Supreme Court found the High Court's approach was inconsistent and flawed because:

Without formally charging abetment and proving its elements, convicting a person under Section 109 IPC causes prejudice and miscarriage of justice, and in this case, the charge of abetment against A-4 deprived him of a fair chance to defend on that specific ground. The roles of principal offender and abettor are distinct and must be treated separately with proper charges, evidence and procedure. Therefore, the Supreme Court set aside the conviction of A-4 under Section 109 IPC and acquitted him of all charges.

Sentencing and Liability under Sections 55(a), 55(i) of the Kerala Abkari Act and Section 272 IPC with Respect to A-1: Coming to the liability of A-1, for the offence under Sections 55(a), 55(i) of the Kerala Abkari Act, the court decided that, in the absence of any special circumstances, the punishment should be minimum sentence of six months imprisonment and a fine of ₹1,000, with an additional one month of imprisonment in case the fine is not paid.

For the offence under Section 272 IPC (adulteration), the law provides a maximum punishment of six months. Initially, the courts had imposed rigorous imprisonment for six months, but the Supreme Court converted it to simple imprisonment in order to align with the law and noted that all these sentences will be served at the same time and not one after the other.

The Court also mentioned that A-1 can request the State Government to reduce or convert his sentence to a fine under the criminal procedural law, but it is the discretion of the government to decide on this. The Court's reasoning emphasises the letter of law and justice to the accused, while balancing regulatory compliance and maintaining accountability is paramount. This upholds the rule of law by preventing arbitrary or excessively harsh punishments, even in cases involving serious public health tragedies.

From a policy perspective, however, some may view the minimum sentences as insufficient, given the tragic loss of life caused by the adulterated liquor. This lacuna highlights a need for legislators to revisit and potentially increase the penalties for mass adulteration offences to ensure better deterrence among people from such harmful conduct in the future.

CONCLUSION

The judgment in the case had a significant impact on judicial as well as societal aspects by clearly defining the ambit of criminal liability in the cases of liquor adulteration and clarifying the necessary mens rea required for charges under different sections of the Indian Penal Code and the Kerala Abkari Act.

From a judicial perspective, the ruling emphasised that for sections like 368 of the IPC, it is required to prove the direct intention for setting up the liability, and also cautioned against the misuse of abetment, which requires the proper charges and proof for ensuring a fair trial. Therefore, this judicial instance is emphasising that only proven culprits are punished while innocent parties are shielded from wrongful conviction.

From a social perspective, the case contributed to awareness regarding the grave consequences of adulteration by alerting the governments to tighten the regulation as well as enforcement in the liquor industry to prevent similar public health tragedies.

The case drove the advocacy for stricter food and drink safety laws, reinforcing the idea that public health and morality are paramount and must be protected through responsible business conduct and stronger legal deterrents for violators by reinforcing public trust in the judicial system.