

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

MONDAY, THE 7TH DAY OF SEPTEMBER 2015/16TH BHADRA, 1937

Crl.Rev.Pet.No. 333 of 2003

Crl.A 196/1998 of ADDL.SESIONS DISTRICT COURT(Spl.),KOTTAYAM
CC 221/1994 of J.M.F.C., ETTUMANUR

REVISION PETITIONER/APPELLANT/ACCUSED:

KRISHNANKUTTY, S/O.KUMARAN
PAITTOTUPARAMBIL HOUSE, MANNANAM KARA
ATHIRAMPUZHA VILLAGE, KOTTAYAM TALUK.

BY ADVS.SRI.SURESH BABU THOMAS
SRI.P.RAVINDRA BABU

RESPONDENT)/RESPONDENT/ COMPLAINANT:

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM

BY PUBLIC PROSECUTOR, SHRI.V.S.SREEJITH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON
07-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P.No.333 of 2003

Dated this the 7th day of September 2015

ORDER

The revision petitioner is the sole accused in C.C. No.221 of 1994 on the files of the Court of the Judicial Magistrate of First Class, Ettumanoor.

2. The trial court convicted the revision petitioner under Sections 341, 323 and 325 of the Indian Penal Code, 1973 (for short 'I.P.C.') and sentenced him thereunder to simple imprisonment for one month under Section 341 I.P.C., simple imprisonment for three months under Section 323 I.P.C. and simple imprisonment for one year

and a fine of Rs.2,000/- with a default clause for simple imprisonment for three months under Section 325 I.P.C. The appeal filed against the said conviction and sentence was dismissed by the appellate court, as per judgment dated 26.12.2002 in Crl. Appeal No.196 of 1998. Aggrieved by the said conviction and sentence, this Revision Petition has been filed.

3. Heard the learned counsel for the revision petitioner and the learned Public Prosecutor.

4. The prosecution allegation is that on 12.08.1994 at about 3.15 p.m., the revision petitioner caught hold of the shirt of PW1 and slapped him on his left cheek and thereafter, pushed him down causing injuries, including fracture on the bone of his left hand.

5. The prosecution mainly relied on the evidence of PW1 to PW3 and the medical evidence of PW4 to bring home the guilt of the revision petitioner. PW1 is the injured who had given evidence in tune with Ext.P1 F.I. Statement. PW2 is the wife of PW1. PW2 had given evidence corroborating with the evidence of PW1 in all material aspects. PW3 is a neighbor of the accused. He also supported the evidence of PW1 to PW3 in all material aspects. The evidence of PW1 to PW3 with regard to the occurrence is supported by the medical evidence of PW4. The courts below relied on both documentary and oral evidence including the evidence of PW1 to PW4 and concurrently found the revision petitioner guilty under Sections 341, 323 and 325 I.P.C. The defence set up through DW1 was also repelled by the courts below. Since

there is concurrent finding on facts by the courts below, this court will not be justified in interfering with the same, unless the finding is perverse or incorrect. No circumstance has been brought to my notice to indicate that the appreciation of evidence by the courts below was perverse or incorrect. In the said circumstances, I do not find any reason to interfere with the verdict of guilty and conviction passed by the courts below under Sections 341, 323 and 325 I.P.C.

6. The revision petitioner was aged 43 years during the relevant period and presently, the revision petitioner is aged 64 years. The revision petitioner did not use any weapon to inflict injuries on PW1. PW1 was pushed down by the revision petitioner. Then he fell down and sustained fractures. Considering the facts and circumstance of the

case, including the present age of the revision petitioner, I am of the view that the sentence awarded by the courts below can be modified and reduced to imprisonment till the rising of the court and a fine of Rs.5,000/- under Section 325 I.P.C., fine of Rs.500/- under Section 341 I.P.C. and a fine of Rs.1,000/- under Section 323 I.P.C., to secure the ends of justice. Accordingly, I order so.

In the result, this revision petition stands allowed in part,

- (i) confirming the verdict of guilty and conviction passed by the courts below under Sections 341, 323 and 325 I.P.C.,
- (ii) the sentence awarded by the courts below stands modified and reduced to imprisonment till the rising of the court and a fine of Rs.5,000/- and in default to undergo simple imprisonment for two months under Section 325 I.P.C., a fine of Rs.500/- and in default to

undergo simple imprisonment for 15 days under Section 341 I.P.C. and a fine of Rs.1,000/- and in default to undergo simple imprisonment for one month under Section 323 I.P.C.

- (iii) in the event of realisation of the fine amount, the entire amount shall be given to PW1 under Section 357(1) (b) Cr.P.C.

The revision petitioner shall surrender before the trial court within one month to suffer the sentence.

Sd//

**B.SUDHEENDRA KUMAR,
JUDGE.**

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/ True copy /

PA to Judge