

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

THURSDAY, THE 6TH DAY OF AUGUST 2015/15TH SRAVANA, 1937

Crl.Rev.Pet.No. 425 of 2003 ()

**AGAINST THE JUDGMENT IN S.C.NO.126/1997 of ADDL.ASST.SESIONS COURT,
KOTTAYAM DATED 06-01-2001**

REVISION PETITIONER(S)/PW1:

**V.VARGHESE, S/O.CHACKO, VATHAPPALLIL HOUSE,
T.V.PURAM P.O., VAIKOM.**

**BY ADVS.SRI.MATHEW JOHN (K)
SRI.BABY THOMAS**

RESPONDENT(S)/ACCUSED 1 TO 3 AND STATE:

- 1. JAMES, S/O. THOMAS, KANDANKERI VEEDU,
THEKKUMBHAGAM KARA, KUMARAKOM VILLAGE, KOTTAYAM.**
- 2. THOMAS, S/O. CHACKO, KANDANKERI VEEDU,
DO.DO.**
- 3. JAISON THOMAS, DO.DO.**
- 4. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.**

**R1 TO R3 BY ADV. SRI.V.K.SUNIL
R4 BY PUBLIC PROSECUTOR SRI.RAJESH VIJAYAN.**

**THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 06-08-
2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Bb

RAJA VIJAYARAGHAVAN V, J.

Crl.R.P.No.425 of 2003

Dated this the 06th day of August, 2015

ORDER

In this Criminal Revision Petition preferred under section 401 of the Code of Criminal Procedure, the petitioner challenges the order of acquittal passed by the Additional Sessions Judge, Kottayam in S.C.No.126/1997. In the said case, the respondents 1 to 3 herein were charge sheeted by the Circle Inspector of Police, Kottayam West Police Station for the offences punishable under sections 341, 323, 326, 307 read with section 34 of the Indian Penal Code.

2. The gist of the prosecution case is that, the accused Nos.1 to 3, who are near relatives of CW1, in furtherance of their common intention, entered the paddy field belonging to CW1 on 01.12.1996 at 8.30 a.m., and caused injuries to CW1 with a sickle and a stick and thereby committed the aforesaid

offences.

3. In order to prove the case of the prosecution, the prosecution examined PWs 1 to 12 and marked Exts. P1 to P7. After the close of prosecution evidence, the accused was examined under section 313(1) (b) of the Code of Criminal Procedure. The accused denied the incriminating materials and maintained his innocence. No evidence was adduced by the defence.

4. On a detailed and elaborate analysis of the evidence, the learned Additional Sessions Judge came to the conclusion that even if the evidence of PW1 is accepted as such the accused were exercising their right of private defence and holding so, it was held that the prosecution has failed to prove that the respondents 1 to 3 has committed the offence alleged as against them and they were acquitted under section 235 of Code of Criminal Procedure. The said judgment of the learned Additional Sessions Judge is assailed

by the revision petitioner in this Criminal Revision petition.

5. The learned counsel appearing for the revision petitioner advanced several contentions before me, challenging the findings of the learned Additional Sessions Judge. It was contented that the Additional Sessions Judge had egregiously erred in ignoring the evidence of PW3 and PW6 and if their evidence was considered in the proper perspective, the same was sufficient enough to enter the finding of guilt as against the accused. It was also contented that the learned Additional Sessions Judge has erred in holding that the accused are entitled to exercise their private defence in the facts and circumstances of this case.

6. I have anxiously considered the contentions raised by the learned counsel appearing for the revision petitioner and also the learned counsel appearing for the respondents 1 to 3.

7. After going through the impugned judgement, I have no doubt in my mind that the learned Sessions Judge has adverted to all the relevant facts and have elaborately discussed the evidence let in by the prosecution while arriving at the order of acquittal. It is by now recognised that ordinarily a finding of fact or an order of acquittal will not be interfered with in revision. None of the grounds raised by the learned counsel appears convincing so as warrant invocation of the revisional powers by this Court.

In the result, I hold that the revision petition is one without merits and hence the same is dismissed.

Sd/-
**RAJA VIJAYARAGHAVAN V,
JUDGE.**

Bb

[True copy]

P.A to Judge