

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

TUESDAY, THE 11TH DAY OF AUGUST 2015/20TH SRAVANA, 1937

Crl.Rev.Pet.No. 1652 of 2003

CRA 460/2001 of III ADDL. SESSIONS COURT, THRISSUR
CC 87/1999 of J.M.F.C., KUNNAMKULAM

REVISION PETITIONERS/APPELLANTS/ACCUSED

1. SUBRAMANIAN, S/O KUNHUMON,
ELAVANTHARAVEETIL HOUSE,
KANIPPAYUR VILLAGE & DESOM,
THRISSUR DISTRICT

2. RAVI @ RAVINDRAN, S/O BALAKRISHNAN,
KUTTANKULANGARA HOUSE, CHOONDAL VILLAGE
PELAKKATTUPAYYUR DESOM, THRISSUR DISTRICT

3. SASI, S/O CHATHUNNY, PANAKKAPPARAMBIL HOUSE,
NEAR UNITY HOSPITAL, KANIPPAYUR VILLAGE & DESOM,
THRISSUR DISTRICT

4. BALAN, S/O MANIKKYAN, NHAREKATTIL HOUSE,
ERANELLUR VILLAGE, MAZHUVANJERY DESOM,
THRISSUR DISTRICT

BY ADV. SRI.GRASHIOUS KURIAKOSE

RESPONDENT(S):

STATE OF KERALA, REP. BY
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SMT. BINDU GOPINATH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 11-08-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

RAJA VIJAYARAGHAVAN.V. J

Crl.R.P.1652 of 2003

Dated 11th August, 2015

ORDER

1. In this revision filed u/s. 397 r/w s.401 of the Code of Criminal Procedure, petitioners who are accused Nos.1 to 4 in C.C.No.87 of 1999 on the file of the Judicial Magistrate of First Class, Koyilandi, for offences punishable u/s 448,427, 323, 324 r/w s.34 of the IPC challenges the conviction entered and the sentence passed against them.

2. The case of the prosecution can be summarized as follows:-

On 28.10.1998 at 12.30 am, PW1 to 4 were witnessing the procession in connection with the festival in Aduputti Church. While the procession reached near the house of PW2-Peter, petitioners

attacked PW2 and he took refuge in his house. Thereafter, the petitioners are alleged to have destroyed the window and door of the house of PW2. While they were returning, PW1 Francis asked to why they are perpetrating such illegal acts. Aggrieved , the 1st petitioner is alleged to have fisted on the chest and petitioners 2 to 4 alleged to have beaten him with tube lights and thus committed the offence.

3. On the accused pleading not guilty to the charge framed for the aforementioned offences, the prosecution was permitted to adduce evidence in support of their case. PW1 to 11 were examined and Exts.P1 to P5 were marked and MO1 was identified. After the close of the prosecution evidence, the incriminating materials arising out of the prosecution evidence was put to the accused u/s 313 (1)(b) of

the Cr.P.C. The accused denied the incriminating circumstances and maintained their innocence. No defence evidence was adduced. The learned Magistrate on an appreciation of the evidence let in by the prosecution, came to the conclusion that the evidence let in clearly established the involvement of the petitioners in the case. Holding so, the petitioners were found guilty u/s 448, 427, 323, 324 r/w 34 of the IPC and they were convicted and sentenced to undergo rigorous imprisonment for one year each u/s 324 IPC, rigorous imprisonment for three months each u/s 448 IPC and rigorous imprisonment for one month each u/s 427 IPC. No separate sentence was imposed for offense u/s 323 IPC. It was further ordered that sentence shall run concurrently.

4. I have heard Sri. Grashious Kuriakose, the

learned Senior counsel appearing for the petitioners and also the learned Public Prosecutor. Several grounds were raised by the learned Senior counsel seeking to unsettle the conviction concurrently passed by the Courts below. I do not find that the various grounds raised by the learned Senior Counsel have the requisite fusillade to unsettle the considered findings recorded by the Courts below concurrently. .In the result , I confirm the findings entered into by the Courts below.

5. What now survives for consideration is the question regarding the adequacy or otherwise of the sentence imposed on the petitioners. Having regard to the fact that the incident had occurred in the year 1998 and having regard to the special facts situation of the instant case, I do not think that the revision petitioners deserve penal servitude by way of

incarceration by the aforesaid conviction. I am of the view that interest of justice will be adequately be met by modifying the sentence in the following manner.

6. Accordingly, the sentence imposed on the petitioners are set aside and instead, they are sentenced to undergo imprisonment till the rising of the Court and to pay a compensation of Rs.2500/- each to PW1 and PW2 u/s 324 IPC. In default of payment of compensation, they shall undergo simple imprisonment for two months. Sentence imposed on the petitioners in respect of s.448 of the IPC is set aside and instead, they are sentenced to undergo imprisonment till the rising of the Court and to pay compensation of Rs.2000/- each to PW1 and PW2 and in default to undergo simple imprisonment for two months. The imprisonment u/s 427 of the IPC

is also set aside, instead, the petitioners shall pay a fine of Rs.1000/- each and in default to undergo simple imprisonment for two months.

7. In the result, the Revision Petition is disposed of confirming the conviction entered but modifying the sentence imposed as above.

Sd/-
RAJA VIJAYARAGHAVAN.V.
Judge

MrCs

//True Copy//

P.S.ToJudge