

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

WEDNESDAY, THE 12TH DAY OF AUGUST 2015/21ST SRAVANA, 1937

Crl.Rev.Pet.No. 2244 of 2003

CRA 45/2000 of ADDL. SESSIONS COURT, FAST TRACK (ADHOC-I),
ALAPPUZHA
CC 437/1996 of J.M.F.C.-I, CHERTHALA

REVISION PETITIONER(S):

1. MANGALANANDAN, S/O CHELLAPPAN,
MANGALALAYAM VEEDU, WARD II,
THURAVOOR PANCHAYAT
2. JEROM, S/O GEORGE, THAYIL HOUSE,
WARD NO.3, PATTANAKKADU PANCHAYAT
3. SANTHYAV, S/O VASTHIAN,
VALAYIL HOUSE, WARD NO.1, PATTANAKKAD PANCHAYAT
4. STALIN, S/O JAMES, KUNNAL HOUSE,
WARD NO.II, THURAVOOR PANCHAYAT

BY ADV. SRI.T.A.SHAJI

RESPONDENT(S):

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

BY PUBLIC PROSECUTOR SMT. BINDU GOPINATH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 12-08-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

RAJA VIJAYARAGHAVAN.V. J

Crl.R.P.2244 of 2003

Dated 12th August, 2015

ORDER

1. In this revision filed u/s 397 r/w 401 of the Code of Criminal Procedure, petitioners, who are accused Nos.1 to 4 in C.C.No.437 of 1996 on the file of the Judicial Magistrate of First Class-I, Cherthala, for offences punishable u/s 341 and 323 r/w s.34 IPC, challenge the conviction entered into and the sentence passed against them by the Courts below.

2. The gist of the prosecution case is that on 29.1.1996 at 1.00 pm, the accused in furtherance of their common intention to cause hurt to PW1 due to political enmity, wrongfully restrained PW1 by holding his neck and while petitioners 3 and 4 hit on his back, the 2nd petitioner hit on the head of PW1 with hands and thus caused pain to PW1. On these

allegations it was alleged that petitioners had committed the aforesaid offence.

3. In order to prove the prosecution case, the prosecution examined PW1 to 8 and Exts.P1 to P5 were marked.

4. The learned Magistrate, as per judgment dated 11.1.2000, convicted and sentenced the petitioners to undergo simple imprisonment for three months and to pay a fine of Rs.500/- each in default of payment of fine to undergo simple imprisonment for a further period of one month each for the offence u/s 323 of the IPC. It was further ordered that a sum of Rs.1000/- be paid by way of compensation to PW1. Against the above conviction and sentence petitioners preferred Crl.A.45 of 2000 before the Additional Sessions Judge, Fast Track (Ad hoc)-I,

Alappuzha. As per judgment dated 27.3.2003, the learned Sessions Judge dismissed the appeal preferred by the petitioners confirming the conviction and sentence passed by the learned Magistrate.

5. I have heard Sri.T.A.Shaji, the learned Senior counsel appearing for the petitioners and also the learned Public Prosecutor.

6. The learned Senior counsel has assailed the conviction and sentence on various grounds. After going through the evidence of the witness and also the judgment passed by the Courts below concurrently and after evaluation of the evidence, I am of the considered view that , this Court sitting in revision, will not be justified in interfering with the said conviction. With regards to the question regarding the adequacy or otherwise of the sentence

imposed on the petitioners, it is contended by the learned Senior counsel that the incident had occurred way back on 29.1.1996 and almost 20 years have elapsed since the date of incident. The nature of the injury sustained would show that only minor injuries were sustained by PW1. Having regard to the facts and circumstances of the case, I am of the considered view that the petitioners do not deserve penal servitude for the said conviction. I am of the considered view that interest of justice will adequately be met by imposing a sentence to be passed hereinafter.

7. In modification of the sentence imposed by the learned Magistrate and confirmed by the Appellate Court for offence u/s 323 of the IPC, the petitioners are directed to pay a compensation of Rs.1500/- (Rupees one thousand five hundred only) each to

PW1 - Francis, u/s 357 (3) of the Cr.P.C and in default to undergo simple imprisonment for one month. For the offence u/s 341 of the IPC, the petitioners are directed to pay a compensation of Rs.1000/- (Rupees one thousand only) each to PW1 - Francis, u/s 357 (3) of the Cr.P.C and in default to undergo simple imprisonment for one month. The petitioners are granted time till 20.9.2015 to deposit the compensation before the trial Court to be given to PW1, failing which they shall undergo the default sentence.

8. In the result, the revision petition is disposed of confirming the conviction, but, modifying the sentence imposed as above.

Sd/-

RAJA VIJAYARAGHAVAN.V.
Judge

MrCs

//True Copy//

P.S.To Judge