

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

FRIDAY, THE 7TH DAY OF AUGUST 2015/16TH SRAVANA, 1937

Crl.Rev.Pet.No. 401 of 2004 (A)

**AGAINST THE JUDGMENT IN CRL.A.NO.537/2002 of SESSIONS COURT,THRISSUR
DATED 13-01-2004**

**AGAINST THE JUDGMENT IN C.C.NO. 470/2000 of J.M.F.C.-I,THRISSUR
DATED 19-11-2002**

REVISION PETITIONER(S)/APPELLANT/ACCUSED::

**JOSE, S/O.VAREEDH,
CHAKKALAKAL HOUSE, TIRUR DESOM, KILLANNUR VILLAGE,
THRISSUR DISTRICT.**

**BY ADVS.SRI.P.VIJAYA BHANU
SMT.P.MAYA**

RESPONDENT(S)/RESPONDENT/COMPLAINANT::

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

BY PUBLIC PROSECUTOR SMT.M.G.LISHA

**THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 07-08-
2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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RAJA VIJAYARAGHAVAN V, J.

Crl.R.P.No.401 of 2004

Dated this the 07th day of August, 2015

O R D E R

The concurrent findings are challenged by the petitioner in this Criminal Revision Petition. As per judgment dated 19.11.2002 in C.C.No.470/2000, the learned Judicial First Class Magistrate - I, Thrissur had convicted the petitioner and he was sentenced to pay a fine of Rs.3,000/- under section 324 of the Indian Penal Code and in default to undergo simple imprisonment for 6 months and also ordered to pay a fine of Rs.2,000/- under section 354 of the Indian Penal Code in default to undergo simple imprisonment for 6 months. Out of the fine amount if realised, Rs.3,000/- was ordered to be paid to PW1 as compensation.

2. The gist of the prosecution case is that, on

30.10.2000, at 3.30 p.m., while, PW1 Mini, who is the daughter of the sister's wife of the petitioner had gone to take water from the nearby public tap in front of her house in Killannur Village, the petitioner, with an aluminium pot, gave blows on the head and shoulder of PW1 causing her simple hurt. Thereafter, the petitioner is alleged to have embraced her and thereby outraged the modesty of PW1.

3. In order to prove the case of the prosecution, PWs 1 to 6 were examined and Exts. P1 to P3 were marked. MO1 was produced and identified. After the close of the prosecution evidence, the accused was questioned under 313 with regard to the incriminating materials arising out of the prosecution evidence. He denied the various circumstances and maintained that he was innocent.

4. It is the case of the petitioner that the mother of PW1 and his wife are sisters and in view of a property

dispute that exists between them, a false case was registered as against him. Before the trial court, the learned magistrate, on an appraisal of the evidence of PW1 - the injured and PW2- the occurrence witness came to the conclusion that the petitioner had embraced PW1, a woman, in public place and thus annoyed her. It was also held that the petitioner had given a blow to PW1, as a result of which, PW1 sustained simple hurt. It was on the strength of the said findings, that the petitioner was found guilty under sections 324 and 354 of the Indian Penal Code and was sentenced accordingly.

5. It has to be mentioned that the petitioner preferred appeal before the learned Session Judge, Thrissur as Crl.A.No.537/2002, and as per judgment dated 13.01.2004, the appeal was allowed in part and the conviction and sentence for the offence under section 354 of Indian Penal Code was set aside while confirming the

conviction and sentence for the offence under section 324 of the Indian Penal Code and the petitioner was ordered to pay compensation. The said finding of the courts below are under challenge in this revision petition.

6. I have heard the learned counsel appearing for the petitioner and also the learned public prosecutor.

7. The evidence of PW1, the injured and PW2, the eye witness coupled with that of PW4, the lecturer in surgery of Medical College Hospital establishes the case of the prosecution and the sentence imposed by the appellate court is commensurate with the gravity of the offence committed by the petitioner. This Court while exercising powers of revision will not be justified in re appreciating the facts afresh and unsettling the concurrent findings entered into by the courts below.

8. There are no sufficient enough reasons to differ from the view taken by the courts below.

In the result, the Crl.R.P. is dismissed.

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

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[True copy]

P.A to Judge