

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

MONDAY, THE 12TH DAY OF OCTOBER 2015/20TH ASWINA, 1937

Crl.Rev.Pet.No. 4 of 2006

CRA 146/2000 of ADDL.SESIONS COURT (ADHOC)-III, THALASSERY
CC 329/1994 of J.M.F.C.,TALIPARAMBA

REVISION PETITIONERS/APPELLANT/ACCUSED::

VADAKKANAT RAJEEVAN
S/O. SEKHARAN NAIR, 26 YEARS, COOLIE
ALAKKODE, TALIPARAMBA.

BY ADV. SRI.M.T.SURESHKUMAR

RESPONDENT/COMPLAINANT::

SUB INSPECTOR OF POLICE, ALAKKODE
ALAKKODE, REPRESENTED BY THE, PUBLIC PROSECUTOR
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR, SHRI.R.GITHESH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 12-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P. No.4 of 2006

Dated this the 12th day of October 2015

O R D E R

The revision petitioner is the accused in C.C. No.329 of 1994 on the files of the Court of the Judicial Magistrate of First Class, Thaliparamba.

2. The trial court convicted the revision petitioner under Sections 341 and 323 read with Section 34 I.P.C. and sentenced him thereunder to simple imprisonment for six months and a fine of Rs.1,000/- under Section 323 I.P.C. and simple imprisonment for one month under Section 341 I.P.C. In the appeal filed against the said conviction and sentence, the conviction under Section 341

I.P.C. was set aside and the conviction under Section 323 I.P.C. was confirmed by the appellate court. However, the sentence was modified and reduced to simple imprisonment for three months and a fine of Rs.1,000/-. 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 23.1.1994 at 1.45 p.m., the revision petitioner and the other accused, in furtherance of their common intention, attacked PW1 and restrained him by pulling the collar of his shirt. The revision petitioner caused hurt on his head by hitting with a granite stone.

5. Before the trial court, PW1 to PW7 were examined

and Exts.P1 to P6 were marked for the complainant, besides identifying MO1 and MO2. DW1 was examined for the revision petitioner.

6. The courts below, relying on the documentary as well as oral evidence adduced by the complainant, concurrently found that the revision petitioner committed the offence under Section 323 I.P.C. The defence set up by the revision petitioner was also repelled by the courts. Since there is concurrent finding on facts, 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 appellate court was perverse or incorrect. The courts below concurrently found that the revision petitioner committed the offence under Section 323 I.P.C

and convicted him thereunder. Having gone through the relevant inputs, I do not find any reason to interfere with the concurrent finding of the courts below that the revision petitioner committed the offence under Section 323 I.P.C.

7. The incident was on 23.1.1994. PW1 did not sustain any serious injury in the incident. Considering the facts and circumstances of the case, I am of the view that the sentence awarded by the appellate court can be further modified and reduced to imprisonment till the rising of the court 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 Section 323 I.P.C

- (ii) the sentence awarded by the appellate court under Section 323 I.P.C stands modified and reduced to imprisonment till the rising of the court and a fine of Rs.1,000/- (Rs. One thousand only)
- (iii) in default of payment of fine, the revision petitioner shall undergo simple imprisonment for 15 days.
- (iv) in the event of realisation of the fine amount, the entire amount shall be given to PW1 as compensation under Section 357(1) (b) Cr.P.C.

sd/

**B.SUDHEENDRA KUMAR,
JUDGE**

dl

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PA to Judge