

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

WEDNESDAY, THE 30TH DAY OF SEPTEMBER 2015/8TH ASWINA, 1937

Crl.Rev.Pet.No. 145 of 2009 ()

AGAINST THE JUDGMENT IN CRA 597/2006 of II ADDL. SESSIONS
COURT, PALAKKAD DATED 05-09-2008

AGAINST THE JUDGMENT IN CC 316/2004 of J.M.F.C.-I, PALAKKAD
DATED 19-20-2015

REVISION PETITIONER(S):

V.RAVEENDRAN
S/O.KUNJURAMAN NAIR, MELELARASSERY HOUSE, KULLAR PO
ATHOLY VIA, KOZHIKODE.

BY ADVS.SRI.ANANDARAJAN.N
SRI.C.V.MILTON

RESPONDENT(S):

STATE OF KERALA, REP.
PUBLIC PROSEUCTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. V.S. SREEJITH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY
HEARD ON 30-09-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

B. SUDHEENDRA KUMAR, J.

.....
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.....

Dated this the 30th day of September, 2015

ORDER

The revision petitioner is the revision petitioner in C.C. No. 316 of 2004 on the files of the Court of the Judicial Magistrate of First Class- I, Palakkad. The trial Court convicted the revision petitioner under Sec. 279, 337 and 338 IPC and sentenced him to simple imprisonment for one month and a fine of Rs. 1,000/- with a default clause for simple imprisonment for one month under Section 279 IPC, simple imprisonment for one month and a fine of Rs. 500/- with a default clause for simple imprisonment for 7 days under Section 337 IPC and simple imprisonment for one month and a fine of Rs. 1000/- with a default clause for simple imprisonment for one month under Section 338 IPC.

2. The appeal filed against the said conviction and sentence was dismissed by the appellate court confirming the conviction and sentence passed by the trial Court. Aggrieved by the said conviction and sentence,

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this Revision Petition has been filed.

3. Heard both sides.

4. The prosecution case is that on 2-4-2004 at about 10.15 p.m., the revision petitioner drove the KSRTC Super Fast bus bearing Reg. No. KL 15 - 5280 along Thrissur-Palakkad National Highway in a rash and negligent manner endangering human life and when it reached at Kuthannur Althara, it hit against the Motor Cycle driven by PW1 and as a result , PW1 sustained injuries.

5. Before the trial Court, PW1 to PW7 were examined and Exts. P1 to 8 were marked for the prosecution. No evidence was adduced on the side of the defence.

6. PW1 is the injured in this case. PW1 stated that while he was proceeding to his house in a motor cycle on 2-2-2004 at about 10.15 p.m., he was knocked down by a KSRTC bus and as a consequence, he sustained injuries. He identified the revision petitioner as the driver of the vehicle involved in this case. PW5 was the conductor of the bus who also identified the revision petitioner as the driver of the bus involved in this case. The evidence of PW1 would show that the vehicle was driven in a rash and negligent manner by the revision petitioner. The evidence of

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PW1 with regard to the injuries sustained by him is corroborated by the evidence of PW5 coupled with Ext. P2 wound certificate. It appears from Ext. P2 wound certificate that PW1 sustained injuries including fracture of nasal bone in the incident.

7. After evaluating the oral and documentary evidence adduced by the prosecution, the courts below concurrently found that the revision petitioner committed the offence under Sections 279, 337 and 338 IPC. 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 finding of the courts below is incorrect or perverse. In the said circumstances, 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 279, 337 and 338 IPC.

8. As regards the sentence, the learned counsel for the revision petitioner pleaded for leniency. It appears that the petitioner is presently aged 60 years of age and he retired from the service. There is no material before the court to prove the previous conviction, if any, of the revision petitioner. Considering the facts and circumstances of the case, including

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the age of the revision petitioner and also taking into consideration of the fact that the revision petitioner is a first time offender, I am of the view that leniency can be taken in the matter of sentence. Accordingly, the sentence awarded by the courts below stands modified and reduced to a fine of Rs. 1000/- under Section 279 IPC, a fine of Rs. 500/- under Section 337 IPC and a fine of Rs. 1000/- under Section 338 IPC, to meet the ends of justice.

9. In the result, this Revision Petition stands allowed in part;

(1) confirming the verdict of guilty and conviction under Sections 279, 337 and 338 IPC.

(2) The sentence awarded by the courts below stands modified and reduced to a fine of Rs. 1000/- and in default to simple imprisonment for 20 days under Section 279 IPC, a fine of Rs. 500/- and in default to simple imprisonment for 10 days under Sec. 337 IPC and fine of Rs. 1000/- and in default to simple imprisonment for 20 days under Section 338 IPC.

3) In the event of realisation of the fine amount, the

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entire amount shall be given to PW1 as
compensation under Section 357 (1) (b) Cr.P.C.

The petitioner shall surrender before the courts below on 20-10-
2015 to suffer the sentence.

B. SUDHEENDRA KUMAR,
JUDGE.

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