

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

FRIDAY, THE 29TH DAY OF MAY 2015/8TH JYAISHTA, 1937

Crl.Rev.Pet.No. 1168 of 2002

AGAINST THE JUDGMENT IN CC 220/1998 of JUDICIAL FIRST CLASS
MAGISTRATE COURT, NORTH PARAVUR DATED 15-03-2002

REVISION PETITIONER(S)/PETITIONER /P.W.I:

SUNITHI DEVI, W/o.GOPALAKRISHNAN,
PUZHAKKARAYADATHU, PARAYAKADU, MOOTHAKUNNAM.

BY ADVS.SRI.T.RAVIKUMAR
SRI.S.RAJEEV

RESPONDENT(S)/STATE AND ACCUSED:

1. STATE OF KERALA, REP.BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKLAM
(CRIME NO.136 OF 1996 OF VADAKKEKARA POLICE
STATION)

2. ASHOKAN S/O. BHASKARAN,
PUZHAKKARAYADATHU, PARAYAKADU KARA, PARAVUR.

3. RADHAKRISHNAN, S/O.BHASKARAN,
PUZHAKKARAYADATHU, PARAYAKADU KARA, PARAVUR.

4. SANTHOSH S/O. BHASKARAN,
PUZHAKKARAYADATHU, PARAYAKADU KARA, PARAVUR.

5. BHASKARAN S/O. KUNJIPPI,
PUZHAKKARAYADATHU, PARAYAKADU KARA, PARAVUR.

R3 TO 5 BY ADVS. SRI.DENIZEN KOMATH
SRI.PAUL PARAKAL

R2 BY ADVS. SRI.PAUL PARAKAL
SRI.DENIZEN KOMATH

R1 BY PUBLIC PROSECUTOR SMT.MADHU BEN.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY
HEARD ON 29-05-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

STU

K.HARILAL, J.

=====

Crl.R.P.No.1168 of 2002

=====

Dated this the 29th day of May, 2015

ORDER

The revision petitioner is the de facto complainant in C.C.No.220/1998 on the files of the Judicial First Class Magistrate's Court, North Paravur. The respondents herein were charge sheeted for the offences under Sections 324 and 427 read with Section 34 IPC and prosecuted thereunder. They pleaded not guilty. PWs.1 to 7 were examined and Exts.P1 to P3 and M.O.1 and M.O.2 were marked for the prosecution. No witnesses had been examined for the defence. But, Ext.D1 Portion of F.I.S was marked for the defence. After considering the evidence on record, the learned Magistrate found that there are material contradictions in the deposition of the occurrence witnesses PWs.1 to 3, which cause a grave doubt regarding the veracity of prosecution case. Consequently, the court

below acquitted the respondents from the offences alleged against them.

2. The scope and extent of jurisdiction and power under Sections 397 and 401 of the Cr.P.C is very limited and confined to examination of legality, propriety, regularity and correctness of the impugned judgment under challenge. The revisional court is not empowered to re-appreciate the entire evidence on record and to arrive at a different finding unless the appreciation of evidence is tainted with perversity. That apart, in a revision filed against the acquittal of the accused, after considering the evidence on record, if the court finds that another view resulting to conviction is also possible, that view cannot be substituted for the view, which had already been taken by the trial court.

3. With the above view, I have meticulously scrutinized the evidence of PWs.1 to 3. Even though, four witnesses were examined to prove the occurrence, none of the witnesses specifically stated as to which accused caused

injury to which prosecution witnesses. According to PW3, five accused were found pelting brickbats. But, there are only four accused facing trial. PW3 herself deposed that she is a close relative of PW2. All the witnesses spoke about the involvement of one Nalini for the commission of offence; but the allegation against the said Nalini did not find a place in Ext.P1 F.I.Statement. The witnesses have not spoken about the specific overt acts of the accused persons. More importantly, the Medical Officer, who is said to have examined the injured witness, was not examined before the court and the wound certificates were also seen not marked.

4. On an analysis of the findings, I find that there is no illegality or impropriety in the impugned judgment and there is no perversity in the appreciation of evidence, warranting interference under revisional jurisdiction.

Hence, this revision petition will stand dismissed.

K.HARILAL, JUDGE.

stu

