

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

TUESDAY, THE 6TH DAY OF OCTOBER 2015/14TH ASWINA, 1937

Crl.Rev.Pet.No. 753 of 2009 (D)

JUDGMENT IN CRA 662/2006 OF THE SESSIONS COURT, PALAKKAD DATED 30-09-2008

JUDGMENT IN CC 384/2005 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-II, PALAKKAD DATED 27-11-2006

REVISION PETITIONER:/APPELLANT/ACCUSED

GIRISH, AGED 34 YEARS,
S/O.GOPALAKRISHNAN, THEKKUMURI, EZHAKKAD
KONGAD, PALAKKAD TALUK.

BY ADVS.SRI.K.ABDUL JAWAD
SRI.U.MUHAMMED MUSTHAF

RESPONDENTS:

1. STATE OF KERALA, REP. BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.
2. SUB INSPECTOR OF POLICE,
KONGAD POLICE STATION.

BY PUBLIC PROSECUTOR SRI. V.S.SREEJITH.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 06-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

SCL.

B. SUDHEENDRA KUMAR, J.

Crl.R.P. No.753 of 2009

Dated this the 6th day of October, 2015.

ORDER

The revision petitioner is the accused in C.C.No.384 of 2005 on the files of the court of the Judicial Magistrate of First Class-II, Palakkad.

2. The revision petitioner was convicted by the trial court under Sections 279, 337 and 338 IPC and sentenced to simple imprisonment for three months under Section 279 IPC, simple imprisonment for two months under Section 337 IPC and simple imprisonment for three months under Section 338 IPC. 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, this revision petition has been filed.

3. Heard the learned counsel for the petitioner.

4. The prosecution allegation is that on 5.11.2005 at about 9.15 p.m., the revision petitioner drove a jeep bearing

registration No.KL 9 G 7641 in a rash and negligent manner endangering human life along Palakkad - Kongad road and when the said jeep reached at Kattukulam, it hit against the autorikshaw driven by PW1 and as a consequence, PW1 to PW3 and another person, namely, Santhosh sustained injuries.

5. Before the court below, PW1 to PW9 were examined and Exts.P1 to P10 were marked for the prosecution. No evidence was adduced on the side of the defence.

6. PW1 is the injured, who had given Ext.P1 statement before the police in connection with the incident in this case. According to PW1, while he was driving his autorikshaw on 5.11.2005 at 9.15 p.m., a jeep driven by the revision petitioner hit against the said autorikshaw and as a consequence, PW1 and passengers of the autorikshaw sustained injuries. PW2 is a passenger in the autorickshaw who had given evidence in support of the evidence of PW1 in all material aspects. PW1 and PW2 identified the accused as the driver of the jeep involved in this case. PW3 was another passenger in the autorikshaw, who also supported the evidence of PW1 and PW2 in all material aspects. PW3 stated about the rash and

negligent driving of the jeep involved in this case. He also identified the revision petitioner as the driver of the jeep involved in this case. PW5 was the doctor, who examined PW3 and issued Ext.P4 wound certificate. He also treated Santhosh, who was a passenger in the autorikshaw and issued Ext.P2 wound certificate. PW6 is another doctor who issued Ext.P5 discharge summary in respect of the treatment of PW3.

7. The court below after evaluating the oral and documentary evidence adduced by the prosecution, 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 finding of the courts below is perverse or incorrect. In the said circumstances, the concurrent finding of the courts below that the revision petitioner committed the offence under Sections 279, 337 and 338 IPC does not call for any interference by this Court.

8. As regards the sentence, the learned counsel for the

revision petitioner has pleaded for leniency. There is no material before the court to indicate that the revision petitioner was ever convicted in any other offence of similar nature. It appears that PW3 sustained injuries including fracture of maxilla, zygomatic arch and nasal bone.

Considering the facts and circumstances of the case, including the injuries sustained by PW3 and also taking into consideration of the fact that the revision petitioner is a first time offender, I am of the view that the sentence awarded by the courts below can be modified and reduced to imprisonment till the rising of the court and a compensation of ₹10,000/- under Section 338 IPC and a compensation of ₹1,000/- under Section 279 IPC and a compensation of ₹500/- under Section 337 IPC will be sufficient to meet 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 Sections 279, 337 and 338 IPC,

(ii) the sentence awarded by the courts

below stands modified and reduced to imprisonment till the rising of the court and a compensation of ₹ 10,000/- with a default clause for simple imprisonment for one month under Section 338 IPC.

(iii) a compensation of ₹1,000/- and default to simple imprisonment for 15 days under Section 279 IPC.

(iv) a compensation of ₹5,00/- with a default clause for simple imprisonment for 10 days under Section 337 IPC.

(v) If the fine amount is realised, ₹10,000/- shall be given to PW3 and ₹1,500/- shall be given to PW1 as compensation under Section 357 (3) Cr.P.C.

The revision petitioner shall appear before the court below on 11.11.2015 to suffer the sentence.

Sd/-
B. SUDHEENDRA KUMAR
JUDGE

Scl.

True Copy

PA to Judge