

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

TUESDAY, THE 18TH DAY OF AUGUST 2015/27TH SRAVANA, 1937

Crl.Rev.Pet.No. 3074 of 2004

CC 37/2002 of J.M.F.C.-I, ALAPPUZHA

REVISION PETITIONER(S):

RAJENDRAN, AGED 48, S/O KRISHNAN,
VADAKKEVILA PUTHEN VEEDU, THIRUVALLAM DIVISION
THIRUVANANTHAPURAM.

BY ADVS.SMT. T.D.RAJALAKSHMI
SRI.RANJIT SREENIVAS

RESPONDENT(S):

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1. STATE OF KERALAM, REP. BY
S.I. OF POLICE, ALAPPUZHA SOUTH POLICE STATION
THROUGH THE PUBLIC PROSECUTOR, HIGH COURT, OF KERALA.
 2. CHACKO @ ACHANKUNJU S/O. JOSEPH,
KANICHERI VEEDU, ASRYAD PANCHAYAT, ALAPPUZHA.
 3. JESICHAN THOMAS @ JOSEPHKUTTY,
S/O. CHACKO THOMAS, PRIYA HOUSE, KANIYAKULAM WARD,
ALAPPUZHA.

FOR R2 & R3 BY SRI.S.SANAL KUMAR,
R1 BY PUBLIC PROSECUTOR SMT. BINDU GOPINATH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 18-08-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

RAJA VIJAYARAGHAVAN.V. J

Crl.R.P.3074 of 2004

Dated 18th August, 2015

ORDER

1. The instant revision petition is preferred by the *de facto* complainant in C.C.37 of 2002 on the file of the Judicial Magistrate of First Class-I, Alappuzha. Challenge is against the order of acquittal passed in favour of respondents 2 and 3 herein, who are accused Nos. 1 and 2 in the aforesaid case.

2. The case of the prosecution is that on 2.11.2001, at 8.30 am, the accused in furtherance of their common intention to cause bodily injuries to CW1 wrongfully restrained and assaulted him resulting in injuries and thereby committed the aforesaid offence. After registration of crime by the Head Constable, investigation was conducted by the Sub Inspector who laid the charge before Court.

3. Accused appeared before Court and the trial was proceeded with after complying with the formalities. Before the learned Magistrate charge witness Nos.2 and 3 were examined as PW1 and 2. It is recorded in the judgment dated 19.7.2004 that in spite of repeated coercive steps, prosecution was unable to produce the *de facto* complainant. PW1 and 2 turned hostile and they stated that they had not seen the incident. It was in the said circumstance that the learned Magistrate had come to a conclusion that it was a fit case where the proceedings against the accused be terminated u/s 258 of the Cr.P.C. It is the aforesaid order that is under challenge in this revision.

4. The matter came up for hearing on 10.8.2015, 11.8.2015, 12.8.2015, 13.8.2015 and 17.8.2015 and

there is no appearance on the side of the petitioner.

5. After going through the records of the case and after considering the order passed by the learned Magistrate, I am of the considered view that the learned magistrate was justified in passing the judgement impugned in the facts and circumstances of the case. I do not think that the Court will be justified in interfering in revision. In view of the same, the revision petition is dismissed.

Sd/-
RAJA VIJAYARAGHAVAN.V.
Judge

MrCs

//True Copy//

P.S.ToJudge