

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

Cr1.Rev.Pet.No. 1789 of 2009 ()

JUDGMENT IN CRA 710/2005 OF THE ADDITIONAL SESSIONS COURT (FAST TRACK
COURT III), THIRUVANANTHAPURAM DATED 06-05-2008

JUDGMENT IN CC 518/2001 OF THE JUDICIAL FIRST CLASS MAGISTRATE
COURT-I, NEYYATINKARA DATED 30-09-2005

REVISION PETITIONER/APPELLANT/1ST ACCUSED:

ROSEKUMARY (NAME IS WRONGLY SHOWN AS
ROSEMARY IN THE JUDGMENT), D/O. MARYKUTTY BABY
ANNA BHAVAN, PUNNAKODE, KAKKANAM
MARAYAMUTTOM, PERUMKADAVILA, TRIVANDRUAM DISTRICT.

BY ADV. SMT.G.VIDYA

RESPONDENT/RESPONDENT/COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

R, BY PUBLIC PROSECUTOR SRI. V.S.SREEJITH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 12-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

SCL.

B. SUDHEENDRA KUMAR, J.

Crl. R.P. No.1789 of 2009

Dated this the 12th day of October, 2015.

ORDER

The revision petitioner is the first accused in C.C.No.518 of 2001 on the files of the Court of the Judicial Magistrate of First Class-I, Neyyattinkara.

2. The revision petitioner was convicted by the trial court under Sections 341, 323 and 324 r/w 34 IPC and sentenced her to simple imprisonment for six months under Section 324 IPC and simple imprisonment for one month under Section 341 IPC. Direction was also given to pay an amount of ₹1,000/- to PW1 as compensation under Section 357 (3) Cr.P.C. No separate sentence was awarded for the offence under Section 323 IPC. The appeal filed against the said conviction and sentence was dismissed. Aggrieved by the said conviction and sentence, this revision petition has been filed.

3. Heard both sides.

4. The prosecution allegation is that on 15.7.1999 at

about 6 p.m., while PW1 was cutting grass from her property, the first accused caught hold of the left hand of PW1 and bit on her left index finger. The first accused also fisted on the lower lip of PW1 causing mobility of her front tooth. The second accused threw a stone at PW1 causing injuries on her right heel.

5. Before the court below, PW1 to PW8 were examined and Exts.P1 to P5 were marked for the prosecution. Exts.D1 to D3 contradictions in the CD statement of PW1, PW3 and PW4 were respectively marked for the defence. No other evidence was adduced on the side of the defence.

6. The courts below, after carefully evaluating the oral and the documentary evidence, concurrently found that the revision petitioner committed the offences under Sections 324 and 341 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 concurrent finding by the courts below is perverse or incorrect. In the said

circumstances, the concurrent finding by the courts below that the revision petitioner committed the offences under Sections 324 and 341 IPC does not warrant any interference by this Court.

7. As regards the sentence, the learned counsel appointed by the Legal Services Authority, has prayed for leniency. The revision petitioner is a lady. Considering the facts and circumstances of the case, including the injuries sustained by PW1, I am of the view that the sentence awarded by the courts below can be modified and reduced to a fine of ₹500/- and in default to simple imprisonment for ten days under Section 341 IPC and imprisonment till the rising of the court and a fine of ₹3,000/- and in default to simple imprisonment for one month under Section 324 IPC, 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

Sections 341 and 324 IPC.

(ii) the sentence awarded by the courts below stands modified and reduced to imprisonment till the rising of the court and a fine of ₹3,000/- (Rupees three thousand only) and in default to simple imprisonment for one month under Section 324 IPC and a fine of ₹500/- and in default to simple imprisonment for ten days under Section 341 IPC.

(iv) in the event of realisation of the fine, the entire amount shall be given to PW1 as compensation under Section 357 (1) (b) Cr.P.C.

Sd/-

**B. SUDHEENDRA KUMAR
JUDGE**

Scl.

True Copy

PA to Judge