

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

MONDAY, THE 2ND DAY OF NOVEMBER 2015/11TH KARTHIKA, 1937

Cr1.Rev.Pet.No. 2054 of 2009 ()

JUDGMENT IN Cr1.A 965/2008 OF THE VI ADDITIONAL SESSIONS COURT,
ERNAKULAM

JUDGMENT IN CC 1777/2003 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT
MUVATUPUZHA

REVISION PETITIONERS/APPELLANTS/ACCUSED 2 TO 7:

1. MOHANAN, S/O. PEETHAMBARAN,
ANAKKUZHIYIL PALAKKUZHA KARA, PALAKKUZHA VILLAGE.
2. SHIBU, S/O. PEETHAMBARAN, ANAKKUZHIYIL,
PALAKKUZHA KARA, PALAKKUZHA VILLAGE.
3. KRISHNAN, S/O. MADHAVAN,
KAVUNKAL, ANAKKUZHIYIL PALAKKUZHA KARA
PALAKKUZHA VILLAGE.
4. JOHNY, S/O. MATHAI, ARAMBEL VEEDU,
ANAKKUZHIYIL, PALAKKUZHA KARA, PALAKKUZHA VILLAGE.
5. SALIM, S/O. THEVAN, ILLIKKANIRAPPEL,
ANAKKUZHIYIL PLALAKKUZHA KARA, PALAKKUZHA VILLAGE.
6. BIJU, S/O. KESAVAN, THANDEL VEEDU,
ANAKKUZHIYIL, PALAKKUZHA KARA, PALAKKUZHA VILLAGE.

BY ADVS.SRI.P.VIJAYA BHANU
SRI.M.REVIKRISHNAN

RESPONDENT(S)/COMPLAINANT:

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

R, BY. PUBLIC PROSECUTOR SRI.R.GITESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 02-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

SCL.

B. SUDHEENDRA KUMAR, J.

Crl.R.P. No.2054 of 2009

Dated this the 2nd day of November, 2015

ORDER

The revision petitioners are accused Nos.2 to 7 in C.C.No.1777 of 2003 on the files of the Court of the Judicial Magistrate of First Class, Muvattupuzha.

2. The trial court convicted the revision petitioners under Sections 452 IPC, 148 IPC, 324 IPC and 323 IPC and sentenced them to simple imprisonment for one year each under Section 452 IPC, simple imprisonment for six months each under Section 148 IPC, a fine of ₹2,000/- each under Section 324 IPC and a fine of ₹1,000/- each under Section 323 IPC. In the appeal, the appellate court confirmed the conviction and sentence passed by the trial court against revision petitioner Nos.1, 5 and 6. However, the conviction and the sentence passed against revision petitioner Nos.2 to 4 under Section 148 IPC had been set aside in the appeal, upholding the conviction and the sentence under other counts.

Aggrieved by the said conviction and sentence, this revision petition has been filed.

3. Heard the learned counsel for the revision petitioners.

4. The prosecution allegation is that on 17.02.2001 at about 12 noon, the revision petitioners along with the other accused, in furtherance of their common object, formed themselves into an unlawful assembly, armed with stick and stone pieces and trespassed into the house of PW1 and attacked PW1, PW2 and PW5, causing injuries on them.

5. Before the trial court, PW1 to PW8 were examined and Exts.P1 to P5 were marked for the prosecution, besides identifying MO1 and MO2. No evidence was adduced on the side of the revision petitioners.

6. The courts below, after evaluating the oral and documentary evidence adduced by the prosecution, concurrently found that the revision petitioner Nos. 1, 5 and 6 committed the offences under Sections 452, 148, 324 and 323 IPC. The courts below also concurrently found that the

revision petitioner Nos. 2 to 4 committed the offences under Sections 452, 324 and 323 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 all the revision petitioners committed the offence under Sections 452, 324 and 323 IPC and the revision petitioners other than the revision petitioners 2 to 4 committed the offence under Section 148 IPC does not warrant any interference by this Court.

7. As regards the sentence, the learned counsel for the revision petitioners has pleaded for leniency. It is borne out from Exts.P4 and P5 wound certificates that PW1 and PW5 did not sustain any serious injury in the incident. PW2 was not even taken to the hospital in connection with the incident. It appears from the judgments of the courts below that the first accused had inflicted major injuries on PW1. Even the said

injuries are not serious in nature. The first accused and the de facto complainant are husband and wife.

Considering the facts and circumstances of the case, I am of the view that the sentence awarded by the courts below under Sections 452 and 148 IPC can be modified and reduced to imprisonment till the rising of the court and a fine of ₹10,000/- each under Section 452 IPC and a fine of ₹5,000/- each under Section 148 IPC to meet the ends of justice. The sentence awarded under other counts does not warrant any interference by this Court. 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 appellate court under various counts.

(ii) the sentence awarded by the courts below under Section 452 IPC stands modified and reduced to imprisonment till the rising of the court and a fine of ₹10,000/- each and in default to simple imprisonment for two months each.

(iii) the sentence awarded under Section 148 IPC against the revision petitioner Nos. 1, 5 and 6 stands modified and reduced to a fine of ₹5,000/- each and in default to simple imprisonment for one month each.

(iv) the sentence awarded by the courts below under Sections 323 and 324 IPC stands confirmed.

The revision petitioners shall surrender before the trial court on 11.12.2015 to suffer the sentence. In the event of payment/realisation of the fine, an amount of ₹30,000/- will be given to PW1, ₹15,000/- will be given to PW5 and ₹ 5,000/- will be given to PW2 as compensation under Section 357 (1) (b) Cr.P.C.

Sd/-
B. SUDHEENDRA KUMAR
JUDGE

Scl/3.11.2015

True Copy

PA to Judge