

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR

MONDAY, THE 19TH DAY OF JANUARY 2015/29TH POUSHA, 1936

Crl.Rev.Pet.No. 2063 of 2012 ()

AGAINST THE JUDGMENT IN CRL.APPEAL NO. 541/2011 of ADDITIONAL DISTRICT
& SESSIONS COURT (ADHOC-III),N.PARAVUR DATED 23-08-2012

AGAINST THE JUDGMENT IN C.C. NO. 612/2006 of JUDICIAL FIRST CLASS
MAGISTRATE COURT,PERUMBAVOOR DATED 29-08-2011

REVISION PETITIONER(S)/APPELLANTS 1 TO 4:

1. BABU, S/O.MATHAI, AGED 31 YEARS
THADATHIL HOUSE, SOUTH EZHIPURAM KARA
VAZHAKKULAM VILLAGE.
2. SAJESH, S/O.KUTTAPPAN AGED 33 YEARS
PARUMAYIL HOUSE, SOUTH VAZHAKKULAM KARA.
3. THRIIPANI, S/O. CHAKRAPANI, AGED 41 YEARS
ELIATTMYALIL HOUSE
RATION KADA BHAGOM KAIPPOORIKKARA KARA.
4. JOY, S/O. VARKEY, AGED 48 YEARS
NARAKATHARA HOUSE, MANIYAMPARA ROAD
VAZHAKKULAM KARA.

BY ADVS.SRI.V.RAJENDRAN (PERUMBAVOOR)
SRI.GEORGE VARGHESE KIZHAKKAMBALAM

RESPONDENT(S)/STATE :

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

BY PUBLIC PROSECUTOR SRI.N.SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON
19-01-2015, ALONG WITH CRL.R.P. 2077/2012, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING:

dlk

C.T.RAVIKUMAR, J

Crl.R.P. Nos. 2063 & 2077 of 2012

Dated this the 19th day of January, 2015

ORDER

These revision petitions have common matrix in the judgment dated 23.8.2012 in Crl. Appeal No. 541/2011 of the Court of the Additional District and Sessions Judge (Adhoc-III), North Paravoor confirming the judgment of conviction and order of sentence passed by the Court of Judicial First Class Magistrate-I, Perumbavoor in C.C.No.612/2006. The former revision petition has been filed by accused Nos.1 to 4 in the aforesaid calendar case and the latter revision petition has been filed by the 5th accused therein. They were all tried for offences punishable under sections 143, 147, 148, 447, 427 and read with section 149 of the Indian Penal Code. The trial court after evaluation of the evidence on record found them guilty under sections 143, 147, 148, 447, 427 and read with section 149 of the IPC and convicted them thereunder and sentenced to undergo simple imprisonment for three months each for the offence under section 143 IPC, to undergo simple imprisonment for three

months each for the offence under section 147 IPC, to undergo six months simple imprisonment each for the offence under section 148 IPC, sentenced to undergo simple imprisonment for three months each for the offence under section 447 IPC, sentenced to undergo simple imprisonment for six months each and to pay fine of Rs.10,000/- each for the offence punishable under section 427 IPC. In default of payment of fine the petitioners were directed to undergo simple imprisonment for three months. The substantive sentences were ordered to be run concurrently. Out of the fine amount Rs30,000/- was directed to be paid as compensation to the defacto complainant. Aggrieved by the judgment in C.C.No.612/2006 of the court of Judicial First Class Magistrate-I, Perumbavoor the petitioners filed Crl.Appeal No. 541/2011 and the appellate court as per judgment dated 23.8.2012 confirmed the conviction as also the sentence. The captioned revision petitions are filed against the said judgment.

2. Evidently, the petitioners were tried for offences punishable under sections 143, 147, 148, 447, 427 and read with section 149 of the IPC. The substantive offences found as committed by the petitioners are under sections 447 and 427 IPC. Evidently,

both the said offences are compoundable in terms of the provisions under Table II under section 320 Cr.P.C. The offence under section 427, IPC may be compounded by the person to whom the loss or damage is caused and the offence under section 447, IPC may be compounded by the person in possession of the property trespassed upon, going by the Table under sub-section (1) of section 320, Cr.P.C. The evidence on record would reveal that the property allegedly trespassed belonged to PW1 and he himself is the person who sustained the loss in the incident in question. A separate petition under section 320 Cr.P.C has been moved jointly by the revision petitioners and PW1. Advocate Sri. P.B.Gaffoor appears for PW1 who is arrayed as second respondent in the revision petition. The learned counsel for the second respondent endorsed the submission of the learned counsel for the petitioners that the matters have been settled between the parties and submitted that the statement in the petition in that regard are true to facts. In the circumstances, the compromise duly verified by the parties is brought on record and it is noticed. When the case has been compromised and settled between the parties and no ran cour is now left in their hearts in the light of the decision of the Hon'ble Apex Court in **Gian Singh v. State of**

Punjab reported in 2012(4) KLT 108 I am of the view that continuation of this proceedings would not be in the interest of justice and it is only proper to permit the parties to compound the offence. It is to be noted that the very policy of law contained in section 320, Cr.P.C is to promote friendliness between the parties so as to restore the peace between them. Taking into account all such circumstances the second respondent is permitted to compound the offences. In view of the composition of the offences the judgment in Crl.Appeal No.541/2011 of the Court of the Additional District and Sessions Judge (Adhoc-III), North Paravoor confirming the judgment of conviction and order of sentence in C.C.No.612/2006 of the Court of the Judicial First Class Magistrate-I, Perumbavoor and the judgment in the said calender case are set aside and the petitioners are acquitted of the charges levelled against them.

Revision petitions are accordingly disposed of.

Sd/-

C.T.RAVIKUMAR,JUDGE.

dlk