

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

TUESDAY, THE 13TH DAY OF OCTOBER 2015/21ST ASWINA, 1937

Crl.Rev.Pet.No. 510 of 2013 ()

CRA 47/2012 of ADDITIONAL DISTRICT & SESSIONS COURT PATHANAMTHITTA
CC 88/2008 of C.J.M.PATHANAMTHITTA

REVISION PETITIONERS/APPELLANTS/ACCUSED:

1. MATHEW @ JOY, AGED 77 YEARS
S/O. MATHAI, THANATHOTTATHIL HOUSE, KOLABHAGAM
THELLIYOOR MURI, THELLIYOOR VILLAGE
PATHANAMTHITTA DISTRICT.
2. KUNJAMA MATHEW, AGED 66 YEARS
W/O. MATHEW, THANATHOTTATHIL HOUSE, KOLABHAGAM
THELLIYOOR MURI, THELLIYOOR VILLAGE
PATHANAMTHITTA DISTRICT.
3. ZACHARIAH GEORGE, AGED 69 YEARS
S/O GEORGE, LATHETHU VEEDU, KOLABHAGAM
THELLIYOOR MURI, THELLIYOOR VILLAGE
PATHANAMTHITTA DISTRICT.
4. BABU, AGED 47 YEARS
S/O. PAPPAN, NEDUMALA HOUSE, KOLABHAGAM
THELLIYOOR MURI, THELLIYOOR VILLAGE
PATHANAMTHITTA DISTRICT.
5. BABU, AGED 42 YEARS
S/O. PARAMESWARAN, NEDUMALA HOUSE, KOLABHAGAM
THELLIYOOR MURI, THELLIYOOR VILLAGE
PATHANAMTHITTA DISTRICT.
6. SIVANANDAN, AGED 42 YEARS
S/O. DAMODARAN, VALLIAPARAMBIL HOUSE, KOLABHAGAM
THELLIYOOR MURI, THELLIYOOR VILLAGE
PATHANAMTHITTA DISTRICT.
7. JAYAN, AGED 39 YEARS
S/O. NARAYANAN PILLAI, PULIKKAL VEEDU, KOLABHAGAM
THELLIYOOR MURI, THELLIYOOR VILLAGE
PATHANAMTHITTA DISTRICT.

BY ADV. SRI.V.PHILIP MATHEW

CRRP/510/2013

RESPONDENTS/COMPLAINANT AND STATE:

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

ADDL.2 V.T.MATHAI, S/O.LATE THOMAS,
VALLOLIKUZHAYIL HOUSE
KOLABHAGAM PO, THADIYOOR, THIRUVALLA 689 545.

IS IMPEADED AS ADDL.2ND RESPONDENT AS PER ORDER DT.13.10.2015
IN CRL.M.A.5706/2015

RADDL.2 BY ADV. SMT.K.S.SANTHI
R1 BY PUBLIC PROSECUTOR, SHRI.R.GITHESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON
13-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P. No.510 of 2013

Dated this the 13th day of October 2015

ORDER

The revision petitioners are the accused in C.C. No.88 of 2008 on the files of the Court of the Chief Judicial Magistrate, Pathanamthitta.

2. The trial court convicted the revision petitioners under Sections 143, 147, 148, 427 and 447 I.P.C. and sentenced them thereunder to simple imprisonment for two months each under Section 143 I.P.C., simple imprisonment for six months each under Section 147 I.P.C., simple imprisonment for six months each under Section 148 I.P.C., simple imprisonment for six months

each under Section 427 I.P.C. and simple imprisonment for one month each under Section 447 I.P.C. The appeal filed against the said conviction and sentence was dismissed by the appellate court. Aggrieved by the said conviction and sentence, this Revision Petition has been filed.

3. Heard the learned counsel for the revision petitioners, the learned counsel for the additional 2nd respondent and the learned Public Prosecutor.

4. The prosecution allegation is that on 19.3.2008 at about 11.30 p.m., the revision petitioners, in furtherance of their common object, trespassed into the property of PW1 and PW2 and destroyed the mud boundary for a length of 3 mtrs. on its eastern side. They also cut down valuable trees stood on the boundary causing a loss to the tune of Rs.5,00,000/- to PW1 and PW2. Fourth accused

also pushed PW1 causing injuries on his right foot.

5. Before the trial court, PW1 to PW6 were examined and Exts.P1 to P9 were marked for the prosecution, besides identifying MO1. Exts.D1 and D2 were marked for the revision petitioners.

6. The courts below, relying on the documentary as well as the oral evidence adduced by the parties, concurrently found that the revision petitioners had committed the offence under Sections 143, 147, 148, 427 and 447 I.P.C. 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 appreciation of evidence by the courts below was perverse or incorrect. Having gone through the relevant

inputs, I do not find any reason to interfere with the concurrent finding of the courts below that the revision petitioners committed the offence under Sections 143, 147, 148, 427 and 447 I.P.C.

7. It has been submitted by the learned counsel for the revision petitioners that the matter is likely to be settled. No injury was sustained by any person in the incident. Considering the facts and circumstances of the case, I am of the view that the sentence awarded by the courts below can be modified and reduced to a fine of Rs.1,000/- each and in default to simple imprisonment for 20 days each under Section 143 I.P.C., a fine of Rs.1,000/- each and in default to simple imprisonment for 20 days each under Section 147 I.P.C., a fine of Rs.1,000/- each and in default to simple imprisonment for 20 days each under

Section 148 I.P.C., a fine of Rs.1,000/- each and in default to simple imprisonment for 20 days each under Section 427 I.P.C. and a fine of Rs.500/- each and in default to simple imprisonment for 15 days each under Section 447 I.P.C., to secure the ends of justice. Accordingly, I order so.

In the result, this revision petition stands allowed in part, confirming the conviction under Sections 143, 147, 148, 427 and 447 I.P.C. and modifying and reducing the sentence as mentioned above.

Sd/

**B.SUDHEENDRA KUMAR,
JUDGE**

dl

// True Copy //

PA to Judge