

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

THURSDAY, THE 10TH DAY OF SEPTEMBER 2015/19TH BHADRA, 1937

Crl.Rev.Pet.No. 49 of 2014 ()

-----  
AGAINST THE JUDGMENT IN CRA 502/2008 of ADDL.SESIONS  
JUDGE - 1 THALASSERY DATED 04-12-2013

AGAINST THE JUDGMENT IN CC 316/2006 of J.M.F.C.-II, KANNUR  
DATED 30-10-2008

REVISION PETITIONER(S)/REVISION PETITIONERS:

-----  
1. M.V.JABIR AGED 26 YEARS  
S/O.MAJEED, MADATHILEVALAPPIL HOUSE  
PAPPINISSERY AMSOM, KANNUR DIST

2. C NAVAS, AGED 36 YEARS  
S/O.ABDUL SALAM, CHIRAMAL HOUSE, PAPPINISSERY AMSOM  
KANNUR DIST

3. E THAJU @ THAJUDHEEN AGED 31 YEARS  
S/O.ABDUL RAHIMAN, ITTAMMAL HOUSE, PAPPINISSERY AMSOM  
KANNUR DIST

4. K.MUSTHAFA AGED 31 YEARS  
S/O.KAMAL, MANIYOOR, KANNUR DIST

BY ADVS.SRI.P.M.HABEEB  
SMT.FRINDA PAILY

RESPONDENT(S)/RESPONDENTS:

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

BY PUBLIC PROSECUTOR SRI. V.S. SREEJITH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY  
HEARD ON 10-09-2015, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:

**B. SUDHEENDRA KUMAR, J.**

.....  
**Crl.R.P.No. 49 of 2014**  
.....

**Dated this the 10<sup>th</sup> day of September, 2015**

**ORDER**

The revision petitioners are the accused in C.C. No. 316 of 2006 on the file of the Court of the Judicial Magistrate of First Class – II, Kannur.

2. The trial Court convicted all the accused under Sections 143, 147, 448, 323 and 324 read with Sec. 149 IPC and sentenced the 2<sup>nd</sup> and 3<sup>rd</sup> accused to simple imprisonment for two months each under Sections 143 and 147IPC, simple imprisonment for three months each under Sections 448 and 323 IPC and simple imprisonment for six months each under Section 324 read with Section 149 IPC. The trial Court sentenced the first and 4<sup>th</sup> accused to a fine of Rs. 5,000/- each under Sections 143

**Crl.R.P.No. 49 of 2014**

and 147 IPC, Rs. 1000/- each under Sections 448 and 323 IPC and Rs. 2,000/- under Section 324 IPC read with Sec. 149. In the appeal, the conviction and sentence against all the accused under Section 448 read with Sec. 149 IPC had been set aside. However, the appellate court confirmed the conviction of all the accused under Sections 143, 147, 323 and 324 read with Sec. 149 IPC. The sentence awarded against the 2<sup>nd</sup> and 3<sup>rd</sup> accused under Section 324 IPC was modified and reduced to imprisonment for three months. The appellate court confirmed the conviction and sentence against A2 and A3 on all other counts. The sentence awarded against A1 and A4 on all counts were confirmed by the appellate court.

3. Heard the learned counsel for the revision petitioners and the learned Public Prosecutor.

4. The prosecution allegation is that on 21-02-2006 at about 1.30 p.m, while PW1 and PW2 were sitting in the

**Crl.R.P.No. 49 of 2014**

veranda of DYFI Office, Pappinisseri, the revision petitioners and others, due to the political enmity trespassed into the veranda and caused hurt to PW1 and PW2 by beating them with iron rod and stones/hands.

5. Before the trial Court, PW1 to PW10 were examined and Exts. P1 to P6 were marked. No evidence was adduced on the side of the defence.

6. PW1 and PW2 are the injured in this case. PW1 stated that while he was sitting in the veranda of the office of DYFI on 21-02-2006 at about 1.30 p.m with PW2, the accused rushed to that place and attacked PW1 and PW2. Accused No. 1 kicked PW1 on his chest and he fell down and at that time, the second accused beat him with an iron rod. The 2<sup>nd</sup> accused also hit PW1 with a stone. The accused persons also threatened to kill PW1 and PW2. PW1 and PW2 sustained injuries in the above incident and they were taken to A.K.G. Hospital, Kannur and treated there.

**Crl.R.P.No. 49 of 2014**

PW2 also had given evidence in support of the evidence of PW1. PW1 had given Ext. P1 statement in connection with the incident in this case. The evidence of PW1 is fully corroborated by Ext. P1 statement. The evidence of PW1 and PW2 with regard to the occurrence is corroborated by the medical evidence of PW4 and PW5. PW4 was the doctor who examined PW1 and issued Ext. P3 wound certificate and PW5 was the doctor who examined PW2 and issued Ext. P4 wound certificate.

7. It is true that no independent witness was examined by the prosecution to prove the occurrence. PW1 and PW2 are the injured. Their testimony was accepted by the courts below.

8. The courts below relying on the evidence of PW1 and 2 and the medical evidence of PW4 and PW5 coupled with Exts. P3 and P4 wound certificates, concurrently found the revision petitioners guilty under Sections 143, 147 and 323 read with Sec. 149 IPC. No circumstance has been brought to the notice of

**Crl.R.P.No. 49 of 2014**

this Court to indicate that the appreciation of evidence by the courts below is perverse or incorrect. In the said circumstances, I find no reason to interfere with the concurrent finding of the courts below that the revision petitioner committed offence under Sections 143, 147 and 323 read with Section 149 IPC.

9. As regards the sentence, PW1 and PW2 did not sustain any serious injury. In the said circumstances, the sentence awarded by the courts below can be modified and reduced. The sentence awarded by the courts below on the 2<sup>nd</sup> and 3<sup>rd</sup> accused can be modified and reduced to a fine of Rs. 1000/- each for each of the offences under Sections 143, 147 and 323 read with Sec. 149 IPC. The sentence awarded by the courts below on accused Nos. 1 and 4 stands modified and reduced to a fine of Rs. 1000/- each for the offences under Sections 143, 147 and 323 read with Sec. 149 IPC and a fine of Rs. 5000/- each for the

**Crl.R.P.No. 49 of 2014**

offence under Sec. 324 read with Sec. 149 IPC to secure the ends of justice and accordingly, I do so.

10. In the result, this revision petition stands allowed in part:

- i) confirming the conviction passed by the appellate court
- ii) the sentence imposed on the 2<sup>nd</sup> and third accused by the appellate court stands modified and reduced to a fine of Rs. 1000/- each and in default to undergo simple imprisonment for 15 days for each of the offence under Sections 143, 147 and 323 read with Section 143 IPC .
- iii) The sentence awarded by the appellate court on accused Nos. 1 and 4 stands modified and reduced to fine of Rs. 1000/- each and in default to simple imprisonment for 15 days each for each of the offences under Sections 143, 147

**Crl.R.P.No. 49 of 2014**

and 323 read with Sec. 149 IPC and a fine of Rs. 5000/- each and in default to undergo simple imprisonment for two months each under Section 324 read with Sec. 149 IPC.

The revision petitioners shall surrender before the court below on 15-10-2015 to suffer the sentence.

**B. SUDHEENDRA KUMAR,  
JUDGE.**

ani/