

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

FRIDAY, THE 18TH DAY OF SEPTEMBER 2015/27TH BHADRA, 1937

Crl.Rev.Pet.No. 724 of 2015 ()

CRA 465/2011 of II ADDL.S.C.,THIRUVANANTHAPURAM
CC 616/2006 of J.M.F.C.-I,NEYYATINKARA

REVISION PETITIONER/APPELLANT/COMPLAINANT:

ANU M.NAIR,
S/O MURALEEDHARAN NAIR, VELLAYANI USHAS BHAVAN
UPANIYOOR DESOM, KALLIYOOR VILLAGE.

BY ADVS.SRI.M.RAJAGOPALAN NAIR
SRI.G.BIJU
SRI.V.A.VINOD

RESPONDENTS/RESPONDENTS/RESPONDENTS/COMPLAINANT & STATE:

1. SUB INSPECTOR OF POLICE,
NEMOM POLICE STATION.
2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM, PIN-682031.

BY PUBLIC PROSECUTOR, SHRI.R.GITHESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 18-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P. No.724 of 2015

Dated this the 18th day of September 2015

O R D E R

The revision petitioner is the accused in S.T. No.616 of 2006 on the files of the Court of the Judicial Magistrate of First Class-I, Neyyattinkara.

2. The trial court convicted the revision petitioner under Section 323 of the Indian Penal Code and sentenced him thereunder to simple imprisonment for three months and a fine of Rs.1,000/- with a default clause for simple imprisonment for four months. In the appeal filed against

the said conviction and sentence, the conviction was confirmed and the sentence was modified and reduced to simple imprisonment for one month and a fine of Rs.1,000/- with a default clause for simple imprisonment for one month. Aggrieved by the said conviction and sentence, the revision petitioner has filed this revision petition.

3. Heard the learned counsel for the petitioner and the learned public prosecutor.

4. The prosecution allegation is that on 30.3.2008 at 4.45 p.m., the revision petitioner restrained PW1 and fisted on his nose causing injuries on his nose. He also kicked on the chest of PW3.

5. Before the trial court, PW1 to PW6 were examined and Exts.P1 to P4 were marked for the

prosecution. No evidence was adduced from the side of the revision petitioner.

6. PW1 and PW2 were occurrence witnesses. However, they did not support the prosecution case. PW3 was the injured, who had given evidence in tune with the prosecution case. PW4 was the doctor, who examined PW3 and issued Ext.P2 wound certificate.

7. The courts below, appreciated the oral and the documentary evidence adduced by the complainant and concurrently found that the revision petitioner committed the offence under Section 323 I.P.C. The defence set up by the revision petitioner was repelled by the courts below. Since there is concurrent finding on facts by the courts below, this Court will not be justified in interfering with the

same, unless the finding was perverse or incorrect. No circumstance has been brought to my notice to indicate that the finding of the courts below was perverse or incorrect. In the said circumstances, the concurrent finding of the courts below that the revision petitioner committed the offence under Section 323 of I.P.C., does not call for any interference by this Court .

8. As regards the sentence, the learned counsel for the revision petitioner has pleaded for leniency. Considering the facts and circumstances of the case, including the nature of injuries sustained by PW3, I am of the view that the sentence awarded by the appellate court can be modified and reduced to imprisonment till the rising of the court and a fine of Rs.1,000/-, to secure the ends of justice.

Accordingly, I order so.

In the result, this revision petition stands allowed in part,

- (1) confirming the verdict of guilty and conviction passed by the courts below under Section 323 I.P.C.
- (2) the sentence awarded by the courts below under Section 323 I.P.C. stands modified and reduced to imprisonment till the rising of the court and a fine of Rs.1,000/.
- (3) in default of payment of fine, the revising petitioner shall undergo simple imprisonment for 15 days under Section 323 I.P.C.

Sd//

**B.SUDHEENDRA KUMAR,
JUDGE.**

dl

/ True copy /

PA to Judge