

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

WEDNESDAY, THE 23RD DAY OF SEPTEMBER 2015/1ST ASWINA, 1937

Crl.Rev.Pet.No. 915 of 2015 ()

CRA 160/2011 of ADDL. D.C. & SESSIONS COURT - II, MANJERI
CC 708/2005 of J.M.F.C.,MALAPPURAM

REVISION PETITIONERS/APPELLANTS/ACCUSED:

1. KUNHAVUTTY
S/O.KEERAN, MANATTI HOSUE, ACHANAMBALAM
KANNAMANGALAM, MALAPPURAM DISTRICT.
2. SUBRAHMANYAN, S/O.UNNIKUTTY
PALETHI HOUSE, CHOOKAKUNNU
ACHANAMBALAM, KANNAMANGALAM
MALAPPURAM DISTRICT.
3. UNNI, S/O.UNNIKUTTY
PALETHI HOUSE, CHOOKAKUNNU
ACHANAMBALAM, KANNAMANGALAM,
MALAPPURAM DISTRICT

BY ADV. SRI.K.VIDYASAGAR

RESPONDENT/RESPONDENT/COMPLAINANT:

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM

BY PUBLIC PROSECUTOR, SHRI.V.S.SREEJITH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 23-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P. No.915 of 2015

Dated this the 23rd day of September 2015

O R D E R

The revision petitioners are the accused in C.C.No.708 of 2005 on the files of the Court of the Judicial Magistrate of First Class, Malappuram.

2. The trial court convicted the revision petitioners under Sections 448, 323 and 325 of the Indian Penal Code (for short 'the I.P.C.') and sentenced each of them to simple imprisonment for three months each under Section 448 I.P.C., simple imprisonment for one month each under Section 323 I.P.C. and simple imprisonment for nine

months each and a fine of Rs.2,000/- each with a default clause for simple imprisonment for one month each under Section 325 I.P.C. The appeal filed against the said conviction and sentence was dismissed by the appellate court, as per judgment in Crl.Appeal No.160 of 2011. Aggrieved by the said conviction and sentence, this Revision Petition was filed.

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

4. The prosecution allegation is that on 27.1.2005 at 10 p.m., the revision petitioners criminally trespassed into the house of PW1 and attacked PW1 and PW3, who is the sister of PW1. The first accused beat PW1 with the handle

of an axe and accused Nos.2 and 3 beat PW3 using the stalks of coconut leaves, causing injuries on them.

5. Before the court below, PW1 to PW10 were examined and Exts.P1 to P9 were marked for the prosecution. The defence did not adduce any evidence.

6. PW1 and PW3 are the injured, who had given evidence in tune with the prosecution case. PW2 is an occurrence witness. However, he did not support the prosecution case. PW4 to PW6 are also occurrence witnesses, who supported the prosecution case with regard to the incident. PW7 was the Doctor, who examined PW3 and issued Ext.P3 certificate in respect of the injuries sustained by PW3. PW7 also issued Ext.P4 certificate in respect of the injuries sustained by PW1. The evidence of

PW1 and PW3 to PW6 with regard to the incident is corroborated by the medical evidence of PW7. After evaluating the oral and documentary evidence adduced by the prosecution, the courts below concurrently found the revision petitioners guilty under Sections 448, 323 and 325 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. In the said circumstances, the concurrent finding of the courts below that the revision petitioners committed offences under Sections 448, 323 and 325 I.P.C., does not call for any interference by this

Court.

6. As regards the sentence, 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 imprisonment till the rising of the court and a fine of Rs.15,000/- each under Section 325 I.P.C., a fine of Rs.1,000/- each under Section 448 I.P.C. and a fine of Rs.1,000/- each under Section 323 I.P.C., to secure the ends of justice. 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 courts below

under Sections 448, 323 and 325 I.P.C,

- (ii) the sentence awarded by the courts below stands modified and reduced to imprisonment till the rising of the court and a fine of Rs.15,000/- each with a default clause for simple imprisonment for three months each under Section 325 I.P.C., a fine of Rs.1,000/- each with a default clause for simple imprisonment for twenty days each under Section 323 I.P.C. and a fine of Rs.1,000/- each with a default clause for simple imprisonment for twenty days each, under Section 448 I.P.C.

- (iii) in the event of realisation of the fine

amount, the entire amount shall be given to PW1 as compensation under Section 357(1) (b) Cr.P.C.

**B.SUDHEENDRA KUMAR,
JUDGE**

dl