

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

FRIDAY, THE 21ST DAY OF AUGUST 2015/30TH SRAVANA, 1937

Crl.Rev.Pet.No. 959 of 2015 ()

AGAINST THE JUDGMENT IN CRL.A 665/2014 of SPECIAL ADDITIONAL
SESSIONS COURT (MARAD CASES), KOZHIKODE DIVISION DTD.10-04-2015

AGAINST THE JUDGMENT IN CC 501/2010 of J.M.F.C.-III, KOZHIKODE
DATED 12-11-2014

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REVISION PETITIONER(S)/APPELLANTS/ACCUSED:

1. SARATH BABU @ SABU, AGED 37 YEARS,
S/O. BHARATHAN, PALLIPURATH VEEDU, BEYPORE P.O.
KOZHIKODE - 673 015.

2. AJITH KUMAR, AGED 48 YEARS,
S/O. BHARATHAN, PADINHARA PURAKKAL VEEDU, P.O.VENGERI,
KOZHIKODE - 673 010.

3. RAJISH, AGED 36 YEARS,
S/O.GOPINATHAN, KUNHAL VEEDU, PAVITTAKANDY,
BEYPORE P.O., KOZHIKODE - 673 015.

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENTS/RESPONDENT/COMPLAINANT & STATE/ADDL.R2:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI - 682 031.

ADDL.R2:

JAYAN, AGED 51 YEARS, S/O. GOVINDAN,
ARIKODUPARAMBIL HOUSE, MANKAVE (PO), PIN-673007.

(ADDITIONAL 2ND RESPONDENT IS IMPEADED AS PER ORDER
DATED 21.8.2015 IN Crl.M.A.4686/2015 IN Crl.R.P.959/2015)

ADDL.R2 BY ADV. SRI.G.ANEESH
R1 BY PUBLIC PROSECUTOR SRI.JIBU P.THOMAS

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR
ADMISSION ON 21-08-2015, THE COURT ON THE SAME DAY PASSED
THE FOLLOWING:

OKB

K.HARILAL, J.

Crl.M.A. No.4687 of 2015
in
Crl.R.P. No.959 of 2015

Dated this the 21st day of August, 2015.

O R D E R

The Revision Petitioners are the accused in C.C. No.501/2010 on the files of the Judicial First Class Magistrate's Court-III, Kozhikode as well as the appellants in Criminal Appeal No.665/2014 on the files of the Sessions Court, Kozhikode Division. They were prosecuted for the offences punishable under Sections 341, 323, 324, 326 and 448 read with Section 34 of the Indian Penal Code on a complaint filed by the additional 2nd respondent herein. After trial, the learned Magistrate found the Revision Petitioners guilty of the offence punishable under Sections 341, 323, 326 and 448 read with 34 IPC and convicted thereunder. They were sentenced to undergo simple imprisonment for 2 years and also directed to pay a fine of Rs.5,000/- each under Section 326 IPC, simple imprisonment for 3 months and fine of Rs.1,000/- each under Section 323 IPC, simple imprisonment for 3 months and fine of Rs.1,000/- each

under Section 448 IPC and simple imprisonment for one month under Section 341 IPC. In default, to undergo simple imprisonment for one month each under each head. If fine amount is realised, Rs.15,000/- shall be paid to the de facto complainant as compensation under Section 357(3) Cr.P.C. Sentences shall run concurrently.

2. Though the Revision Petitioners had preferred an appeal, the Appellate Court confirmed the conviction. The conviction under Section 326 IPC was set aside. The appellants were convicted for the offences under Section 325 IPC and sentenced to undergo rigorous imprisonment for 6 months and to pay a fine of Rs.5,000/- each, in default, to undergo simple imprisonment for 3 months under Section 325 IPC, simple imprisonment for one month under Section 341 IPC, simple imprisonment for one month and to pay a fine of Rs.1,000/- each, in default, to undergo simple imprisonment for one month each under Section 448 IPC. No separate sentence is given under Section 323 IPC. The sentences shall run concurrently. If the fine amount is realised, Rs.15,000/- shall be paid to the complainant as compensation under Section 357(1) of the Cr.P.C. This Revision Petition is

filed challenging the concurrent findings of conviction and modified sentence.

3. Now the Revision Petitioners along with the additional 2nd respondent filed this Crl.M.A. under Section 320 of the Cr.P.C. In the petition, it is specifically stated that the subject matter of the above Revision Petition has been settled between them out of court and now the additional 2nd respondent is not desirous of prosecuting the case against the Revision Petitioners. They jointly sought for permission of the Court for compounding the offence.

As I am satisfied with the averments in the petition signed by both parties and countersigned by the respective counsel appearing for the parties, permission is granted to compound the offence and composition is recorded.

Sd/—

(K. HARILAL, JUDGE)

okb.

K. HARILAL, J.

Crl.R.P. No.959 of 2015

Dated this the 21st day of August, 2015.

O R D E R

During the pendency of this revision filed against the conviction and sentence of the Revision Petitioners under Sections 325, 341, 323 and 448 read with 34 of the Indian Penal Code, the parties have settled the matter and have filed Crl.M.A. No.4687/2015 to the effect that the matter has been compounded. The said petition has been signed by the Revision Petitioners as well as the additional 2nd respondent and their respective counsel. In the light of this, Crl.R.P. is disposed of and the judgments under appeal are set aside and the composition of the offence is recorded.

2. It is needless to mention that this composition shall have the effect of acquittal of the Revision Petitioners of the offence punishable under Sections 325, 341, 323, and 448 read with Section 34 IPC within the meaning of Section 320(8) Cr.P.C.

Sd/—

K. HARILAL, JUDGE

okb.