

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

THURSDAY, THE 8TH DAY OF OCTOBER 2015/16TH ASWINA, 1937

Crl.Rev.Pet.No. 1048 of 2015 ()

CRA 484/2011 of ADDL.SESIONS COURT, THRISSUR
CC 257/2006 of C.J.M.,THRISSUR

REVISION PETITIONER/APPELLANT/ACCUSED:

NAZEER AGED 36 YEARS
S/O. ABOOBACKER, KAREKKAT HOUSE
NEAR KURANCHERY CANALA, WADAKKANCHERY
THRISSUR DISTRICT.

BY ADVS.SRI.SANTHEEP ANKARATH
SRI.Y.JAFAR KHAN

RESPONDENT/RESPONDENT/COMPLAINANT:

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-31.

BY PUBLIC PROSECUTOR, SHRI.R.GITHESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON
08-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P. No.1048 of 2015

Dated this the 8th day of October 2015

ORDER

The revision petitioner is the accused in C.C.No.257 of 2006 on the files of the Court of the Chief Judicial Magistrate, Thrissur.

2. The trial court convicted the revision petitioner under Section 324 I.P.C. and sentenced him thereunder to rigorous imprisonment for one year and a fine of Rs.10,000/- with a default clause for simple imprisonment for three months. 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 petitioner and the learned Public Prosecutor.

4. The prosecution allegation is that on 19.8.2006 at 8.20 a.m., the revision petitioner threatened PW1 that he would cause fracture to the legs of PW1 and thereafter, the revision petitioner struck PW1 with an iron pipe on his right eye, causing loss of sight of the right eye of PW1.

5. Before the court below, PW1 to PW6 were examined and Exts.P1 to P6 were marked for the complainant, besides identifying MO1 iron pipe. No evidence was adduced on the side of the defence.

6. PW1 is the injured, who had given evidence in

support of the prosecution case. The evidence of PW1 is corroborated by the medical evidence of PW4 and Ext.P3 wound certificate.

7. The courts below, relying on the documentary as well as oral evidence adduced by the prosecution, concurrently found that the revision petitioner had committed the offence under Section 324 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 petitioner committed the offence under Section 324 I.P.C.

8. As regards the sentence, the learned counsel for the revision petitioner pleaded for leniency. The revision petitioner is the brother-in-law of PW1. There is no criminal antecedents against the revision petitioner. The revision petitioner was in custody from 19.9.2006 to 26.9.2006 and from 31.7.2015 to 31.8.2015 in connection with this case. Considering the facts and circumstances of the case, including the relationship between the parties, I am of the view that the sentence awarded by the courts below can be modified and reduced to the period of imprisonment already undergone by the revision petitioner and a fine of Rs.10,000/- under Section 324 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 324 I.P.C.,
- (ii) the sentence awarded by the courts below under Section 324 I.P.C. stands modified and reduced to the period of imprisonment already undergone by the revision petitioner and a fine of Rs.10,000/- (Rs. Ten thousand only)
- (iii) in default of payment of fine, the revision petitioner shall undergo simple imprisonment for one month.

(iv) 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.

The revision petitioner shall surrender before the court below on 20.11.2015 to suffer the sentence.

Sd/
B.SUDHEENDRA KUMAR,
JUDGE

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PA to Judge