

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

WEDNESDAY, THE 16TH DAY OF SEPTEMBER 2015/25TH BHADRA, 1937

Crl.Rev.Pet.No. 1152 of 2015 ()

**(AGAINST THE JUDGMENT IN CRL.A.NO. 421/2013 OF II ADDL.SESIONS COURT,
KOZHIKODE DATED 17-03-2015)**

**(AGAINST THE JUDGMENT IN CC.NO. 561/2007 OF JUDICIAL FIRST CLASS
MAGISTRATE COURT -V, KOZHIKODE DATED 01-08-2013)**

REVISION PETITIONER(S)/APPELLANTS/ACCUSED:

- 1. RAJEEV, AGED 42 YEARS, S/O. RAMDAS,
POTTAMMAL HOUSE, PERUMANNA AMSOM,
KOZHIKODE DISTRICT.**
- 2. RAJEEV, AGED 49 YEARS, S/O. KUMARAN,
EDAVALATH HOUSE, NELLIKKODE (PO),
KOZHIKODE DISTRICT.**

**BY ADVS.SRI.P.V.KUNHIKRISHNAN
SRI.P.V.ANOOP**

RESPONDENT/RESPONDENT/COMPLAINANT & STATE :

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

BY PUBLIC PROSECUTOR SRI.R.GITHESH

**THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 16-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

sts

B.SUDHEENDRA KUMAR, J.

Crl.R.P. No. 1152 of 2015

Dated this the 16th day of September, 2015

ORDER

The revision petitioners are the accused in CC 561/2007 on the files of the court of the Judicial Magistrate of First Class-V, Kozhikode.

2. The trial court convicted the revision petitioners under Sections 324,323, 341 and 448 of IPC, and sentenced them thereunder to simple imprisonment for three months each and a fine of Rs.1,000/- each under Section 341 IPC, simple imprisonment for six months each and a fine of Rs.5,000/- each under Section 323 IPC, simple imprisonment for six months each and a fine of Rs.5,000/- each under Section 324 IPC and simple imprisonment for three months each under Section 448 IPC. The appellate court confirmed the conviction and modified and reduced the sentence to simple imprisonment for one month each and a fine of Rs.500/-

each under Section 341 IPC, and simple imprisonment for two months each and a fine of Rs.1,000/- each under Section 323 IPC, and simple imprisonment for three months each and a fine of Rs.5,000/- each under Section 324 IPC and to simple imprisonment for three months each under Section 448 IPC. Aggrieved by the said conviction and sentence, this revision petition has been filed.

3. Heard.

4. The prosecution allegation is that on 26.02.2004, at about 11 p.m., the petitioners along with other accused attacked the de-facto complainant with a cycle chain causing grievance injuries on him. The 1st accused hit on the chest and head of PW1 and the 2nd accused hit on the chest and head of PW2, causing injuries on him.

5. Before the trial court, PW1 to PW8 were examined and Exts. P1 to P8 were marked for the prosecution, besides identifying MO1 and MO2. The revision petitioners did not adduce any evidence. PW1 and PW2 are the injured in this case. They had give evidence in tune with the prosecution

case. PW3 is an independent occurrence witness, who also supported the evidence of PW1 and PW2 in all material aspects. The evidence PW1 to PW3 with regard to the occurrence is corroborated by the medical evidence of PW4 and Exts.P3 and P4 wound certificates. PW4 examined PW1 and issued Ext.P3 wound certificate. He also examined PW2 and issued Ext.P4 wound certificate.

6. The courts below after evaluating the oral and documentary evidence adduced by the prosecution concurrently found that the revision petitioners committed the offence under Sections 324,323, 341 and 448, of IPC. Since there is concurrent finding on facts by the courts below, this Court will not be justified in interfering with the same unless the same is perverse or incorrect. No circumstance has been brought to my notice to indicate that the finding of the courts below is perverse or incorrect. In the said circumstances, the finding of the courts below that the revision petitioners committed offences under Sections 324,323, 341 and 448 of IPC, does not warrant any interference by this court.

As regards the sentence, the learned counsel for the revision petitioner has pleaded for leniency. The evidence of PW4 coupled with Exts.P3 and P4 wound certificates would show that PW1 and PW2 did not sustain any serious injury in the incident. Considering the facts and circumstances of the case, including the nature of injuries sustained by PW1 and PW2, 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.10,000/- under Section 324 IPC, a fine of Rs.1,000/- under Section 323 IPC, a fine of Rs.500/- under Section 341 IPC, and a fine of Rs.2,000/- under Section 448 IPC to secure the ends of justice and accordingly I order so.

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

- 1) confirming the verdict of guilty and conviction passed by the courts below under Sections 324,323, 341 and 448 of IPC,

2) the sentence awarded by the courts below stands modified and reduced to imprisonment till the rising of the court and a fine of Rs.10,000/-(Rupees ten thousand only)each with a default clause for simple imprisonment for two months each under Section 324 IPC,

3) a fine of Rs.1,000/-(Rupees one thousand only) each with a default clause for simple imprisonment for 20 days each under Section 323 IPC,

4) a fine of Rs.500/-(Rupees five hundred only) each with a default clause for simple imprisonment for 10 days each under Section 341 IPC and

5) a fine of Rs.1,000/-(Rupees one thousand only) each with a default clause for simple imprisonment for 20 days each under Section 448 IPC.

In the event of realisation of the fine amount, an amount of Rs.7,000/-(Rupees seven thousand only)each shall be given to PW1 and PW2 as compensation under Section 357(1)(b) Cr.PC. The revision petitioner shall surrender before the trial court on 02.11.2015 to suffer the sentence.

Sd/-
B.SUDHEENDRA KUMAR
JUDGE

sm/