

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

MONDAY, THE 12TH DAY OF OCTOBER 2015/20TH ASWINA, 1937

Crl.Rev.Pet.No. 1263 of 2015 ()

CRA 269/2001 of ADDL. SESSIONS COURT (ADHOC), THALASSERY
CC 560/1996 of J.M.F.C.,THALASSERY

REVISION PETITIONER/APPELLANT/2ND ACCUSED:

SATHEESH KUMAR AGED 57 YEARS
S/O. DAMODARAN, KONNATH GATE, T.B.JUNCTION
CHERTHALA, ALAPPUZHA DISTRICT.

BY ADVS.DR.K.P.SATHEESAN (SR.)
SRI.P.MOHANDAS (ERNAKULAM)
SRI.ANOOP.V.NAIR
SRI.S.VIBHEESHANAN

RESPONDENTS/RESPONDENT/STATE:

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1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-682031.
 2. THE STATION HOUSE OFFICER
THALASERY POLICE STATION, THALASSERY, KANNUR DISTRICT
PIN-670101.

BY PUBLIC PROSECUTOR, SHRI.V.S.SREEJITH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 12-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P.No.1263 of 2015

Dated this the 12th day of October 2015

O R D E R

The revision petitioner is the second accused in C.C. No.560 of 1996 on the files of the Court of the Judicial Magistrate of First Class, Thalasserry.

2. The trial court convicted the revision petitioner under Sections 341, 332 and 427 read with Section 34 I.P.C. and sentenced him thereunder to simple imprisonment for ten days under Section 341 I.P.C., rigorous imprisonment for six months under Section 332 I.P.C. and simple imprisonment for three months under Section 427 I.P.C. 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 ten days under Section 332 I.P.C. and a fine of Rs.1,000/- under Section 427 I.P.C. The sentence awarded under Section 341 I.P.C. was confirmed 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 5.3.1996 at

about 2 a.m., the revision petitioner and the other accused tried to enter into the stage, where the Ganamela was going on during the festival of Sree Jaganath temple at Thiruvangad, which was prevented by PW1 and at that time, the revision petitioner and the other accused fisted and kicked PW1, causing injuries on him and thereby deterred him from doing his official duties.

5. Before the trial court, PW1 to PW9 were examined and Exts.P1 to P4 were marked for the complainant. DW1 was examined from the side of the revision petitioner.

6. The courts below, relying on the documentary as well as the oral evidence adduced by the parties, concurrently found that the revision petitioner had committed the offence under Sections 341, 332 and 427 read with Section 34 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 Sections 341, 332 and 427 read with Section 34 I.P.C.

7. The revision petitioner is at present aged 57 years. The incident in this case was on 5.3.1996. PW1 did not sustain any serious injury in the incident. Considering the facts and circumstances of the case, including the age

of the revision petitioner and also the period elapsed since the incident, 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.5,000/- under Section 332 I.P.C., a fine of Rs.500/- under Section 341 I.P.C. and a fine of Rs.1,000/- under Section 427 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 341, 332 and 427 read with Section 34 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.5,000/- with a default clause for simple imprisonment for two months under Section 332 I.P.C., a fine of Rs.500/- with a default clause for simple imprisonment for 15 days under Section 341 I.P.C. and a fine of Rs.1,000/- with a default clause for simple imprisonment for 20 days under Section 427 I.P.C.,

(iii) in the event of realisation of the fine, an amount of Rs.5,000/- shall be given to PW1 as compensation under Section 357(1) (b) Cr.P.C.

CrI.R.P.1263/2015

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sd/

**B.SUDHEENDRA KUMAR,
JUDGE**

dl

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PA to Judge