

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.D.RAJAN

WEDNESDAY, THE 21ST DAY OF OCTOBER 2015/29TH ASWINA, 1937

Crl.Rev.Pet.No. 2289 of 2008 ()

CC 500/2007 of J.M.F.C., KODUNGALLUR, DATED 23-05-2008

REVISION PETITIONER(S)/DEFACTO COMPLAINANT :

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1. SUBRAMANIAN, AGED 80 YEARS,
S/O LATE KUNJIRAVUNNI,
KOVIL THEKKEVALAPPIL HOUSE,
EDATHURUTHY, KODUNGALLOOR.

**BY ADVS.SRI.P.VIJAYA BHANU
SRI.P.M.RAFIQ**

RESPONDENT(S)/ACCUSED AND STATE :

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1. SUNDARANANDAN, S/O DIVAKARAN,
ANCHALASSERY, METHALA.
 2. SHANMUGHANANDAN, S/O DIVAKARAN,
ANCHALASSERY, METHALA.
 3. MANILAL, S/O KUNJIVELAYUDHAN,
ARAYANGATTIL HOUSE,
PANJAMPILLY, KOORIKUZHI
 4. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM

R4 BY PUBLIC PROSECUTOR SRI.N.SURESH.

**THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON
21-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

VS

P.D.RAJAN, J.

Crl.R.P.No.2289 of 2008

Dated this the 21st day of October, 2015

ORDER

Revision petitioner is the defacto complainant in C.C.No.500/2007 on the file of Judicial First Class Magistrate Court, Kodungalloor, challenges the judgment of acquittal of the accused in the above case. The case was chargesheeted by the Sub Inspector of Police, Mathilakam for offence punishable under Sections 448, 323, 294(b), 506(ii) read with section 34 of the Indian Penal Code. The prosecution case is that on 25.07.2007 at 11.30 a.m. accused Nos.1 to 3 trespassed into the property of PW3 and A1 caught hold of PW3 and A2 assaulted him, as a result he sustained injuries. For this, Mathilakam police registered a Crime No.294/2007 and after completing investigation laid charge before the Judicial First Class Magistrate Court, Kodungalloor.

2. To prove the offence, prosecution examined

PWs 1 to 7 and marked Exts.P1 to P4. The incriminating circumstances brought out in evidence were denied while questioning him. They did not adduce any defence evidence. The trial court acquitted the accused. Being aggrieved by that the injured approached this Court with this revision petition.

3. The learned counsel appearing for the revision petitioner submitted that the trial court has not properly appreciated the evidence of PW3, since the medical evidence is sufficient to prove the offence under Section 323 of the Indian Penal code.

4. The learned Public Prosecutor submitted that the evidence was properly analysed by the trial court and there is no reason to interfere in the judgment.

5. Revisional power is a supervisory jurisdiction in order to satisfy the correctness, legality or propriety of any finding or sentence or order or irregularity of the proceedings of the court below. For ascertaining this fact, I have gone through the evidence of PW3 who is the injured. It shows that while he was sitting in Varanda and

reading newspaper, A1 and 2 trespassed into his property and asked him whether he intend to sell the trees in his property. PW3 denied that request, at that time A1 slapped on the right shoulder of PW3 and as a result, he fell down from his chair and A2 cut on his chin and assaulted him. As a result, he sustained injury on right shoulder, right knee and there was swelling also for this he gave Ext.P3 statement to Mathilakam police.

The medical evidence is relevant in this context. The Doctor who treated PW3 has examined as PW2. His evidence in Ext.P2 wound certificate shows that no external injuries noted on the body of the injured at the time of examination. According to his statement, two unknown persons were assaulted him at 11.30 a.m. The involvement of A3 was also not disclosed at the time when Ext.P2 was furnished. PW4 also deposed that 4 persons were involved in the attack. Analysing the evidence of PWs 2, 3 and 4, it is found that they gave inconsistent version with regard to the incident. It is the primary responsibility of the prosecution to prove the case beyond

reasonable doubt. After analysing the above evidence trial court acquitted the accused. I find no illegality in the order passed by the trial court and there is no merit in this revision petition and it is dismissed accordingly.

Sd/-
P.D.RAJAN
JUDGE

VS

/TRUE COPY/

PA TO JUDGE