

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

FRIDAY, THE 30TH DAY OF OCTOBER 2015/8TH KARTHIKA, 1937

Crl.Rev.Pet.No. 1382 of 2015 ()

AGAINST THE JUDGMENT IN CRA 122/2014 of IV ADDL.SESIONS
COURT, THODUPUZHA DATED 15-09-2015
AGAINST THE JUDGMENT IN CC 777/2011
of J.M.F.C.-I, THODUPUZHA DATED 9-6-2014

REVISION PETITIONER(S):

JOMON, S/O. JOSEPH, NIRAPPEL HOUSE,
OTTATHENGU COLONY, MUTTOM KARA, MUTTOM P.O.
MUTTOM VILLAGE, THODUPUZHA

BY ADVS.SRI.S.RAJEEV

SRI.K.K.DHEERENDRAKRISHNAN
SRI.V.VINAY

RESPONDENT(S):

STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031
CRIME NO. 560/2011 OF KANJAR POLICE STATION,
IDUKKI DISTRICT

BY PUBLIC PROSECUTOR SRI. GITHESH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR
ADMISSION ON 30-10-2015, THE COURT ON THE SAME DAY PASSED
THE FOLLOWING:

B. SUDHEENDRA KUMAR, J.

.....
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.....

Dated this the 30th day of October, 2015

ORDER

The revision petitioner is the accused in C.C. No. 777 of 2011 on the files of the court of the Judicial Magistrate of First Class-I, Thodupuzha.

2. The trial Court convicted the revision petitioner under Section 323 and 324 IPC and sentenced him thereunder to simple imprisonment for three months under Section 323 IPC and simple imprisonment for six months under Sec. 324 IPC. The appeal filed against the said conviction and sentence was dismissed. Aggrieved by the said conviction and sentence, this Revision Petition has been filed.

3. The prosecution allegation is that on 20-09-2011 at about 5. 40 p.m., the revision petitioner slapped on the face of PW1 and, thereafter, dragged him on the ground. He also

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inflicted injuries on his middle finger and index finger with a knife.

4. Before the court below, PW1 to PW6 were examined and Exts. P1 to P7 were marked for the prosecution besides identifying MO1 knife. No evidence was adduced on the side of the defence.

5. The courts below, after evaluating the oral and documentary evidence adduced by the prosecution, concurrently found that the revision petitioner committed the offence under Sections 323 and 324 IPC.

6. 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 concurrent finding by the courts below is perverse or incorrect. However, since there is only one injured, I am of the view that the offence both under Sections 323 and 324 IPC cannot be attracted. The major offence is the offence under Section 324 IPC. Therefore, the concurrent

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finding by the courts below that the revision petitioner committed the offence under Section 324 IPC does not warrant any interference by this Court.

7. As regards the sentence, the learned counsel for the revision petitioner pleaded for leniency. It appears from Ext. P7 that PW1 did not sustain any serious injury in the incident. The incident in this case was not a pre-meditated incident. It has been submitted by the learned counsel for the petitioner that the parties are presently living in harmony. Taking into consideration of the facts and circumstances of the case as mentioned above, I am of the view that leniency can be taken in the matter of sentence. Considering the facts and circumstances of the case, the sentence of imprisonment till the rising of the Court and a fine of Rs. 10,000/- (Rupees ten thousand only) will be sufficient to meet the ends of justice and accordingly, I order so.

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

i)confirming the conviction under Section 324

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IPC and modifying the sentence under Sec. 324
IPC to imprisonment till the rising of the court
and a fine of Rs. 10,000/-

ii) in default of payment of fine, the revision
petitioner shall undergo simple imprisonment
for three months.

iii) in the event of realisation of the fine, the
entire amount shall be given to the complainant
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.

Dated this the 30th day of October, 2015.

Sd/-B. SUDHEENDRA KUMAR,
JUDGE.

Ani/31/10/2015.

/truecopy/

P.S. To Judge