

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

MONDAY, THE 2ND DAY OF NOVEMBER 2015/11TH KARTHIKA, 1937

Crl.Rev.Pet.No. 1391 of 2015 ()

JUDGMENT IN CRA 600/2012 OF THE ADDITIONAL SESSIONS COURT-II,
TRIVANDRUM

JUDGMENT IN CC 470/2007 OF THE JUDICIAL MAGISTRATE OF FIRST CLASS-I,
VARKALA

REVISION PETITIONER/APPELLANT/ACCUSED:

SAVAD, S/O. RASHEED, AGED 62 YEARS,
VAYALIL VEEDU, NEAR MADAN NADA, VARKALA DESOM,
VARKALA VILLAGE, THIRUVANANDAPURAM DISTRICT.

BY ADV. SRI.LATHEESH SEBASTIAN

RESPONDENT/RESPONDENT/STATE:

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KEARLA,
ERNAKULAM - 682 031.

R BY PUBLIC PROSECUTOR SRI.V.S.SREEJITH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 02-11-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

SCL.

B. SUDHEENDRA KUMAR, J.

Crl.R.P. No. 1391 of 2015

Dated this the 2nd day of November, 2015

ORDER

The revision petitioner is the accused in C.C.No.470 of 2007 on the files of the court of the Judicial Magistrate of First Class-I, Varkala.

2. The revision petitioner was convicted by the trial court under Section 324 IPC and sentenced him thereunder to simple imprisonment for three months and a fine of ₹5,000/-. 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 petitioner.

4. The prosecution allegation is that on 28.1.2007 at about 5.30 a.m., the revision petitioner fisted on the left chest and shoulder of PW2 with an iron object, causing injuries on him.

5. Before the trial court, PW1 to PW4 were examined

and Exts.P1 to P3 were marked for the prosecution. No evidence was adduced on the side of the revision petitioner.

6. PW2 is the injured, who stated about the incident in tune with the prosecution case. The only evidence available before the court to prove the incident is the evidence of PW2.

7. The courts below, after evaluating the oral and documentary evidence adduced by the prosecution, including the evidence of PW2, came to the conclusion that the revision petitioner committed the offence under Section 324 IPC. 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 finding by the courts below is perverse or incorrect. In the said circumstances, the concurrent finding by the courts below that the revision petitioner committed the offence under Section 324 IPC does not warrant any interference by this Court.

8. As regards the sentence, the learned counsel for the

revision petitioner has pleaded for leniency. It appears from Ext.P2 wound certificate that PW2 did not sustain any serious injury in the incident. There is no material before the court to indicate that the revision petitioner was ever convicted in any other offence.

Considering the facts and circumstances of the case, including the injuries sustained by PW2 and also taking into consideration of the fact that the revision petitioner is a first time offender, I am of the view that the sentence awarded by the courts below under Section 324 IPC can be modified and reduced to imprisonment till the rising of the court and a fine of ₹20,000/- to meet 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 Section 324 IPC,

(ii) the sentence awarded by the courts

below under Section 324 IPC stands modified and reduced to imprisonment till the rising of the court and a fine of ₹20,000/-.

(iv) in default of payment of fine, the revision petitioner shall undergo simple imprisonment for two months.

(v) in the event of realisation of fine, the entire amount shall be given to PW2 as compensation under Section 357 (1) (b) Cr.P.C.

The revision petitioner shall surrender before the trial court on 01.12.2015 to suffer the sentence.

Sd/-

**B. SUDHEENDRA KUMAR
JUDGE**

Scl.

True Copy

PA to Judge