

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

FRIDAY, THE 9TH DAY OF OCTOBER 2015/17TH ASWINA, 1937

Crl.Rev.Pet.No. 844 of 2014 ()

JUDGMENT IN CRA 517/2010 OF THE SESSIONS COURT, THRISSUR
DATED 08-07-2013

JUDGMENT IN SC 752/2006 OF THE PRINCIPAL ASSISTANT SESSIONS COURT,
THRISSUR DATED 13-07-2010

REVISION PETITIONERS/APPELLANTS/ACCUSED NOS. 1 AND 2:

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1. SHOUKKATH
S/O.HAMEED, RAYAMARAKKAR VEEDU, MULLASSERY VILLAGE
THRISSUR
 2. JILSHAD
S/O.FATHIMA, VADAKKANDAKAYIL VEEDU, MULLASSERY VILLAGE
THRISSUR

BY ADVS.SRI.P.K.SAJEEV
SRI.P.A.PETER

RESPONDENT/RESPONDENT/COMPLAINANT:

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM

R BY PUBLIC PROSECUTOR SRI. V.S.SREEJITH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 09-10-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

SCL.

B. SUDHEENDRA KUMAR, J.

Crl.R.P. No.844 of 2014

Dated this the 9th day of October, 2015.

ORDER

The revision petitioners are the accused in S.C.No.752 of 2006 on the files of the Court of the Principal Assistant Sessions Judge, Thrissur.

2. The trial court convicted the revision petitioners under Sections 452, 323, 324 and 308 r/w 34 IPC and sentenced them thereunder to simple imprisonment for three months under Section 323 r/w 34 IPC, simple imprisonment for one year each and a fine of ₹2,000/- each under Section 324 r/w 34 IPC and simple imprisonment for three years each and a fine of ₹5,000/- each under Section 452 IPC. In the appeal filed against the said conviction and sentence, the appellate court confirmed the conviction under Sections 323 and 452 r/w 34 IPC and acquitted the revision petitioners under Section 324 r/w 34 IPC. The appellate court sentenced the revision petitioners to simple imprisonment for three

months each under Section 323 r/w 34 IPC and simple imprisonment for three months and a fine of ₹5,000/- each under Section 452 r/w 34 IPC. Aggrieved by the said conviction and sentence, this revision petition has been filed.

3. Heard.

4. The prosecution allegation is that on 19.1.2006 at 5 p.m., the revision petitioners trespassed into the welding workshop of PW2 and attacked him and PW4 with iron pipe, causing injuries on them.

5. Before the court below, PW1 to PW8 were examined and Exts.P1 to P8 were marked for the prosecution, besides identifying MO1 and MO2.

6. The courts below, after evaluating the oral and the documentary evidence adduced by the prosecution, concurrently found that the revision petitioners committed the offence under Sections 323 and 452 r/w 34 IPC. The defence set up by the revision petitioners was also repelled by the

courts below. 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. In the said circumstances, the concurrent finding of the courts below that the revision petitioner committed the offence under Sections 323 and 452 r/w 34 IPC does not warrant any interference by this court.

7. As regards the sentence, the learned counsel for the revision petitioners has prayed for leniency. The revision petitioners were in custody from 20.2.2006 to 17.3.2006 in connection with the incident in this case. There is no allegation that the revision petitioners committed any offence after the incident in this case. There is also no evidence with regard to any previous conviction. The victims did not sustain any serious injury in the incident. Considering the facts and circumstances of the case, I am of the view that the sentence

awarded by the courts below can be modified and reduced to imprisonment already undergone by the revision petitioners and a fine of ₹15,000/- (Rupees fifteen thousand only) each under Section 452 IPC and a fine of ₹1000/- each under Section 323 IPC to secure the ends of justice and accordingly I order so.

In the result, the revision petition stands allowed in part,

(i) confirming the verdict of guilty and conviction passed by the courts below under Sections 323 and 452 IPC.

(ii) the sentence awarded by the courts below stands modified and reduced to imprisonment already undergone by the revision petitioners and a fine of ₹15,000/- each with a default clause for simple imprisonment for two months under Section 452 IPC and a fine of ₹1000/- each with a default clause for simple imprisonment for 20

days each under Section 323 IPC.

(iii) In the event of realisation of the fine, ₹20,000/- shall be given to PW4 and an amount of ₹10,000/- shall be given to PW2 as compensation under Section 357 (1) (b) Cr.P.C.

The revision petitioners shall surrender before the court below on 5.11.2015 to suffer the sentence.

**Sd/-
B. SUDHEENDRA KUMAR
JUDGE**

Scl.

True Copy

PA to Judge