

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

THURSDAY, THE 12TH DAY OF NOVEMBER 2015/21ST KARTHIKA, 1937

Crl.Rev.Pet.No. 1451 of 2015 ()

Crl.A 189/2015 of III ADDITIONAL SESSIONS COURT, ERNAKULAM
CC 1804/2003 of J.M.F.C.-II, ERNAKULAM

REVISION PETITIONER/APPELLANT/ACCUSED:

ABDUL KAREEM, AGED 45 YEARS,
S/O.MUHAMMED, PARAKKATT HOUSE
C.P.UMMER ROAD, KARINTHALA DESOM,
ERNAKULAM VILLAGE.

BY ADVS.SRI.V.JOHN SEBASTIAN RALPH
SMT.PREETHY KARUNAKARAN
SRI.K.J.JOSEPH (ERNAKULAM)
SRI.V.JOHN THOMAS
SMT.P.V.DENCY

RESPONDENT(/RESPONDENT/COMPLAINANT:

STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT AT ERNAKULAM
COCHIN - 31.

BY PUBLIC PROSECUTOR, SHRI.V.S.SREEJITH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON
12-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P.No.1451 of 2015

Dated this the 12th day of November 2015

O R D E R

The revision petitioner is the accused in C.C.No.1804 of 2003 on the files of the Court of the Judicial Magistrate of First Class -II, Ernakulam.

2. The trial court convicted the revision petitioner under 324 I.P.C. read with Section 34 I.P.C. and sentenced him thereunder to simple imprisonment for two years and to pay a fine of Rs.6,000/-. In the appeal, the conviction was confirmed and the sentence was modified and reduced to simple imprisonment for one month and a fine of Rs.6,000/-. Aggrieved by the said conviction and sentence,

this Revision Petition has been filed.

3. Heard.

4. The prosecution allegation is that on 3.7.2003 at 8.45 p.m., the revision petitioner along with the other accused, in furtherance of their common intention, attacked PW1 to PW3 with a knife causing injuries on them.

5. Before the trial court, PW1 to PW14 were examined and Exts.P1 to P7 were marked for the complainant, besides identifying MO1 and MO2. DW1 to DW6 were examined and Exts.D1 to D5 were marked for the revision petitioner.

6. The courts below, relying on the documentary as well as oral evidence adduced by the parties, concurrently found that the revision petitioner committed the offence under Section 324 I.P.C. 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. The defence set up by the revision petitioner was also repelled by the courts below. No circumstance has been brought to my notice to indicate that the appreciation of evidence by the courts below was perverse or incorrect. The courts below found the revision petitioner guilty under Section 324 I.P.C. read with Section 34 I.P.C. and convicted him thereunder. 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 Section 324 I.P.C. read with Section 34 I.P.C.

7. As regards the sentence, the learned counsel for the revision petitioner has pleaded for leniency. It appears

that revision petitioner is the brother-in-law of PW1. The incident in this case cannot be said to be a pre-meditated one. The injured did not sustain any serious injury in the incident. Considering the facts and circumstances of the case, including the relation-ship between the parties and the nature of injuries sustained by the injured, I am of the view that the sentence awarded by the courts below can be modified and reduced to imprisonment till the rising of the court and a compensation of Rs.25,000/- 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 Section 324 I.P.C. read with Section 34 I.P.C.
- ii. the sentence awarded by the courts below under

Section 324 I.P.C. read with Section 34 I.P.C. stands modified and reduced to imprisonment till the rising of the court and a compensation of Rs.25,000/- (Rs. Twenty five thousand only).

iii.in default of payment of compensation, the revision petitioner shall undergo simple imprisonment for three months.

iv.in the event of realisation of the compensation amount, an amount of Rs.15,000/- shall be given to PW1 and Rs.5,000/- each shall be given to PW2 and PW3 under Section 37(3) of the Code.

The revision petitioner is granted two months to pay the compensation, as requested by the learned counsel for the revision petitioner.

Sd/-

**B.SUDHEENDRA KUMAR,
JUDGE**

dl/13.11.2015

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PA to Judge