

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

THURSDAY, THE 19TH DAY OF NOVEMBER 2015/28TH KARTHIKA, 1937

Crl.Rev.Pet.No. 1456 of 2015 ()

Crl.A 318/2010 OF THE ADDITIONAL SESSIONS COURT - VII,
THIRUVANANTHAPURAM

CC 661/2004 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT, KATTAKADA

REVISION PETITIONER(S)/APPELLANTS/ACCUSED 1 & 2:

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1. SHIBU, AGED 45 YEARS
S/O.MANIYAN, KUNNINVILA PUTHEN VEEDU, MP 16/182
MULLAPPALLIKONAM, MARANALLOOR DESOM & VILLAGE
THIRUVANANTHAPURAM.
 2. VISHNU
S/O.SAVITHRI, KARANAMKODU VEEDU, MP 16/314
KARANAMKODU, MARANALLOOR VILLAGE, THIRUVANANTHAPURAM.

BY ADV. SRI.G.SUDHEER

RESPONDENT(S)/RESPONDENTS/COMPLAINANT:

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

R BY PUBLIC PROSECUTOR SRI.R.GITESH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 19-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

SCL.

B. SUDHEENDRA KUMAR, J.

Crl.R.P. No.1456 of 2015

Dated this the 19th day of November, 2015

ORDER

The accused persons in C.C.No.661 of 2004 on the files of the Court of the Judicial Magistrate of First Class, Katakada, have filed this revision petition, challenging the concurrent finding of conviction and sentence passed by the courts below under Sections 323, 324 and 447 IPC.

2. Heard.

3. The prosecution allegation is that on 22.6.2004 at about 5.00 p.m., the revision petitioners in furtherance of their common intention, trespassed into the teashop of PW1 and attacked him with a stool, causing injuries on him.

4. Before the trial court, PW1 to PW8 were examined and Exts.P1 to P5 were marked for the prosecution. No evidence was adduced on the side of the revision petitioners.

5. The courts below, thoroughly appreciating the oral and documentary evidence adduced by the prosecution and

concurrently found that the revision petitioners committed the offences under Sections 323, 324 and 447 IPC. Since no material has been brought to my notice to indicate that the appreciation of evidence by the courts below or the finding by the courts below is perverse or incorrect, the concurrent finding by the courts below that the revision petitioners committed the offences under Sections 323, 324 and 447 IPC does not call for any interference by this Court.

6. As regards the sentence, the learned counsel for the revision petitioner has pleaded for leniency. The revision petitioners are neighbours of PW1. The injury sustained by PW1 as per Ext.P2 wound certificate is contusion with abrasion on the occipital region with a size of 2 cm x 1 cm. The evidence would show that the revision petitioners did not carry any weapon with them. The act of the revision petitioners does not appear to be a pre-meditated act. There is no material before the court to show that the revision petitioners were previously convicted in any other case. There is also no allegation that the revision petitioners were involved in any other offence of similar nature.

7. Considering the facts and circumstances of the case, including the nature of injury sustained by the injured, I am of the view that the sentence awarded by the appellate court under Section 324 IPC can be modified and reduced to imprisonment till the rising of the court and a compensation of ₹10,000/- each, with a default clause for simple imprisonment for one month each, to secure the ends of justice. Accordingly, I order so.

In the result, this revision petition stands allowed in part, modifying and reducing the sentence imposed by the appellate court under Section 324 I.P.C. as mentioned above. The other findings by the appellate court stand confirmed.

The revision petitioners shall surrender before the trial court on 15.12.2015 to suffer the sentence.

Sd/-

**B. SUDHEENDRA KUMAR
JUDGE**

Scl/19.11.2015

True Copy

PA to Judge