

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

FRIDAY, THE 11TH DAY OF SEPTEMBER 2015/20TH BHADRA, 1937

Crl.Rev.Pet.No. 1145 of 2014 ()

**(AGAINST THE JUDGMENT IN CRL.A.NO. 490/2010 OF ADDL.SESIONS COURT-I,
THIRUVANANTHAPURAM DATED 18-10-2011)**

**(AGAINST THE JUDGMENT IN CC.NO. 605/2009 OF ADDL.CHIEF JUDICIAL
MAGISTRATE COURT, THIRUVANANTHAPURAM DATED 25-05-2010)**

REVISION PETITIONER(S)/APPELLANT/ACCUSED 2 & 3:

- 1. SHAIJU, S/O.THULASI,
T.C. NO.25/325, BARTON HILL COLONY,
KUNNUKUZHY, PATTOM, THIRUVANANTHAPURAM.**
- 2. ARUN, S/O.AJIKUMAR,
T.C NO.12/79, THEKKUMMOODU BUND COLONY,
KUNNUKUZHY, PATTOM, THIRUVANANTHAPURAM.**

BY ADV. SRI.T.K.ANANDA KRISHNAN

RESPONDENT/RESPONDENT/COMPLAINANT :

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

BY PUBLIC PROSECUTOR SRI.V.S.SREEJITH

**THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 11-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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B.SUDHEENDRA KUMAR, J.

Crl.R.P. No. 1145 of 2014

Dated this the 11th day of September, 2015

ORDER

The revision petitioners are accused Nos.2 and 3 in CC 605/2009 on the files of the Court of Additional Chief Judicial Magistrate, Thiruvananthapuram. The trial court convicted the revision petitioners under Sections 283, 294(b) and 506(i) IPC and sentenced each of them to a fine of Rs.200/- each and in default to simple imprisonment for 20 days each, under Section 283 IPC, rigorous imprisonment for one month each under Section 294(b) IPC and rigorous imprisonment for three months each under Section 506(i) IPC. The appeal filed against the said conviction and sentence was dismissed by the appellate court as per judgment in Crl.Appeal 490/2010. Aggrieved by the said conviction and sentence, this revision petition has been filed.

2. Heard the learned counsel for the revision petitioners.
3. The prosecution case is that on 02.09.2009, at about 4

p.m., while the revision petitioners were intimidating the public, the police party reached there. On seeing the police party, the accused persons uttered obscene words. The 2nd accused threatened the Police party by showing a sword. Due to the said acts of the accused persons, the police was deterred from doing their official duty.

4. Before the trial court, PW1 to PW3 were examined and Exts. P1 to P3 were marked for the prosecution, besides identifying MO1 sword.

5. PW1 is an independent witness who did not support the prosecution case. PW2 is the Police constable who stated about the incident in accordance with the prosecution case. PW3 is the Sub-Inspector of Police who supported the evidence of PW2 in all material aspects. The courts below relied on the oral and documentary evidence adduced by the prosecution, concurrently found that the revision petitioners committed the offence under Sections 283, 294(b) and 506(i) IPC. Since there is concurrent finding by the courts below, 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 appreciation of the evidence by the courts below is perverse or incorrect. In the said circumstances, the concurrent finding of the courts below that the revision petitioners committed offence under Sections 283, 294(b) and 506(1) IPC r/w 34 IPC does not call for any interference by this Court.

6. As regards the sentence, the learned counsel for the revision petitioners has pleaded for leniency. The 2nd accused had already undergone detention from 03.09.2009 to 17.09.2009 and the 3rd accused had already undergone detention from 03.09.2009 to 18.09.2009 as per the judgment of the trial court. Considering the facts and circumstances of the case, I am of the view that leniency can be taken in the matter of sentence and accordingly the sentence awarded by the courts below can be modified and reduced to the period of detention already undergone by the revision petitioners and a fine of Rs.1,000/- each and in default to simple imprisonment for one month each under Section 506(i) IPC, a fine of

Rs.1,000/- each and in default to simple imprisonment for one month each under Section 294(b) IPC and a fine of Rs.200/- each and in default to simple imprisonment for 5 days each under Section 283 IPC, to secure the ends of justice and accordingly I order so.

In the result, this revision petition stands allowed in part, confirming the verdict of guilty and conviction passed by the courts below under Sections 283, 294(b) and 506(i) IPC. The sentence awarded by the courts below stands modified and reduced to imprisonment already undergone by the petitioners and a fine of Rs.1,000/- (Rupees one thousand only) each and in default to simple imprisonment for one month each under Section 506(1) IPC, a fine of Rs.1,000/- (Rupees one thousand only) each and in default to simple imprisonment for one month each under Section 294(b) IPC and a fine of Rs.200/- (Rupees two hundred only) each and in default to simple imprisonment for 5 days each under Section 283 IPC.

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Sd/-
B.SUDHEENDRA KUMAR
JUDGE

Crl.RP.No.1145 of 2014

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