

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

TUESDAY, THE 24TH DAY OF NOVEMBER 2015/3RD AGRAHAYANA, 1937

Crl.Rev.Pet.No. 2894 of 2011 ()

Crl.A 170/2010 of ADDL.SESIONS COURT,KOTTAYAM
CC 554/2004 of JUDL. MAGI. OF FIRST CLASS-III, KOTTAYAM

REVISION PETITIONER/APPELLANT/1ST ACCUSED:

JAMES @ THOMMAN, RESIDING AT
THAREPADICKALAYA, THURUTHUVELIL HOUSE, ARUMANOOR KARA
AYERKUNNAM, KOTTAYAM.

BY ADV. SRI.M.J.THOMAS

RESPONDENTS/RESPONDENT/COMPLAINANT-STATE:

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

2. BEELA, KOCHUPARAMBIL HOUSE, NEAR APPITHRA SCHOOL
KUMARAKOM,

IS IMPEADED AS ADDL.2ND RESPONDENT AS PER ORDER
DT.14.12.2011 IN CRL.M.A.10642/2011.

R2 BY ADV. SRI.K.N.GOVINDANKUTTY MENON
R2 BY ADV. SRI.V.B.PREMACHANDRAN
R1 BY PUBLIC PROSECUTOR, SHRI.R.GITHESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON
24-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P.No.2894 of 2011

Dated this the 24th day of November 2015

O R D E R

The first accused in C.C.No.554 of 2004 on the files of the Court of the Judicial Magistrate of First Class - III, Kottayam has filed this revision petition challenging the concurrent finding of conviction and sentence passed by the courts below under Section 323 I.P.C.

2. Heard.

3. The prosecution allegation is that on 6.1.2004 at 4 p.m., the revision petitioner inflicted blows on the body of PW1 and caught hold of her neck, causing injuries on her. There was also allegation against the revision

petitioner with regard to the offence under Section 498 -A I.P.C.

4. Before the trial court, PW1 to PW13 were examined and Exts.P1 to P12 were marked for the complainant. DW1 was examined and Ext.D1 was marked for the revision petitioner.

5. The courts below correctly appreciated the oral and documentary evidence adduced by the parties and concurrently found that the revision petitioner committed the offence under Section 323 I.P.C. No circumstance has been brought to my notice to indicate that the appreciation of evidence by the courts below was perverse or incorrect. In the said circumstances, the concurrent finding by the courts below that the revision petitioner committed the offence under Section 323 I.P.C. does not warrant any

interference by this Court.

6. As regards the sentence, the learned counsel for the revision petitioner has pleaded for leniency. The revision petitioner is the husband of PW1. The marriage is still subsisting. PW1 did not sustain any serious injury in the incident. There are two children in the wedlock between PW1 and the revision petitioner, and one of the children is residing with the revision petitioner. If the revision petitioner is sent to jail, that will cause undue hardships and harassment to the child who is with the revision petitioner. Considering the facts and circumstances of the case, including the relation ship between the parties, 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.15,000/- 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 323 I.P.C.,
- (ii) the sentence awarded by the courts below under Section 323 I.P.C. stands modified and reduced to imprisonment till the rising of the court and a compensation of Rs.15,000/- (Rupees fifteen thousand only)
- (iii) in default of payment of compensation, the revision petitioner shall undergo simple imprisonment for two months.
- (iv) in the event of realisation of the amount, the entire amount shall be given to the complainant as compensation under Section 357(3) Cr.P.C.

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: 5 :

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/24/11/2015

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PA to Judge