IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.ANIL KUMAR

WEDNESDAY, THE 16TH DAY OF DECEMBER 2020 / 25TH AGRAHAYANA, 1942

Crl.Rev.Pet.No.1583 OF 2005(C)

AGAINST THE JUDGMENT IN CRL.APPEAL NO. 332/2000 DATED 19-05-2005 OF SESSIONS COURT,THALASSERY

AGAINST THE JUDGMENT IN CC NO.497/1996 DATED 31-10-2000 OF JUDICIAL MAGISTRATE OF FIRST CLASS ,THALASSERY

REVISION PETITIONER/APPELLANT/ACCUSED:

SATHEESH KUMAR T.M.
S/O.KUNHIKANNAN,
AGED 32 YEARS, THAIVALAPPIL MUTHUVANA,,
KOORARA POST, CHAMPAD (VIA),
THALASSERY.

BY ADV. SRI.P.P.RAMACHANDRAN

RESPONDENT/COMPLAINANT/STATE:

STATE OF KERALA (SHO)
THALASSERY POLICE STATION,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY SR.PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 16.12.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

Dated 16th day of December, 2020

The revision petitioner was accused in CC No.497 of 1996 on the file of the Judicial First Class Magistrate, Thalassery and the appellant in Crl.Appeal No.332 of 2000 on the file of the Court of Session, Thalassery. The offences alleged against the accused are punishable under Section 279, 337 and 338 of the Indian Penal Code. The learned Magistrate on trial found the accused guilty, convicted and sentenced him to undergo simple imprisonment for two months for the offence punishable under Section 279 of the IPC and simple imprisonment for three months for the offence under Section 338 of the IPC. The accused was convicted for the offence under Section 337 of the IPC. However, no sentence was imposed in view of the sentence imposed under Section 338 of the IPC. The appeal filed against conviction and sentence was dismissed by the Sessions Court, Thalassery by its judgment in Crl.Appeal No.332 of 2000 dated 19.05.2005.

2. When the revision has come up for hearing, the learned counsel for the revision petitioner Sri.P.P.Ramachandran, submits that the occurrence in this case was on 06.10.1995. The revision petitioner/accused has been defending this case for the last 25 years. The revision petitioner was 32 years old at the time of occurrence. Without prejudice to his contentions, the learned counsel for the revision petitioner submitted that considering the agony undergone by the revision petitioner for the last 25 years in connection with a criminal proceeding, the sentence imposed against the accused may be altered to one of fine by maintaining the conviction imposed by the trial court.

3. Heard Sri. Sri.P.P.Ramachandran, the learned counsel for the revision petitioner and Sri.M.S.Breez, the learned Senior Government Pleader for the State.

4. The prosecution allegation is that on 06.10.1995 at 8 p.m, the accused drove the Bus bearing registration No. Kl 13/A 8874 from Thalassery towards Kannur along the public road in a rash and negligent manner and when the Bus reached infront of the court complex of Thalassery, the rear side of the Bus dashed

against the bus shelter on the western side of the road causing injuries on PWs 1 to 3 and thereby the accused was stated to have committed the aforesaid offences.

5. During the trial of the case, PWs 1 to 11 were examined and marked Exts.P1 to P7 on the prosecution side.

6. On a perusal of the facts and circumstances including the submission of the learned counsel for the revision petitioner this Court is of the view that this is a fit case for altering the sentence to one of fine by sustaining the conviction imposed by the trial court, which has been later confirmed in appeal.

In the result, the revision petition stands allowed in part. The conviction of the accused for the offence punishable under Sections 279, 337 and 338 of the IPC are sustained. In modification of the sentence to undergo simple imprisonment for two months for the offence punishable under Section 279 of the IPC, the sentence is altered to a fine of Rs.1000/- and in default of payment of fine to undergo simple imprisonment for a period of one month. In modification of the sentence to undergo simple imprisonment for three months for the offence punishable under Section 338 of the IPC, the sentence is altered

to a fine of Rs,1000/- and in default of payment of fine to undergo simple imprisonment for a period of one month. No sentence was awarded for the offence under Section 337 of the IPC by the trial court in view of the sentence imposed for the offence under Section 338 of the IPC.

Sd/-

N.ANIL KUMAR, JUDGE

dlk/16.12.2020