

Ani Vs. State of Kerala

Ani Vs. State of Kerala

SooperKanoon Citation : sooperkanoon.com/1009556

Court : Kerala

Decided On : Dec-20-2012

Judge : Honourable Mr.Justice S.Siri Jagan

Appellant : Ani

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE S.SIRI JAGAN THURSDAY, THE 20TH DAY OF DECEMBER 2012 29TH AGRAHAYANA 193 CrI.Rev.Pet.No. 1923 of 2004 (A) ----- CRA.87/1999 of ADDL.SESIONS COURT-I, MAVELIKKARA CC.751/1994 of J.M.F.C., KAYAMKULAM REVISION PETITIONERS (APPELLANTS)/ ACCUSED: ----- 1. ANI, S/O. KUNJUPILLAI, VALLIATHUTHARAYIL, KAPPILKIZHAKKUMURI, KRISHNAPURAM MURI, KRISHNAPURAM.

2. RAJAN, S/O. KUNJUPILLAI, VALLIATHUTHARAYIL, KAPPILKIZHAKKUMURI, KRISHNAPURAM MURI, KRISHNAPURAM.

3. KUNJUPILLAI, S/O. GOVINDAN, VALLIATHUTHARAYIL, KAPPILKIZHAKKUMURI, KRISHNAPURAM MURI, KRISHNAPURAM. BY ADV. SRI.C.RAJENDRAN RESPONDENTS/ RESPONDENTS/ COMPLAINANT: ----- STATE OF KERALA, REPRESENTED BY PUBLIC

PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM. THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 20-12-2012, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: RKM S. SIRI JAGAN, J ----- Crl.R.P.NO.1923 OF 200.-----

Dated this the 20th day of December, 2012. ORDER The petitioners are the 1st and 2nd accused in C.C.No.751/94 before the Judicial First Class Magistrate, Kayamkulam. They were prosecuted for offences punishable under Sections 341,324 and 323 read with Section 34 of the Indian Penal Code. The prosecution case as available in the judgment of the Magistrate is as follows:- "The prosecution case is that PW1 and accused are relatives and neighbors. Since accused used to walk through the adjacent property of PW1, they were warned by PW1 and disliked by that, they had developed enmity towards PW1. Therefore on 4.4.94 at 9.p.m., while PW1 went to the northern property belonging to one Bharathan to pass urine, accused sharing common intention with each other wrongfully restrained him and first accused beat him with a dangerous iron rod on his right cheek and 2nd accused with another dangerous iron rod beat on his left fore-arm causing injuries. When PW1 fell down 3rd accused also beat him with his hands and legs." 2. The prosecution examined PWs 1 to 7 and marked Exts. P1 to P7. The defence did not adduce any evidence. Crl.R.P.NO.1923 OF 200.2 After considering the evidence adduced, the Magistrate convicted the petitioners and sentenced them to undergo simple imprisonment for 3 months each for the offences under Sections 323 and 324 of the Indian Penal Code. They were sentenced to undergo simple imprisonment for one month for the offence under Section 341 of the Indian Penal Code also. The sentences were directed to run concurrently. The petitioners filed Criminal Appeal No. of 87/99 before the Additional Sessions Judge-I, Mavelikkara. The Additional Sessions Judge confirmed the conviction and sentence passed by the Magistrate under Section 341 and 324 read with section 34 of the Indian Penal Code, but set aside the conviction and sentence passed against the petitioners under Section 323 of the Indian Penal Code. The conviction and sentence against the 3rd petitioner under Sections 341 and 324 were set aside but the conviction of the 3rd petitioner under Section 323 was confirmed. But the sentence of imprisonment was set aside and he was directed to pay a fine of Rs.1,000/- with a default sentence of simple

Crl.R.P.NO.1923 OF 200.3 imprisonment for one month. The fine amount was directed to be paid to PW1. The petitioners are challenging the judgments of the courts below.

3. After arguing for quite sometime, the learned counsel for the petitioners confines prayer for leniency in the matter of punishment. It is pointed out that PW1 and the petitioners are neighbors and relatives and more than 18 years have already gone by, and in the above circumstances, a lenient view may be taken in the matter of avoiding the sentence of imprisonment. It is submitted that the petitioners are prepared to pay adequate compensation to PW1.

4. Having heard the learned Public Prosecutor also, I confirm the conviction entered by the courts below but modify the sentence as follows: The sentence of fine imposed on the 3rd petitioner is confirmed. The sentence of imprisonment imposed on the petitioners 1 and 2 is reduced to 1= months imprisonment each. They are directed to pay compensation of Rs.12,500/- Crl.R.P.NO.1923 OF 200.4 each, to PW1. Consequently, the fine amount realized from the 3rd petitioner need not be paid to PW1. There would be a default sentence of 2 months' imprisonment if the compensation amount is not paid. The sentence of fine imposed on the 3rd petitioner is also confirmed. The Criminal Revision Petition is disposed of above.
S.SIRI JAGAN JUDGE /TRUE COPY/ P.A TO JUDGE skv

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com