

Jijo George, vs the State of Kerala

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Court : Kerala

Decided On : Apr-03-2025

Judge : Honourable Mr. Justice Raja Vijayaraghavan V, Honourable Mr. Justice P. V. Balakrishnan

Appeal No. : CRL.A/570/2021

Appellant : Jijo George,

Respondent : The State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V & THE HONOURABLE MR. JUSTICE P. V. BALAKRISHNAN THURSDAY, THE 3RD DAY OF APRIL 2025 / 13TH CHAITHRA, 1947 CRL.A NO. 986 OF 2021 CRIME NO.413/2018 OF Irinjalakuda Police Station, Thrissur AGAINST THE ORDER/JUDGMENT DATED 05.07.2021 IN SC NO.754 OF 2018 OF ADDITIONAL DISTRICT COURT, IRINJALAKUDA APPELLANT/ACCUSED NO.2: RANJITH AGED 29 YEARS S/O RAVEENDRAN, INIYIL HOUSE, KEEZHATHANI, KARALAM

(PO) THRISSUR DISTRICT

BY ADVS. SAIGI JACOB PALATTY PAUL VARGHESE SRAMBICAL(K/1076/1992) RESPONDENT/STATE & COMPLAINANT: THE STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM-682 031. OTHER PRESENT: SMT NEEMA T V, SR. PP. THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 27.03.2025, ALONG WITH CRL.A.237/2023, 479/2021 AND CONNECTED CASES, THE COURT ON 3-4-2025 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V & THE HONOURABLE MR.JUSTICE P. V. BALAKRISHNAN THURSDAY, THE 3RD DAY OF APRIL 2025 / 13TH CHAITHRA, 1947 CRL.A NO. 237 OF 2023 CRIME NO.413/2018 OF Irinjalakuda Police Station, Thrissur AGAINST THE ORDER/JUDGMENT DATED 05.07.2021 IN SC NO.754 OF 2018 OF ADDITIONAL DISTRICT COURT, IRINJALAKUDA APPELLANT/8TH ACCUSED: ABHISHEK @ TUTTU AGED 26 YEARS S/O AJI, THAIVALAPPIL HOUSE, GANDHIGRAM, VELATHIKULAM DESOM, PULLUR P.O, MUKUNDAPURAM TALUK, THRISSUR DISTRICT, PIN - 680683 BY ADVS. N.L.BITTO GODWIN JOSEPH VINEETH V. RESPONDENT/STATE &COMPLAINANT : STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 BY ADV PUBLIC PROSECUTOR NEEMA T.V. THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 27.03.2025, ALONG WITH CRL.A.986/2021 AND CONNECTED CASES, THE COURT ON 3-4-2025 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V & THE HONOURABLE MR.JUSTICE P. V. BALAKRISHNAN THURSDAY, THE 3RD DAY OF APRIL 2025 / 13TH CHAITHRA, 1947 CRL.A NO. 479 OF 2021 CRIME NO.413/2018 OF Irinjalakuda Police Station, Thrissur AGAINST THE ORDER/JUDGMENT DATED IN SC NO.754 OF 2018 OF ADDITIONAL

DISTRICT COURT, IRINJALAKUDA APPELLANT/ACCUSED NO.5: MEJO JOSEPH AGED 25 YEARS, S/O JOSEPH, KUNNATH HOUSE, WEST KOMPRA, IRINJALAKUDA P.O. VELOOKKARA VILLAGE, THRISSUR DISTRICT - 680 121 BY ADVS. P.K.VARGHESE P.S.ANISHAD K.R.ARUN KRISHNAN P.T.MANOJ SANJANA RACHEL JOSE BIJU KUMAR REGHU SREEDHARAN RESPONDENT/COMPLAINANT: STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM - 682 031 PUBLIC PROSECUTOR NEEMA T.V. BY ADVS. ADDL.DIRECTOR GENERAL OF PROSECUTION SHRI.P.NARAYANAN, ADDL.PUBLIC PROSECUTOR THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 27.03.2025, ALONG WITH CRL.A.986/2021 AND CONNECTED CASES, THE COURT ON 3-4-2025 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V & THE HONOURABLE MR.JUSTICE P. V. BALAKRISHNAN THURSDAY, THE 3RD DAY OF APRIL 2025 / 13TH CHAITHRA, 1947 CRL.A NO. 511 OF 2021 AGAINST THE ORDER/JUDGMENT DATED IN SC NO.754 OF 2018 OF ADDITIONAL DISTRICT COURT, IRINJALAKUDA APPELLANT/ACCUSED NO.3: NIDHEESH @ PAKRU AGED 27 YEARS S/O SASIDHARAN, PERINGATTIL HOUSE, PULLATHARA, KARALAM VILLAGE P.O.680 711 BY ADVS. RENJITH B.MARAR LAKSHMI.N.KAIMAL ARUN POOMULLI BIJU VIGNESWAR MEERA M. RESPONDENT/COMPLAINAT: STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM-682 031. PUBLIC PROSECUTOR NEEMA T.V. THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 27.03.2025, ALONG WITH CRL.A.986/2021 AND CONNECTED CASES, THE COURT ON 3-4-2025 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V & THE HONOURABLE MR.JUSTICE P. V. BALAKRISHNAN THURSDAY, THE 3RD DAY OF APRIL 2025 / 13TH CHAITHRA, 1947 CRL.A NO. 570 OF 2021 CRIME NO.413/2018 OF Irinjalakuda Police Station, Thrissur AGAINST THE ORDER/JUDGMENT DATED IN SC NO.754 OF 2018 OF ADDITIONAL DISTRICT COURT, IRINJALAKUDA APPELLANT/ACCUSED NO.2: JIJO GEORGE, AGED 27 YEARS S/O. GEORGE, ALAPPATTU MADANI HOUSE, PANTHALLUR DESOM, NELLAYI P.O., THRISSUR DISTRICT NOW RESIDING AT C/O. ABDUL HAJI, KAVUPADI DESOM, THILLENKERI, KOOTHUPARAMBU, KANNUR DISTRICT. BY ADV VISHNUPRASAD NAIR RESPONDENT/STATE/COMPLAINANT: THE STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, 682 031. (CRIME NO. 413/2018 OF IRINJALAKUDA POLICE STATION). PUBLIC PROSECUTOR NEEMA T.V. THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 27.03.2025, ALONG WITH CRL.A.986/2021 AND CONNECTED CASES, THE COURT ON 3-4-2025 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V & THE HONOURABLE MR.JUSTICE P. V. BALAKRISHNAN THURSDAY, THE 3RD DAY OF APRIL 2025 / 13TH CHAITHRA, 1947 CRL.A NO. 887 OF 2021 CRIME NO.413/2018 OF Irinjalakuda Police Station, Thrissur AGAINST THE ORDER/JUDGMENT DATED IN SC NO.754 OF 2018

OF ADDITIONAL DISTRICT COURT, IRINJALAKUDA APPELLANT/ACCUSED NO.4: ABINANDH AGED 22 YEARS S/O.MOHANDAS, KARUPPUPARAMBIL HOUSE, MOORKANADU BUND ROAD, PORATHISSERY VILLAGE. BY ADV T.N.MANOJ RESPONDENT/COMPLAINANT: STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, KOCHI - 31. PUBLIC PROSECUTOR SMT.NEEMA T.V.

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 27.03.2025, ALONG WITH CRL.A.986/2021 AND CONNECTED CASES, THE COURT ON 3-4-2025 DELIVERED THE FOLLOWING: RAJA VIJAYARAGHAVAN V, &

P.V.BALAKRISHNAN,JJ.

----- . Crl.Appeal Nos.986,479,511,570,887 of 2021 & Crl.Appeal No. 237/2023 ----- Dated this the 3rd day of April 2025

COMMON JUDGMENT

P.V.BALAKRISHNAN,J These appeals are filed by accused Nos.1 to 5 and 8 in SC

No.754/2018 on the files of the Additional Sessions Court, Irinjalakuda, challenging their conviction and sentences imposed by that court. As per the impugned judgment accused Nos. 1 to 5 & 8 were found guilty, convicted and sentenced under Sections 143,147,323,324,326, 307,450,302 read with Section 149 IPC., accused Nos. 1 to 5 were found guilty, convicted and sentenced under Section 148 read with section 149 IPC and accused Nos. 1 to 3 & 5 were convicted and sentenced under Section 120(B) read

with Section 302 IPC. Criminal Appeal No.986/2021 is preferred by the 1st accused, Crl.Appeal No.570/2021 is preferred by the 2nd accused, Crl.Appeal No.511/2021 is preferred by third accused, Crl.Appeal No.887/2021 is preferred by the 4th accused, Crl.Appeal No.479/2021 is preferred by the 5th accused, and Crl.Appeal No.237/2023 is preferred by 8th accused. Prosecution Case

2. Accused Nos. 1 to 11, 13 and a Juvenile in conflict with law, entered into a criminal conspiracy to do away with one Vineeth, the son of the deceased and, as a part of conspiracy on

assembly with dangerous weapons such as sword, knife and wooden log and trespassed into the house of Vineeth and attacked the inmates. Accused Nos. 6 to 11, 13 and the Juvenile stood outside the house and guarded the scene, while

accused Nos. 1 to 5 and 8 forced themselves into the house and attacked the family members of Vineeth. The first accused, by using a sword, hacked

the deceased and the third accused, by using another sword, hacked the deceased and his wife. The second accused pushed the wife of the deceased down and inflicted a perforating injury on the right leg of the deceased with a knife. Thereafter, the 4th and 5th accused trespassed into the house with wooden logs and assaulted the deceased, his wife and his mother-in-law. After the incident, the deceased was taken to the Co-operative Hospital, Irinjalakuda, where he succumbed to his injuries at 12.45 am on 28/5/2018. It is alleged that the 12th accused harboured accused Nos. 1,3 & 5 after the incident. Hence, the prosecution alleged that the accused

have committed the offences punishable under Sections 143,147,148,323,324, 326,307,212,450,302 read with Section 149 and Section 120(B) of IPC. Proceedings before the trial court.

3. On appearance of the accused, the trial court after hearing both sides, framed charges under 143, 147,148,323,326,450,212,307,302 read with 149 and 120(B) of

the IPC against them. Thereafter, from the side of the prosecution, PW1 to PW68 were examined and Exts.P1 to P177 documents and MO 1 to MO 39 were marked. Exts.C1 and C2 were marked as Court Exhibits and Exts.D1 to D4 were also marked from the side of the accused. When the accused were examined under Section 313 Cr.P.C, they denied all the incriminating circumstances appearing against them in evidence and stated that they are innocent. Even though an opportunity was granted to the accused to adduce evidence, no evidence was adduced from their side. The trial court, on an appreciation of the evidence on record, found accused Nos. 1 to 5 and 8 guilty of committing the offences

punishable under Sections 143,147,323,324,326,307,450,302 read with Section 149 IPC and convicted them thereunder. Accused Nos. 1 to 5 were also found guilty of the offence under Section 148 IPC and they were convicted thereunder.

The trial court further found accused Nos. 1 to 3 and 5 guilty of the offence under Section 120(B) of IPC and convicted them thereunder.

Accused Nos. 6,7,9 to 11 and 13 were acquitted of the offences under Sections 143,147,148,323,324,326,307,450,302 read with Section 149 and Section 120(B) IPC and the 12th accused was acquitted of the offence punishable under Section 212,120B read with 302 IPC. Contention of the appellants

4. The learned Counsel for the appellant in Crl.Appeal

No.986/2021/1st accused Adv.Saigi Jacob Palatty contended that PW1 is not at all a reliable witness and she has no acquaintance with the first accused. He, by relying on the decision in Malkhansingh & Ors. v. State of Madhya Pradesh (2003 KHC 1069) submitted that since no test identification parade has been conducted to identify the first accused, the same is fatal to the prosecution case. He argued that the testimony of PW1 is in total variance with Ext.P1 FIS and considerable improvements have been made in her testimony. He submitted that PW1 has not identified the weapon allegedly used by the first accused and MO6

has no connection with the first accused. He contended that there are no independent witnesses to the recovery of MO6 and the same did not reach the FSL in a tamper proof condition. He also submitted that no blood was found in the dresses of the first accused and human blood was not detected in MO6. He, by relying

on the decision in Balwan Singh & Ors.v. State of Chhattisgarh & Anr.(2019 (4) KHC 300), contended that since the recovery itself is doubtful, the prosecution was duty bound to prove the original blood group in the afore articles. He argued that there is no motive for the accused to kill the deceased or Vineeth and the first accused has been roped in falsely by PW66, who has

animosity with him. He further added that MO6 is a planted weapon and is not the one, which was allegedly seized by the investigating officer during investigation.

5. The learned Counsel for the appellant in Crl.A. No.570/2021/2nd accused Adv.Vishnuprasad contended that the evidence of PW1 is not at all believable

since she does not have a

consistent version. He argued that the identification of the accused by PW1 is also not believable and the medical evidence let in, does not support her version. He submitted that there is no evidence to show MO1 had reached the court in a tamper proof condition and there is no evidence to show that the 2nd accused was wearing MO20 shirt at the time of commission of the crime. He further submitted that the evidence of PW11, who was in a subconscious state of mind after consuming alcohol, is not believable and he has not spoken to about the availability of the light in the scene, to identify the accused. He further submitted that the accused were not aware that the deceased was having heart ailments and was consuming anticoagulants, which has led to profuse bleeding and death and, therefore, even if the prosecution case is accepted in toto, the case will only fall under illustration (b) of Section 300 IPC.

6. The learned Counsel for the appellant in Crl.Appeal

of PW1 is very shaky in nature and in the absence of corroboration cannot be relied upon. He submitted that MO7 has not been identified by PW1 and there is also no evidence to show that MO11 motorbike was kept in a tamper proof condition after its seizure, till samples were taken from it. He, by relying on the decisions in *Subramanya v. State of Karnataka* (2022 KHC 7088) & *Ananda Kumar v. State of Kerala* (2024 KHC 1517) contended that the recovery of MO7, MO11, MO15 & MO16, has not been proved as required by law and, therefore, cannot be relied upon. He, also by relying on the decision in *Narayan Raghunath Phadke v State of Maharashtra* (AIR 1994 SC 978) contended that, even if the prosecution case is accepted in toto, no offence under Section 302 will lie, since there is nothing to connect the 3rd accused with the fatal injury. He further submitted that since the attack was not made on the vital parts of the deceased, the only intention was to cause bodily injury which may result in death.

7. Learned Counsel for the appellants in Crl.Appeal Nos.

Adv.P.K.Varghese argued that there is no identification of the weapons allegedly used by accused Nos. 4 & 5 and also that there are no corresponding injuries

noted in the body of the deceased and hence, Section 302 will not be attracted. They further submitted that, the recoveries effected do not have the sanctity of law and the recovery of MO9 is from an open place. They further, by relying on the decision in State,through CBI v. Mahender Singh Dahiya (2011 KHC 4079), argued that the scientific

evidence adduced for identifying the blood group is not at all reliable and convincing and, cannot be used in evidence against the accused. They also submitted that in the absence of evidence to show that the accused have used the motorcycles and that they were kept in safe custody, no reliance can be placed upon the scientific evidence relating to the samples taken from them.

8. Learned Counsel for the appellant in Crl.Appeal No.237/2023/8th accused Adv. Britto contended that the 8th

accused had been convicted only because of his presence at the scene. He submitted that no overt act has been committed by the 8th accused and his name, even though known to PW1, has not been mentioned in the FIS. He also argued that PW15, the doctor, has not identified the 8th accused. He relied on the decisions in Suresh & Anr. v. State of U.P.[(2001) 3 SCC 673] and Nagesar v. State of Chhattisgarh [(2014) 6 SCC 672] to contend that in the absence of any role played by the 8th accused, he cannot be convicted in this case. Contentions of the Public Prosecutor

9. The learned Public Prosecutor Adv.Neema contended that

the prosecution has proved its case against the appellants beyond reasonable doubt and there are no grounds to interfere with the impugned judgment. She submitted that PW1 is a sterling witness, whose evidence can be relied upon to prove the occurrence and the involvement of the appellants in the crime. She argued that the omissions in the FIS cannot be considered as fatal, since the

same cannot be considered as encyclopedia and since, the same was lodged by PW1 while she was under severe mental stress. She argued that in the light of the credible evidence of PW1 identifying the accused, there is no need for conducting

a test identification parade. She also, by relying on the decision in *Anbazhagan v.State* (2023 SCC OnLine SC 857), contended that the present case squarely falls under Clause (3) of Section 300 IPC. A compendium of prosecution evidence

10. PW1 is the wife of the deceased Vijayan. She deposed

that on 27/5/2018, her husband came back from work at about 10 pm, and after having food they all went to sleep. At that time, her two sons, her mother and her husband were inside the house. At about 11 pm, she heard the calling bell and when she along with her husband opened the door and grill in the sit out, after switching on lights, she saw the 8th accused standing there. He enquired about her son Vineeth and when she replied that he was sleeping, a few persons barged into the house. Two among them

hacked her husband using swords and when she clasped her husband, they hacked her on her left hand shoulder and wrist. She identified the first accused as the person who first hacked her husband and the third accused as the person who hacked her husband and her, subsequently. She also stated that, among the weapons, which are shown to her in the court, the longest is the one used by the first accused. Thereafter, the second accused pushed her and stabbed her husband on his left leg using a knife, which she identified as MO1. When these three persons went outside the house, two other persons came with wooden sticks and beat her husband, mother and herself. She identified these persons as the 4th and 5th accused and added that it is the 5th accused, who had beaten them more. Thereafter, she along with her children took her husband to the hospital in an autorickshaw. While in the hospital, she also gave Ext.P1 FIS. In her cross examination, she stated all the weapons used to hack them are now in court. She also stated that since these accused are the

persons who have attacked her husband, she can positively identify them. She further stated that in the hospital, she, along with others, gave the details to the doctor and what is stated in Ext.P1 that only three persons have attacked is not correct. In the attack, she suffered a fracture in her hand and at the time when the police recorded her statement in the hospital, she was very tense.

11. PW2 is the mother of PW1. She deposed that on 27th

night, while she was sleeping, she heard a commotion and when got up, saw her son-in-law lying in a pool of blood. At that time, the 4th accused came to her and beat her all over using a wooden stick. During cross examination, she stated that it is she who had mentioned the details to the doctor. When she saw Vijayan, he was lying in the hall near the door and Vineeth was sleeping at that time.

12. PW4 is an autorickshaw driver and a neighbour of deceased Vijayan. At about 11 pm, he saw two bikes coming there

and one of them was parked in front of his house and the other in front of Vijayan's house. There were two persons each in the bike and he identified accused Nos. 7,8 & 10 as three among them. After ten minutes, he heard a commotion and when he came out, saw the bikes leaving. The son of Vijayan came to him and told that his father and mother had suffered cut injuries and had to be taken to the hospital. He took them in his auto rickshaw to the Co-operative Hospital, Irinjalakuda. In his cross examination, he stated that he is acquainted with Abishek (A8), who came in the motorcycle.

13. PW11 deposed that on 27/6/2018, while he was

consuming liquor along with Sujith (13th accused), he fell ill and requested Sujith to take him to hospital. On the way to the hospital, Sujith received a telephone call and thereafter they went to a place called Alukka Parambu near the hospital. There, accused Nos. 1 to 3,11 & 12 and some other unidentifiable persons were there. Accused Nos. 1 to 3 came to the auto rickshaw in which he

was lying and sat in the front seat. At that time, the first accused had a sword in his hand and told him that he had some work to do. Later, he went to the hospital. On the next day, he came to know about the death of Vijayan.

14. PW14 is a witness to Ext.P14 inquest report. He also

deposed that he had witnessed the police recovering a plastic cover, a knife and a pistol at the instance of the second accused and had signed in Ext.P15 seizure

mahazar. He identified the knife as MO1, Pistol as MO4 and the cover as MO5.

15. PW15 is the CMO attached to the Shanthi Hospital,

Kodakara. He deposed that on 28/5/2018, at about 12 am, he had examined the second accused and had issued Ext.P16 wound certificate. The patient was accompanied by Abishek and he noted a lacerated injury on his right hand. During cross examination, he denied the suggestion that the date of examination is written as the patient. He also stated that the cause of injury, as stated by the patient, is a fall of metal on his hand and subsequently, when the police came, the patient told him that the injury happened as a result of an assault.

16. PW17 is a witness to Ext.P17 seizure mahazar and the

recovery of a sword by the police at the instance of the first accused. Even though he spoke about the incident, did not identify the weapon positively. He also stated that the weapon was recovered from near the well situated in the residence of the first accused.

17. PW18 is the civil police officer attached to the

Irinjalakuda Police station, who has also witnessed the recovery of the sword at the instance of the first accused and has signed in Ext.P17 mahazar. He identified the weapon as MO6 .

18. PW19 is a witness to Ext.P19 mahazar and seizure of

MO7 sword at the instance of the third accused. He stated that MO7 was thus recovered from some waste dumped near a coconut tree, in the house of the 3rd accused.

19. PW20 is a witness to Ext.P20 mahazar and the recovery of MO8 wooden log at the instance of the 4th accused. During cross examination, he stated that the tip of the wooden log and one of its sides were broken.

20. PW21 is a witness to Ext.P21 mahazar and recovery of

MO9 stick by the police at the instance of the 5th accused, from near Athirangal temple. During cross examination, he stated that it was in June 2018, he had signed in Ext.P21 and that he had seen the accused handing over the weapon to the police.

21. PW26 is a witness to Ext.P26 mahazar and recovery of MO14 motor cycle at the instance of the 5th accused.

22. PW34 is a witness to Ext.P36 mahazar and recovery of MO15 and MO16 dresses at the instance of the 3rd accused, from his house.

23. PW35 is a witness to Ext.P37 mahazar and recovery of MO17 and MO18 dresses at the instance of the 4th accused. During cross examination, he stated that it was on 6th June at about 3 pm, the recovery was effected from the house of the accused.

24. PW36 is the doctor attached to the Co-operative Hospital,

Irinjalakuda. He deposed that on 27/5/2018 at about 11: 30 pm, he had examined deceased Vijayan and had issued Ext.P38 wound certificate. On examination, he noted eight injuries on the body of Vijayan and the history is physical assault by a group of persons using a sharp edged weapon at the patient's home. Through him, Ext.P39 case sheet was also marked. On the same day at about 11.45 pm, he examined Ambika, who came with a history of assault by four identifiable persons by using sharp edged weapon, and issued Ext.P40 certificate. On examination, he noted six injuries on her body, and a fracture of Ulna. On 28/5/2018 at about 2.35 am, he also examined Kousalya who came with a history of physical assault by a group of four persons and issued Ext.P41 certificate. The patient had injuries including a fracture of the radius of wrist. He also stated that the incised wounds noted in

Exts.P38 to P40 can be caused by using MO6 and MO7 and injury No.8 in Ext.P38 can be caused using MO1 knife. The swelling, contusion and tenderness noted in Ext.P38 to Ext.P41 can be caused by using wooden logs.

25. PW37 is the doctor, who conducted the postmortem

examination of deceased Vijayan and issued Ext.P42 certificate. He noted 15 ante mortem injuries on the body of the deceased and stated that death was due to an incised perforating wound sustained in the right leg (injury No.3) and incised wound sustained to left hand (injury No.11). He also stated that injury No.3 can be caused by MO1 and the other incised wounds can be caused by MO6 and MO7. He further stated that injury Nos. 3 and 11 are sufficient to cause death in the ordinary course of nature.

26. PW 41 is a witness to Ext.P44 mahazar and recovery of MO21 and MO22 dresses at the instance of the first accused from an almirah inside his house.

27. PW 42 is a witness to Ext.P45 mahazar and the recovery of MO20 shirt from the second accused.

28. PW43 is the scientific officer attached to the Thrissur Rural DCB. He deposed that he examined the scene of crime and collected samples, packed and sealed them and handed them over

to the investigating officer. He identified the packet thus containing five specimens as MO23 series. On 14/6/2018, he also collected samples from the brown stains seen in the three motorcycles and handed them over to the investigating officer. He identified the articles as MO24 series and the specimen signature as Ext.P46.

29. PW63 is the police officer who recorded Ext.P1 FIS of

PW1, at 2.30 am from the hospital. Thereafter, he registered Ext.P68 FIR and sent it to the court. In his cross examination, he stated that he returned to the police station after recording the statement at 4.05 am.

30. PW 64 is a witness to Ext.P69 mahazar and recovery of MO29 and MO30 dresses at the instance of the 5th accused, from his house.

31. PW65 is the police officer, who had witnessed the handing over of MO23 series to the investigating officer and had signed in Ext.P70 mahazar.

32. PW66 is the investigating officer, who laid the charge. He deposed that on 28/5/2018 he took over the investigation in this case, prepared Ext.P14 inquest

report and Ext.P3 scene mahazar,

and recovered MO35 to MO39 articles from the place of occurrence. He also seized the samples handed over by the scientific officer as per Ext.P70 mahazar. Thereafter, he arrested accused Nos. A6 to A9 by preparing Exts.P75 to P82 documents and filed Ext.P84 report. He also arrested the 4th & 10th accused by preparing Ext.P85 to P90 documents and filed Ext.91 report. He recovered MO2 and MO3 as per Ext.P48 mahazar and Ext.P27 and P28 as per Ext.P92 mahazar. He arrested the second accused by preparing Ext.P93 and P94 documents and seized the shirt worn by him. On 6/6/2018 on the basis of the confession statement given

by the 4th accused, he recovered MO17 and MO18 dresses from his house and MO8 weapon from a place near Athiringal temple. The dress seized from the second accused, which is MO20, as per Ext.P45 mahazar was forwarded to the court on 4/6/2018 as per Ext.P97 property list. On the basis of the confession statement of the second accused, he recovered MO1, MO4 and MO5 from a

motor shed by preparing Ext.P15 mahazar. On 7/6/2018, he arrested accused Nos. 1,3 & 5 by preparing Exts.P99 to P-104. On the basis of the confession statement of the first accused, he recovered MO6 weapon by preparing Ext.P17 and recovered MO 21 & MO22 dresses as per Ext.P44 mahazar. On the basis of the confession statement of the third accused, he recovered MO15 and MO16 dresses as per Ext.P36 mahazar and MO7 sword as per

Ext.P19 mahazar. MO11 motor cycle was also recovered on the basis of the confession statement of the third accused as per Ext.P24 mahazar. On the basis of the confession statement of the 5th accused, he recovered MO28 and MO 29 dresses from his

house as per Ext.P69 mahazar and MO9 weapon from a place near Athiringal temple as per Ext.P21 mahazar. He also recovered MO 14 motor cycle again on the basis of the confession statement, as per Ext.P26 mahazar. Thereafter, all the articles and documents were produced before the trial court as per Exts.P-106 to P-121, Exts.P-127 to 132 and 135 to 138 property lists. Even though a final report

was filed on 21/7/2018, further investigation was conducted on 11/2/2019 relating to the role of the 13th accused and a completion report was filed thereafter. During cross examination, he submitted that no Test Identification parade was conducted in this case and that MO6 was sent to the court only on

FIR and Final report in Crime No.433/2018 were also marked. Evaluation of evidence

33. The first and foremost question to be considered in this case is whether the death of Vijayan is by homicide. While considering this question, the evidence of PW37, the doctor who

conducted the postmortem examination and Ext.P42, assumes much relevance. His evidence shows that the victim has suffered 15 antemortem injuries, including 9 incised wounds on various parts of his legs and hands. PW37 has opined that the death was due to an incised perforating wound sustained to the right leg(injury No.3) and incised wound sustained to left hand(injury No.11). He also opined that injury No.3 can be caused by using MO1 and other incised wounds can be caused by using MO6 and MO7. He further stated that injury Nos.3 and 11 are sufficient

enough to cause death in the ordinary course of nature. Even though during cross examination, an attempt has been made from the side of accused Nos. 1 to 3 to show that the death of Vijayan was due to occlusive coronary artery disease, PW37 unambiguously denied the same and stated that a person like the deceased, who is aged about 50, can have fatty streaks, but it need not cause death. He further stated that since two blood vessels, including superficial palmar arterial arch have been cut, it can produce sufficient bleeding, leading to death. In the light of the evidence of PW37, we have no hesitation to conclude that the death of Vijayan is homicidal.

34. In order to prove the involvement of the appellants in the

crime, the prosecution is heavily relying upon the evidence of the inmates of the house and their neighbours. PW1 is the wife of deceased Vijayan who had witnessed the entire incident. Her evidence reveals that on 27/5/2018, at about 11

pm, on hearing the calling bell she, along with her husband, had switched on the lights and opened the door and the grill in the sit-out. The 8th accused was standing there and he enquired about Vineeth, her son. When she informed the 8th accused that Vineeth was sleeping, a few persons barged into the sit-out and the first accused hacked her husband. Thereafter, the third accused also hacked her husband and she immediately embraced her husband. Then she was also hacked in her left shoulder and wrist. She stated that the 3rd accused had thus hacked her husband on his

leg and herself, on her hand. Thereafter, the 2nd accused pushed her and stabbed her husband on his left leg using a knife. When they retreated, accused Nos. 4 & 5 came inside and beat her husband, mother and herself using wooden sticks. PW1 identified the knife used by the 2nd accused as MO1 and the sword used by the first accused. She further stated that all the weapons used by the accused for chopping were before the court. It is also clear from her evidence that it is in the attack made using sticks, she had suffered fracture in her hand. Thereafter, she and her husband were taken to the Co-operative Hospital where her husband died. Her evidence also reveals that it is from the hospital, immediately after the death of her husband, she had lodged Ext.P1 FIS.

35. It is true that there is some variance in Ext.P1 FIS from

the testimony of PW1, regarding the incident and the same have been brought in as omissions by the accused. The omissions thus proved are the fact that accused Nos. 2 & 3 have also used weapons such as knife and sword to attack PW1 and her husband

and the further fact that after accused Nos. 1 to 3 reiterated, two other persons-accused Nos. 4 & 5 have entered the house and attacked them using wooden sticks. As stated earlier, it is to be taken note that Ext.P1 FIS has been lodged by PW1, who is none other than the wife of the deceased, immediately after the death of her husband, from the hospital itself. It cannot be expected from a woman, who is in such a condition and who is suffering from extreme mental agony, to give a detailed statement describing each and every overt act committed by the assailants, which has resulted in the death of her husband. In such a state of

mind, we cannot expect PW1 to recollect the events which transpired and give a photographic description of it to the police. At this juncture, it is also to be kept in mind that FIS cannot be considered as an encyclopedia narrating the entire events in detail so as to rest the prosecution case solely upon it. As the name itself suggests, it is only the first information about the commission of a crime and nothing more. In the decision in *Rattan Singh v. State*

of Himachal Pradesh [(1997) 4 SCC 161] the Apex Court had the occasion to consider such an issue, wherein it was held thus:

9..... But criminal courts should not be fastidious with mere omissions in the first information statement, since such statements cannot be expected to be a chronicle of every detail of what happened, nor to contain an exhaustive catalogue of the events which took place. The person who furnishes first information to authorities might be fresh with the facts but he need not necessarily have the skill or ability to reproduce details of the entire story without anything missing therefrom. Some may miss even important details in a narration. Quite often the police officer, who takes down the first information, would record what the informant conveys to him without resorting to any elicitory exercise. It is voluntary narrative of the informant without interrogation which usually goes into such statement. So any omission therein has to be considered along with the other evidence to determine whether the fact so omitted never happened at all.

In the light of the afore dictum and considering the facts and circumstances narrated above we are of the view that the omissions brought out in the FIS cannot be considered as fatal.

36. The evidence on record reveals that immediately after the

incident, the deceased along with PW1 and PW2 had sought medical aid in Irinjalakuda Co-operative Hospital. The evidence of PW36 coupled with Exts.P38 to P41 confirms the same. The evidence of PW36 would go to show that he had

examined both the deceased and PW1 prior to the lodging of Ext.P1 FIS. His evidence shows that he had thus examined the deceased at 11.30 pm and PW1 at about 11.45 pm on 27/5/2018. It is very pertinent to note that the history and alleged cause of injury stated by PW1 at that time to the doctor is physical assault by four identifiable persons using sharp edged weapon. It is also discernible from the evidence of PW36 that he had examined PW2 on 28/5/2018 at about 2.35 am again, with an alleged history of assault by a group of four persons. At the time of examination, PW36 has noted that

all the victims have suffered injuries including grievous ones. The deceased has suffered an incised wound on his left thigh, right leg muscle, and patella apart from a few abrasions. PW1 had suffered a fracture on her Ulna, an incised wound on her left wrist and left

arm and injuries on her forearm elbow, etc. Similarly, PW2 has suffered a fracture and swelling on her wrist, swelling on her hand and tenderness on her left wrist. PW36 also opined that these injuries can be inflicted by using MO1, MO6 and MO7 and by using a wooden log. The afore medical evidence thus adduced by the prosecution lends considerable support to the evidence of PW1 regarding the incident and the manner in which it has taken place. Further, the statement given to PW36, by PW1 & PW2 regarding the alleged history, being first in point of time after the occurrence, assumes much relevance and acts as an additive for this Court not to give much emphasis to the recitals in the FIS or the omissions brought out therein.

37. Moving further, it is to be seen that the evidence of PW2

and PW4 also corroborates with the evidence of PW1 regarding the involvement of the 4th and 8th accused in the crime. The evidence of PW2 reveals that when she got up on hearing the noise, she saw her son-in-law lying in a pool of blood. At that time, the 4th accused came towards her and beat her using a wooden stick on her hand, back and other parts of her body. Similarly, the evidence of PW4, who is a neighbour of the deceased, shows that at about 11.00 pm, just before the attack he had witnessed four persons coming in two bikes to the house of the deceased and he

identified three among them as accused Nos. 7,8 & 10. His evidence also reveals that he thus saw them in the light emanating from the house and the electric post. The afore witnesses having withstood the test of cross examination, we have no hesitation to act upon their testimonies.

38. Coming to the contention of the accused that, in the absence of test identification parade the evidence of PW1 regarding the identification of the accused cannot be believed, we

are of the considered view that there is no merit in it. First of all, it is to be seen that Cr.P.C.does not oblige the investigating agency to hold a test identification parade. Secondly, it is a settled law that failure to hold a test identification parade does not by itself render the evidence of identification in court inadmissible or unacceptable. It is the law that substantive evidence is the evidence of identification in court and the test identification parade provides only corroboration to the identification of the witness in court, if required. If the identification of the accused in the dock by a witness is trustworthy and credible, there is no need for the court to look for corroboration(See Shyamal Ghosh v. State of West Bengal [(2012) 7 SCC 646] and Prakash v. State of Karnataka [(2014) 12 SCC 133]. In the present case, we take note that even after strenuous cross examination from the side of the accused, nothing has been brought out in the evidence of PW1, which would cast a doubt in her identifying the appellants. At this juncture, we would also take note of the fact that PW1 had the

occasion to see the assailants in close quarters and that too from inside her house, with lights all around. It is to be seen that when the accused put a question to PW1 regarding her noting any identification features of the accused, her answer was prompt to the effect that she would never forget the faces of her husband's assailants. It is also to be kept in mind that PW1 herself, being a victim of the attack and who has sustained serious injuries along with her husband, is most unlikely to spare her actual assailants in

order to falsely implicate someone else. The law is well settled

that the evidence of such a witness/ injured witness is generally considered to be very reliable and convincing evidence is required to discredit him/her.(See State of U.P. v. Kishan Chand & Ors. [(2004) 7 SCC 629] and Brahm Swaroop & Anr. v. State of U.P. [AIR 2011 SC 280]). If so, in the present case, since the evidence of PW1 is credible and cogent, and since no convincing evidence is available to discredit her, we have no hesitation in relying upon her testimony regarding identification of the accused.

39. Moving further, it is to be seen that the evidence on record shows that on the basis of the confession statement made

by the first accused after his arrest, PW66 has recovered the sword used by him in the attack (MO6) on 8.6.18, from inside some grass growing near the well of his house, after preparing Ext.P17 mahazar. The evidence of PW17 and PW18, who are the witnesses to the recovery, also confirms the same. It is true that PW17, even though spoke about the recovery effected, could not identify the weapon thus recovered. But, it is to be seen that both

PW66 & PW18 have positively identified the weapon thus recovered and PW17 has confirmed the recovery. The evidence of PW66, PW17 & PW18 even after roving cross examination, remains unshattered. MO6 was forwarded to the FSL for examination and Ext.P142 report shows that blood was found in it, though it was insufficient to determine the origin and group. It is true that PW66 has stated that MO6 was not seized by sealing it and that it has been produced before the court only on 22/6/2018. But, he has

specifically stated that the weapon was kept in his custody for investigation purposes and there is nothing on record to disbelieve him. The afore recovery evidence and the finding of blood in the weapon used to attack the victims gives considerable support to the prosecution to prove that the first accused has also participated in the attack by using MO 6.

40. Coming to the second accused, the evidence of PW66

reveals that on the basis of the confession statement given by the 2nd accused while in custody, he had recovered MO1 knife from a motor shed in a paddy field on 7.6.18, after preparing Ext.P15 mahazar. The evidence of PW14, who is a witness to the recovery, also fully supports the evidence of PW66. MO1 knife was sent for examination to FSL and Ext.P142 report shows that it contained blood of human origin, though not sufficient to determine the group. Apart from the above, it can be seen from the evidence of PW15, the doctor, that immediately after the incident, the second accused had sought medical aid in Shanti Hospital, Kodakara. The

evidence of PW15 reveals that at about 12 am on 28/5/2018, he had examined the second accused, who had approached him with a history of assault and had issued Ext.P16 wound certificate. At that time, the second accused was suffering from a lacerated injury over the dorsum of right hand about 4x2x1 cm with partial extension of pollicis. PW15 has positively identified the 2nd accused and has opined that such an injury can be caused by a sharp edged weapon like sword. The evidence of PW15 is also well supported by the evidence of PW58, who had seen the accused with injuries on his hand in the casualty of the hospital. There is no plausible explanation forthcoming from the side of the 2nd accused regarding him being found with injuries on his hand in the odd hours of the night and that too immediately after the incident. The afore evidence including the recovery evidence corroborates the evidence of PW1 and shows that the 2nd accused was also actively involved in the commission of the crime. It is true that MO20 shirt recovered from the 2nd accused as per Ext.P45 mahazar when

sent for examination was also found containing human blood of Group A. But, we are of the view that not much reliance can be placed upon it since, as evidenced by Ext.P130, the blood group of the 2nd accused itself is A+ ve and admittedly he was suffering from a cut injury at the relevant time.

41. The evidence of PW66 further shows that on the basis of

the confession statement given by the 3rd accused while in custody, he had recovered MO15 & MO16 dresses on 8/6/2018 as per Ext.P36 mahazar, from his house. The evidence of PW34 also confirms the said recovery. Similarly, the

sword used in the attack and identified by PW1(MO7), was recovered by PW66 on the basis of the disclosure statement given by the 3rd accused, from inside a heap of dry leaves near a coconut tree in his house, by preparing Ext.P19 mahazar. The evidence of PW19, the witness to the recovery, also confirms the same. Again on the basis of the disclosure statement of the third accused, PW66 recovered MO11 motorbike from the house of the 3rd accused after preparing

Ext.P24 mahazar. The evidence of PW24, the witness to the said recovery, also confirms the said fact. MO7, MO15 & MO16 were examined in the FSL and Ext.P142 report shows that MO15 and MO16 contained blood which is insufficient to determine the origin and group. Similarly the sample taken from the stains in MO11 by PW43, when sent for examination, was also found to contain

human blood of group A. It is true that there is no substantive evidence to show that MO15 and MO16 were worn by the 3rd accused while committing the offence and MO11 bike was used during the crime. But as far as the recovery evidence relating to MO7 is concerned, we are of the view that even though no blood was detected in it, the same lends considerable support to the prosecution case to prove the usage of the weapon and the involvement of the 3rd accused in the crime. Now even if it is otherwise so, we are of the view that, by virtue of Section 8 of the Evidence Act, the conduct of the 3rd accused in taking the investigating officer to the place of concealment and pointing out

the weapon would be admissible in evidence and can be considered along with other evidence on record. (See A.N.Venkatesh & Anr. v. State of Karnataka [(2005) 7 SCC 714] and Himachal Pradesh Administration v. Om Prakash [(1972) 1 SCC 249]. The afore principle can also be applied to the recoveries effected through accused Nos. 1 and 2.

42. Coming to the recovery evidence as far as the 4th

accused is concerned, it is to be seen that on the basis of the disclosure statement given by the 4th accused, PW66 has recovered MO8 wooden stick by preparing Ext.P20 mahazar, and

MO17 & MO18 dresses by preparing Ext.P37 mahazar. The evidence of PW20 and PW35, the witnesses to the recovery also confirms the same. MO8,MO17 & MO18 were examined in the FSL and Ext.P142 report shows that all of them contained blood, but which was insufficient for determining the origin or group. As far as the 5th accused is concerned, it is to be seen that on the basis of the disclosure statement given by him, PW66 has recovered

MO9 wooden stick by preparing Ext.P21 mahazar, MO14 bike by preparing Ext.P26 mahazar and MO28 & MO29 dresses by preparing Ext.P69 mahazar. The evidence of PW21,PW26 & PW64, the witnesses to the afore recoveries, also confirms the same. MO9, MO28 and MO29 were examined in the FSL and Ext.P142 report shows that in MO28 & MO29, no blood was detected and blood which was insufficient for determining the origin and group, was found in MO9. On the other hand, human blood of group A was found in the sample taken by PW43 from MO 14 bike. But, it is to be taken note that, as in the case of the 3rd accused, there is no substantive evidence to show that MO17 and MO18 dresses were worn by the 4th accused and MO28 and MO29 dresses were worn by the 5th accused at the relevant time. Similarly, there is also no convincing evidence to show that MO14 bike has been used by any of the accused in the commission of the crime. As far as MO8 and MO9 are concerned, it is to be taken note that they have not been identified by any of the witnesses including PW1,

as the weapons used in the attack, unlike MO1,MO6 & MO7. It is a settled law, as held in the decision in Ananda Kumar's case (cited supra) and in Kochu Mani v. State of Kerala (2023 KHC 9166) that in the absence of link evidence between the recovered material objects with the commission of the crime, no reliance can be placed upon the recovery to reach a finding of guilt against the accused. Now even if the matter stands thus, in the light of the credible and cogent evidence of PW1 pointing out the involvement of accused Nos. 4 & 5 and their overt acts using the weapons and the same also being corroborated by the medical evidence of PW36, we are of the view that, the same can be acted upon to

reach a conclusion of guilt against them. As regards the participation of the 4th accused in the crime, as discussed earlier, it can be seen that the evidence of

PW2 also supports the evidence of PW1. At this juncture, we will keep in mind the settled law that for convicting an accused, the recovery of the weapon used in the commission of the offence is not sine qua non and if the evidence

of the eyewitnesses are reliable and trustworthy regarding the incident and the usage of weapon, the same can be acted upon (See Rakesh & Anr.v. State of U.P.& Anr.[(2021)7 SCC 188], Goverdhan v. State of Chhattisgarh [2025 SCC OnLine SC 69].

43. Coming to the 8th accused, as stated earlier, apart from

the evidence of PW1 there is also evidence of PW4, which unerringly shows his presence at the scene along with the other accused during the commission of crime. It is true that PW1 has stated that the 8th accused is a person who is known to her and is her relative and that his name is not mentioned in the FIS. But, as narrated afore, in the circumstances in which the FIS was lodged by PW1, this omission cannot be considered as fatal.

44. Now, coming to the conspiracy part, the prosecution is

heavily relying upon the evidence of PW11 to prove the same. The trial court has found that A1 to A3 have conspired together at a place called Alukkaparambil, on the basis of the evidence of PW11.

But on an appraisal of the evidence of PW11, it is to be seen that at the time when he allegedly reached the place, he was in an intoxicated condition and was in a semi conscious state. He was lying in the back side of the autorickshaw and was feeling dizzy at that time. Things being so, it is highly unbelievable that PW11 would have identified the persons and deciphered the talks made by them. At this juncture, we would also take note of the fact that there is no mention by PW11 about the availability of light at that place. Further, the evidence of PW11 also does not show that he had witnessed any talks between the accused or they chalking out any plans to commit the crime. Apart from above, it is also not

believable that the 13th accused had taken PW11 to

Alukkaparambu instead of the hospital when PW11 was in the condition as narrated afore. Be that as it may, it is to be seen that the trial court has also roped in the 5th accused in the conspiracy on the basis of some phone calls made by him. But, we are of the view that, merely because there were two calls made from the

mobile number of the 5th accused to the number of PW8, it cannot be deduced that it was as a part of conspiracy. Therefore, considering all the afore facts and circumstances, we are of the view that there is no sufficient evidence to find that accused Nos. 1 to 3 & 5 have committed an offence under Section 120B IPC.

45. Coming to the contention of the learned Counsel for the

appellants that even if the entire evidence on record is accepted as true, the offence under Section 302 is not attracted, we are of the considered view that there is no merit in it. It is true that the injuries inflicted during the attack upon the deceased are not on his vital parts. It is also true that PW1 in her evidence has stated that the deceased was consuming anticoagulants at the relevant time. But, there is nothing in the evidence of PW37, which would show that the blood loss, which occurred in the body of the deceased, was as a consequence of such drug consumption. On the other hand, the evidence of PW37 unambiguously shows that it is only because of the fact that two blood vessels including, the

palmar arterial arch of the deceased having been cut, the victim has suffered blood loss resulting in his death. At the sake of repetition, we may say that PW37 has categorically opined that injury Nos. 3 & 11 are sufficient enough to cause death in the ordinary course of nature. If so, from the manner in which the crime was perpetrated by using deadly weapons such as swords and knife, it can without any doubt be stated that the accused have indeed intended to inflict the particular injuries, which are sufficient to cause death in the ordinary course of nature. Hence, in the light of the facts and circumstances, as discussed afore, it

can be stated without any doubt that the present case will squarely fall under Clause 3 of Section 300 IPC. (See *Virsa Singh v. State of Punjab* (AIR 1958 SC 465) and *Anbazhagan v. State* (2023 SCC OnLine SC 857)).

46. The upshot of the afore discussions is that the prosecution has convincingly proved that the appellants/accused Nos. 1 to 5 and 8 have committed the offences punishable under

Sections 143,147,323,324,326,307,450,302 read with Section 149 IPC and accused Nos. 1 to 5 have committed the offence punishable under Section 148 of IPC. But, it has failed to prove that accused Nos. 1 to 3 & 5 have committed the offence punishable under Section 120(B) of IPC. This, in turn, means that, the appeals filed by accused Nos. 4 & 8 are liable to be dismissed and the appeals filed by accused Nos. 1 to 3 & 5 are liable to be allowed in part, thereby setting aside the conviction and sentence imposed upon them under Section 120(B) of IPC and confirming the conviction and sentence under other offences. In the result:

i) Criminal Appeal Nos.887/2021 and 237/2023 are dismissed. ii) Criminal Appeal Nos. 986/2021, 570/2021, 511/2021 and 1. The conviction and sentence imposed by the trial court upon appellants/accused Nos. 1 to 3 & 5 under Section 120(B) read with Section 302 IPC is set aside.

2. The conviction and sentence imposed by the trial court on the appellants/accused Nos. 1 to 3 & 5 under the other sections are upheld. Sd/- RAJA VIJAYARAGHAVAN V Judge Sd/- P.V.BALAKRISHNAN dpk Judge

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