

Raghavan @ Veerappan vs State of Kerala

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Court : Kerala

Decided On : Sep-29-2023

Judge : Honourable Mr. Justice P.Somarajan

Appeal No. : CRL.A/1534/2006

Appellant : Raghavan @ Veerappan

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.SOMARAJAN
FRIDAY, THE 29th DAY OF SEPTEMBER 2023 / 7TH ASWINA, 1945
CRL.A NO. 1534 OF 2006 AGAINST THE JUDGMENT DATED
04.03.2006 IN SC 166/2005 OF ADDITIONAL SESSIONS COURT
(ADHOC)-II, THODUPUZHA CP 32/2005 OF JUDICIAL MAGISTRATE
OF FIRST CLASS -I (FOREST OFFENCES), THODUPUZHA

APPELLANT/ACCUSED: RAGHAVAN @ VEERAPPAN, S/o KELA,
KUZHIPLACKAL VEEDU, MORKADU KARA, KUDAYATHOOR
VILLAGE, THODUPUZHA. BY ADVS. SRI.C.M.TOMY SRI.MATHEW
SKARIA RESPONDENT/COMPLAINANT: STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF

KERALA, ERNAKULAM. BY PUBLIC PROSECUTOR SMT M.N. MAYA
THIS CRIMINAL APPEAL HAVING COME UP FOR HEARING ON
29.09.2023, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING: Crl.Appeal No.1534 of 2006 2

JUDGMENT

The prosecution was initiated based on a police charge for the offence punishable under Section 308 IPC against the accused and the accused was ultimately found guilty of the offence under Section 324 IPC. As such, the accused was acquitted for the offence under Section 308 IPC, but convicted for the offence under Section 324 IPC and sentenced to undergo rigorous imprisonment for two years and fine of Rs.5,000/-, in default to undergo rigorous imprisonment for six months, against which the accused came up.

2. It is an appeal of the year 2006. The counsel for the appellant remained absent continuously. As such, this court was forced to appoint an amicus curiae. Heard Smt. Swapna Vijayan, Amicus Curiae and the learned Public Prosecutor.

3. The very substratum of the case regarding the

injuries originated and caused to the de facto complainant Crl.Appeal No.1534 of 2006 3 covered by Ext.P2 wound certificate, eight in numbers, are as follows: 1. Laceration on left infra orbital region of face 1x0.5x0.5cm size.

2. Abrasion 2x1cm x bone deep.

3. Laceration 3x1cm x bone deep near hair line centrally.

4. Laceration 4x2x1 cm near hair line left side.

5. Laceration 1x0.5x0.5cm near hair line left side.

6. Laceration 3x1 cm above left eye brow.

7. Laceration 1x0.5x0.5cm near medial end of left eye brow.

8. Left upper and lower eye lid odema with blackening.

4. All the injuries are lacerations and abrasion. PW1 and PW2 are in agreement with respect to the cause of injury and the manner in which the alleged incident had happened. The name of the accused also found a place in the wound certificate, which gives sufficient corroboration Crl.Appeal No.1534 of 2006 4

to the oral testimony given by PW1 and PW2. Further, the material object used for the commission of alleged offence is also mentioned in the wound certificate as a stone and

the incident is stated as by hitting

certificate and attended the victim at first, PW1 is the de facto complainant. As such, the finding of guilt of accused and the conviction for the offence under Section 324 IPC being a minor offence under Section 308 IPC deserves no interference.

5. Regarding the sentence, it should reflect a proper balance between the mitigating and aggravating

circumstances. The injuries are eight in numbers. But, all the injures are mere abrasion and lacerations, though the weapon used for inflicting injury, MO1, can cause bodily injury sufficient to lead death of the person concerned. No cross appeal was filed by the State Government regarding the finding pertaining to the offence under Section 308

IPC. The substantial sentence of two years simple Crl.Appeal No.1534 of 2006 5 imprisonment and a fine of Rs.5,000/- with default sentence of six months imprisonment is so exorbitant and will not strike a balance between the mitigating, extenuating and aggravating circumstances. As such, there is failure on the part of the Sessions Court to apply the mitigating principles in its correct perspective with the aid of mischief sought to be suppressed. Necessarily, the substantial sentence can be reduced to two months simple

imprisonment and a fine of Rs.5,000/- ,

The appeal will stand allowed accordingly. Sd/- P.SOMARAJAN JUDGE DMR/-

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