

**Dasan vs State of Kerala**

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**SooperKanoon Citation :** [sooperkanoon.com/1350237](https://sooperkanoon.com/1350237)

**Court :** Kerala

**Decided On :** Sep-25-2023

**Judge :** Honourable Mr.Justice C.S.Dias

**Appeal No. :** Crl.Rev.Pet/1966/2011

**Appellant :** DASAN

**Respondent :** State of Kerala

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS MONDAY, THE 25TH DAY OF SEPTEMBER 2023 / 3RD ASWINA, 1945 CRL.REV.PET NO. 1966 OF 2011 (AGAINST THE CONVICTION AND SENTENCE IMPOSED BY JUDGMENT DATED 25-3-2011 IN CRL.A. NO.664 OF 2005 ON THE FILE OF COURT OF ADDITIONAL SESSIONS JUDGE, ADHOC I, THALASSERY AGAINST THE CONVICTION AND SENTENCE IMPOSED BY

**JUDGMENT DATED 08-11-2005 IN CC NO.23 OF 2004 ON THE FILE OF CHIEF**

JUDICIAL MAGISTRATE, THALASSERY) REVISION  
PETITIONER/APPELLANT/ACCUSED: 1 DASAN S/O.KUNHAMBU, MEENOTHU  
THOTHEN HOUSE, ANJARAKANDY AMSOM/DESOM,, KANNUR DISTRICT. BY  
ADV SRI.P.K.RAVISANKAR RESPONDENTS/STATE & DEFACTO  
COMPLAINANT: 1 STATE OF KERALA REPRESENTED BY PUBLIC  
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM. 2  
V.V.CHANDRASEKHARAN S/O.KUNJIKANNAN VALIYAVALLAPPIL HOUSE,  
NAREEKODE MAMBA DESOM, ANJARAKANDY VILLAGE, MOZHAPPALA  
POST, KANNUR DISTRICT. BY ADVS. SMT PUSHPALATHA M K, SR PP  
SRI.D.ANIL KUMAR THIS CRIMINAL REVISION PETITION HAVING COME UP  
FOR ADMISSION ON 25.09.2023, THE COURT ON THE SAME DAY  
DELIVERED THE FOLLOWING:

**C. S. DIAS, J.**

----- Dated this the 25th day of September, 2023

## **ORDER**

The revision petition is filed challenging the

### **correctness and propriety of the judgment**

passed by the Court of Sessions, Thalassery (Appellate Court) in Crl.A.  
No.664/2005, whereby the appeal filed by the revision petitioner was dismissed,  
confirming the

### **judgment passed by the Court of the Chief**

Judicial Magistrate, Thalassery in C.C No.23/2004 (Trial Court), convicting the  
revision petitioner for an offence under Section 326 of the Indian Penal Code (in  
short, IPC) and sentencing him to undergo rigorous imprisonment for a period of  
three years and to pay a fine of Rs.5,000/-, and in default to undergo rigorous  
imprisonment for a further period of six months. The prosecution case in brief

2. The prosecution case as that, on

02.12.2003, while CW1 was returning to his house along the public road in Anjarakandi Panchayath, the revision petitioner/accused on account of his previous enmity and with an intention to cause hurt, hit CW1 on the left side of his face and on his left leg with a spade handle and caused grievous hurt to CW1 and a loss of Rs.11,000/-. Trial Court

3. The revision petitioner denied the

substance of accusation made against him. In trial, the prosecution examined PW1 to PW10 and marked Exts.P1 to P6 in evidence. The revision petitioner denied the incriminating circumstances put to him in the questioning under Section 313 of the Code of Criminal Procedure (in short, Cr.P.C.). Thereafter, the revision petitioner examined DW1 and marked Exts.D1 to D3 in evidence.

## **Trial Court Judgment**

4. The Trial Court, after analysing the

materials on record, convicted the revision petitioner for the offence under Section 326 of the IPC and ordered him to undergo sentence as stated above. The Appellate Court

5. Aggrieved by the said judgment, the revision petitioner preferred Crl.A. No.664/2005 before the Appellate Court.

## **The Appellate Court Judgment**

6. The Appellate Court, after re- appreciating the materials on record, dismissed the appeal and confirmed the conviction and sentence passed by the Trial Court.

7. It is questioning the concurrent judgments of the courts below that the present revision petition is filed.

8. Heard; Sri.P.K.Ravishankar, the

learned counsel appearing for the revision petitioner, Smt. Pushpalatha M.K. the learned Senior Public Prosecutor for the first respondent-State and Sri.D.Anilkumar, the learned counsel appearing for the second respondent/de facto complainant.

9. Today, when the revision petition was

taken up for consideration, the learned counsel appearing for the parties submitted that the subject matter in dispute between the parties has been settled and the second respondent has filed an affidavit stating that the dispute has been amicably settled and the revision petitioner has paid an amount of Rs.25,000/- as compensation, and they are relatives. Therefore, the second respondent has no objection in the revision petition being allowed.

10. The learned Public Prosecutor, on

instructions, submitted that the settlement arrived between the revision petitioner and the second respondent is genuine and bonafide and the State has also no objection in the revision petition being allowed.

11. This Court in *Soban v. State of Kerala*

[2021 (3) KLT Online 1179], after referring to the decisions of the Hon'ble Supreme Court in *Joshi v. State of Haryana* [2008 (2) KLT 1062]; *Gian Singh v. State of Punjab* [2012 (4) KLT 108 (SC)]; *Bitan Singh Gupta & Anr. v. State of West Bengal & Anr.* [2018 (1) KLT Online 3156 (SC)] and decisions of this Court in *Renjith v. State of*

**Kerala [2019 (4) KLT 5N41 (C. No.56] has held**

that if the requirements of Section 482 of the Cr.P.C. are satisfied, in the sense that it is necessary to prevent abuse of the process of the Court or to secure the ends of justice, criminal proceedings involving non-compoundable offences can be quashed, notwithstanding the fact the order of conviction has been passed against the accused provided the

offence does not fall within the category of offences prohibited to be quashed as per the

**guidelines laid down in Gian Singh (Supra) and**

the other decisions on the point.

12. I am in total agreement with the principles laid down in Soban (Supra).

13. Having considered the facts, on reding the affidavit of the second respondent and

taking into consideration the law laid down by this Court and the Hon'ble Supreme Court in the afore-cited precedents, I am inclined to invoke the plenary powers of this Court under Section 482 of the Cr.P.C. and set aside the conviction and sentence imposed by the courts below by the impugned judgments, which will augur the relationship and harmony between the parties and meet the ends of justice.

14. In the result,

(i) The conviction and sentence imposed by the Court of Session, Thalassery in Crl.A. No.664/2005 and the Court of the Chief Judicial Magistrate, Thalassery in C.C. No.23/2004 are set aside.

(ii) All proceedings in Crime No.399/2003 of the Chakkarakkal Police Station are quashed.

(iii) The bail bonds executed by the revision petitioner/accused and the sureties are hereby cancelled.

(iv) The fine amount, if any, remitted by the revision petitioner/accused, pursuant to the

**order passed by this Court, shall be released to**

the second respondent/de facto complainant, in accordance with law. Sd/- C. S.  
DIAS JUDGE SKP/25-09

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