
(2012) 11 KL CK 0123

In the High Court Of Kerala

Case No : Criminal Rev. Petition No. 811 of 2002

Prakashan and Others

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 05-11-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 357(1), 447
Penal Code, 1860 (IPC) — Section 34, 342, 447

Citation : (2012) 11 KL CK 0123

Hon'ble Judges : S. Siri Jagan, J

Bench : Single Bench

Advocate : Rajit, for the Appellant; Biju Meenattoor Public Prosecutor, for the Respondent

Judgement

Justice S. Siri Jagan

1. Criminal R.P. 811/2002 is filed by the accused in C.C. No. 360/1996 before the Judicial First Class Magistrate, Chavakkad. They were prosecuted for offences punishable under Sections 447 and 342 read with Section 34 of the Indian Penal Code. The Magistrate convicted them and sentenced them to undergo simple imprisonment for three months each and to pay a fine of Rs. 5000/- each with a default sentence for 1= months and if the fine amount is realised, Rs. 2,000/- each was directed to be given to PWs 1 to 4 as compensation for the injuries suffered by them, u/s 357(1) of Criminal Procedure Code. The petitioners were acquitted of the offence punishable u/s 447. The petitioners challenged the judgment of the Magistrate by filing Crl. A. No. 393/1999 before the Sessions Judge, Thrissur. The Sessions Judge, while confirming the conviction, set aside the punishment of imprisonment and confined the punishment to payment of compensation of Rs. 8000/- to be paid by each of the accused to PWs 1 to 4. The judgments of the courts below has been challenged by the accused in Criminal R.P. No. 811/2002. Criminal R.P. 1225/2002 is filed by the de facto complainant challenging the judgment of the appellate court contending that without a

substantive sentence, the Sessions Judge could not have confined the punishment to one of payment of compensation. The learned counsel for the petitioners in Criminal R.P. 811/2002 submitted that the petitioners have already deposited Rs. 16,000/- directed by the courts below and insofar as there is no punishment of imprisonment, they are not particular to prosecute the Criminal R.P. unless the de facto complainants want to prosecute their Criminal R.P.

I have considered the matter. I am of opinion that the punishment can be suitably modified to satisfy both. I put it to the petitioners in Criminal R.P. 811/2002 as to whether they are prepared to pay Rs. 8000/- each more to the de facto complainants. They have agreed to do the same. In the above circumstances, the judgment of the Sessions Court is modified as follows:

The punishment is converted as one for payment of fine of Rs. 32,000/- with a default sentence of imprisonment for three months. The fine amount, if realised, shall be paid to the de facto complainants, who are the petitioners in Criminal R.P. 1225/2002. Needless to say, the petitioners in Criminal R.P. 811/2002 shall be given due credit for the amounts, if any, deposited by them pursuant to the impugned judgment. If the petitioners in Criminal R.P. 811/2002 do not pay the fine amount by 1.12.2012, the Magistrate shall execute the default sentence.

The Criminal R. Ps. are disposed of as above.