



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

TUESDAY, THE 24TH DAY OF JUNE 2025 / 3RD ASHADHA, 1947

CRL.REV.PET NO. 162 OF 2013

AGAINST THE JUDGMENT DATED 15.12.2012 IN CRL.A NO.196
OF 2011 OF III ADDITIONAL SESSIONS COURT, KOLLAM ARISING OUT
OF THE JUDGMENT DATED 06.05.0011 IN CC NO.1017 OF 2005 OF
JUDICIAL MAGISTRATE OF FIRST CLASS COURT, KARUNAGAPPALLY

REVISION PETITIONER/APPELLANT/ACCUSED:

MANOJ
S/O.GOPALAKRISHNAN,
MANNOORTHARAYIL VEEDU,
MIDAPPALLI MURI,
PANMANA VILLAGE, KOLLAM DSITRICT.

BY ADV SHRI.B.MOHANLAL, SMT.PREETA P.S.

RESPONDENT/RESPONDENT/COMPLAINANT & STATE:

1 STATE OF KERALA
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
CHAVARA POLICE STATION, KOLLAM DISTRICT,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.



ADDL.R2 *ADDL.R2 IMPEADED
GOPALAKRISHNA PILLAI
S/O PARAMESWARAN PILLAI,
INDEEVARAM, EDAPPALLYKOTTA P.O.,
CHAVARA, KARUNAGAPPALLY, KOLLAM
ADDL.R2 IS IMPEADED AS PER ORDER DATED 20.08.2013
IN CRL.M.A.731/13 IN CRL.R.P.NO.162/2013.

BY ADV SRI.S.RAJEEV

OTHER PRESENT:

SR PP, E C BINEESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY
HEARD ON 24.06.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



“CR”

ORDER

This Criminal Revision Petition has been directed against the judgment dated 15.12.2012 in Crl.A.No.196 of 2011 on the files of the III Additional Sessions Court, Kollam (for short, 'the appellate court') confirming the judgment of conviction and sentence in C.C.No.1017 of 2005 on the files of the Judicial First Class Magistrate Court, Karunagappally (for short, 'the trial court').

2. The petitioner is the accused, and the 2nd respondent is the *de facto* complainant in C.C.No.1017 of 2005 on the files of the trial court. The petitioner faced trial for the offence punishable under Section 324 of IPC.

3. The petitioner and the daughter of the 2nd respondent were admittedly in love. The prosecution case, in short, is that on 11/05/2005 at about 09.20 p.m., the petitioner intentionally hit his motorbike bearing Registration No.KL-2U-7283 on the back of the 2nd respondent while he was walking through the side of Edappallikotta



Junction - Panmana Asramam public road after his duty and due to the impact of the hit, the 2nd respondent fell and sustained injury to his lower lip. It is alleged that the petitioner did the above act since the 2nd respondent questioned the relationship of the petitioner with his daughter,

4. Before the trial court, PWs 1 to 7 were examined and Exts.P1 to P11 were marked on the side of the petitioner. No defence evidence was adduced. After trial, the trial court found the petitioner guilty of the offence punishable under Section 324 of IPC and he was convicted for the said offence. He was sentenced to undergo simple imprisonment for six months and to pay a fine of Rs.2,000/- in default to suffer simple imprisonment for one month for the offence punishable under Section 324 of IPC. The petitioner preferred Crl.A.No.196 of 2011 before the appellate court, challenging the conviction and sentence of the trial court. The appellate court dismissed the appeal. This revision petition has been filed challenging the conviction and sentence passed by the trial court as well as the appellate court.



5. I have heard Smt.Preetha P.S., the learned counsel for the revision petitioner, Sri.S.Rajeev, the learned counsel for the 2nd respondent and Sri.E.C.Bineesh, the learned Senior Public Prosecutor.

6. The learned counsel appearing for the petitioner impeached the findings of the trial court as well as the appellate court on the appreciation of evidence and resultant findings as to guilt. The learned counsel submitted that PWs 2 and 3 are interested witnesses, and the evidence of PWs 1 to 3 relied on by the trial court as well as the appellate court, is contradictory to each other. The counsel further submitted that the conviction under Section 324 of IPC is bad since the bike allegedly used to cause hurt to the 2nd respondent is not a dangerous weapon to attract the offence under Section 324 of IPC. The learned counsel also submitted that, at any rate, the substantive sentence imposed is excessive. The learned Prosecutor as well as the learned counsel for the 2nd respondent, on the other hand, supported the findings and verdict handed down by the trial court as well as the appellate court and argued that necessary ingredients of Section 324



of IPC had been established and the prosecution had succeeded in proving the case beyond reasonable doubt.

7. The prosecution mainly relied on the evidence of PWs 1 to 3 and PW5 to prove the incident and to fix the culpability on the petitioner. PW1 is the *de facto* complainant and the injured. PWs 2 and 3 are two independent witnesses. PW1 deposed that on 11/05/2005 at about 9.20 p.m., after his duty, he on the way to his house had alighted at Edapallikotta Junction and proceeded 10-20 feet along Edapallikotta – Panmana Asramam road through the southern side of the road and when he reached in front of the shop of PW2, the petitioner came from behind in a motorbike and hit the motorbike on his back and back of his left thigh and due to the impact of the hit, he fell on the southern side of the road and sustained injury on his lip and pain on his back, thigh, ankle and little finger. He further deposed that the people assembled there took him to the Taluk Headquarters Hospital, Karunagappally, where he was admitted as an inpatient. He also spoke about the motive. According to him, the petitioner had enmity towards him as he had questioned



his relationship with his daughter. PWs 2 and 3 are the occurrence witnesses. PW2 was the owner of the shop in front of which the incident occurred. PW3 was a headload worker in the locality. Both PWs 2 and 3 deposed in tune with the evidence given by PW1 regarding the incident. Though PWs 1 to 3 were cross-examined at length, nothing tangible could be extracted to discredit their testimony. The evidence of the injured and the occurrence witnesses is supported by the medical evidence. It has come out in evidence that immediately after the incident, the 2nd respondent was taken to Taluk Headquarters Hospital, Karunagappally, where he was treated as an inpatient. Ext.P3 is the wound certificate, and Ext.P4 is the discharge certificate. Exts.P3 and P4 were proved through PW5. The medical evidence would show that the 2nd respondent sustained injury in the incident.

8. The defence has virtually admitted the incident. According to the petitioner, his motorbike accidentally hit on the back of PW1, and since PW1 had vengeance against him, a false case has been foisted. However, PW1 had categorically deposed that before hitting



him with the motorbike, the petitioner had asked him, “What would you do if he (accused) harassed his (PW1) daughter?”. It clearly shows the motive behind the act and the intentional act on the part of the petitioner. Therefore, the defence claim of it being an accident can very well be ruled out. The prosecution had succeeded in proving the incident beyond reasonable doubt through the evidence of PWs 1 to 3 and PW5.

9. The learned counsel for the petitioner submitted that the motorbike cannot be termed as a weapon or instrument to attract the offence under Section 324 of IPC, and hence, the conviction under Section 324 of IPC cannot be sustained. According to the learned counsel, a motorbike is a means of conveyance and not a weapon.

10. Section 324 of IPC reads as follows:

“324. Voluntarily causing hurt by dangerous weapons or means.—Whoever, except in the case provided for by section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or



any corrosive substance, or by means of any explosive substance or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.”

Section 324 of IPC addresses the offence of voluntarily causing hurt by dangerous weapons or means. The term “dangerous weapon” is not expressly defined in IPC. However, Section 324 specifies various instruments through which hurt could be inflicted. To attract the provision, the accused must have intentionally caused hurt to another person, and the said hurt must be inflicted by one of the specified categories of instruments outlined in the Section. The provision specifically mentions instruments for shooting, stabbing or cutting. It also mentions any instrument which, when used as a weapon of offence, is likely to cause death. This is a broader category that includes any object that, based on its nature and how it is used, could cause death.



11. The term “instrument” is also not defined in the IPC. According to Webster's Third New International Dictionary, “instrument” means “a means whereby something is achieved, performed, or furthered”. The Websters' New International Dictionary, 1926 Edition, speaks of instrument as that by means of which any work is performed or result is effected: one that is made a means, or is caused to serve a purpose, a medium, means or agent. The Shorter Oxford English Dictionary, Vol. I. 1933 Edition defines it as a thing with or through which something is done or effected; a means, a tool, implement, weapon, a part of the body having a special function. In the ordinary primary sense, an instrument has been defined as “by means of which something is done, one who or that which, is made a means or caused to serve a purpose: the agent or means of anything: and more specifically, the means, or the implement or tool, by which work is done”. The Supreme Court considered the expression “any instrument which, used as a weapon of offence, is likely to cause death” in relation to Section 326 of IPC in ***Mathai v. State of Kerala*** [(2005) 3 SCC 260] and opined that



the expression has to be gauged taking note of the heading of the section and what would constitute a “dangerous weapon” would depend upon the facts of each case and no generalization can be made.

12. In Section 324 of IPC, there is no description of any weapon as such. As per the said provision, the offence would be attracted if a person voluntarily causes hurt to another person by the use of any instrument for shooting, stabbing or cutting or any instrument which, used as a weapon of offence, is likely to cause death. The expression “any instrument which is used as a weapon” gives a significantly broader scope to the said provision, capable of taking within it any instrument which does not have the characteristics of a weapon under normal circumstances, provided the same was used as a weapon to cause hurt. The, emphasis is on any “instrument which used as a weapon” and the instrument as such doesn't need to be a weapon in its original form [See ***Vineesh v. State of Kerala***, 2023 (4) KLT 686]. Thus, the term “instrument” refers not only to instruments specifically mentioned in the section



such as those used for shooting, stabbing or cutting, but also an object that when used as a weapon of offence has the potential to cause death. Essentially any object that could be used to cause hurt in a dangerous way, as defined in the section, can be considered an instrument under Section 324. Whether a thing or object is considered as a weapon or not depends on the nature of its use. The things which are not normally considered or termed as a weapon would attain the character of a weapon when the same is used to commit an offence affecting the human body. A motorbike, if used to strike or run over someone, could cause their death. While a motorbike is not inherently a weapon, its potential to cause death or serious injury when used to injure someone qualifies it as a dangerous weapon in such circumstances. Therefore, a motorbike can be considered a dangerous weapon outlined in Section 324 of the IPC if it is used to cause harm to another person.

13. The evidence of PWs 1 to 3 prove that the petitioner used the motorbike as an instrument with the intent to cause hurt to the 2nd respondent and by such use, he had voluntarily caused hurt to



him. Hence, the offence under Section 324 of IPC is attracted. I see no reason to interfere with the finding of conviction rendered by the trial court as well as the appellate court.

14. What remains is the sentence. As stated already, the trial court sentenced the petitioner to undergo simple imprisonment for six months and to pay a fine of Rs.2,000/- with default sentence, which was confirmed by the appellate court. The learned counsel for the petitioner submitted that considering the background, the facts and circumstances of the case and also the nature of injury sustained by the 2nd respondent, the substantive sentence may be reduced to imprisonment till the rising of the court. The said submission of the learned counsel for the petitioner is opposed by the learned counsel for the 2nd respondent.

15. The incident took place in the year 2005. Now, more than 20 years have elapsed. The petitioner has been facing the ordeal of prosecution all these years. Admittedly, the petitioner was in love with the daughter of the 2nd respondent. The learned counsel for the 2nd respondent submitted that the daughter of the 2nd respondent is



married and leading a peaceful life. Exts.P3 and P4 would show that the injury sustained by the 2nd respondent was minor. Considering all these facts and circumstances, the substantive sentence imposed by the trial court and confirmed by the appellate court can be reduced to imprisonment till the rising of the court. However, the petitioner shall be directed to pay compensation to the 2nd respondent under Section 357(3) of Cr.P.C.

16. In the light of the above findings, the conviction of the petitioner under Section 324 of IPC is confirmed. He is sentenced to imprisonment till rising of the court and is directed to pay a compensation of Rs. 50,000/- (Rupees fifty thousand only) to the 2nd respondent, in default, to suffer simple imprisonment for three months.

The Criminal Revision Petition is allowed in part as above.

Sd/-

DR.KAUSER EDAPPAGATH, JUDGE

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