

**IN THE COURT OF THE SESSION, THRISSUR SESSIONS
DIVISION**

Present:-

Sri. V. Vinod, Asst. Sessions Judge, Chavakkad.

Thursday, the 7th day of September, 2023.

(16th Badhra , 1945 S.E.)

SESSIONS CASE NO. 352/2020

- Complainant : State rep. by : Sub Inspector of Police,
Kunnamkulam police station.
(Cr. No. 957/2019 of Kunnamkulam Police
station)
- Accused : 1. Binil.T.B., S/o. Balachandran,
Thachattiri House, Thippilassery,
Perumbilavu.
2. Dibeesh, S/o. Sankarankutty,
Kechery Valappil House,
Thippilassery, Perumbilavu.
3. Adarsh.T.S., S/o. Sankarankutty,
Thachattil House, Thippilassery,
Perumbilavu.
4. Lijin Rajan.M.K., S/o. Rajamohan,
Madathil Kalaparambil House,
Karikkadu, Thippilassery, Perumbilavu.
5. Siby.K.C., S/o. Chandran, Kakkadath
House, Thippilassery, Perumbilavu.
6. Ridhun.T.R., S/o. Raveendran,
Thippilassery House, Thippilassery,
Perumbilavu.
7. Vineesh.K.V.@ Manu, S/o. Vijayan,
Koyampattayil House, Thippilassery,
Perumbilavu.
8. Babu.K.B., S/o. Bhaskaran,
Koyampattayil House, Thippilassery,
Perumbilavu.
- Charge : Under Sections 143, 147, 148, 323, 324, 326,
308, 506 r/w 149 IPC

Plea of the accused : Not Guilty
Sentence or order : The offence u/s 308 r/w 149 of IPC is not made out against the accused. Hence the accused is discharged for the offence punishable u/s 308 r/w 149 of IPC. However charge will have to be framed against the accused u/ss. 143, 147, 148, 323, 324, 326, 506(ii) r/w 149 of IPC.
Name of the committing : Sri. Varun.K.S., Judicial Magistrate of First Magistrate Class, Kunnamkulam (C.P. 96/2019).
Prosecution conducted : Adv. K.R. Rejith Kumar, Public Prosecutor.
by
Accused defended by : Adv. K.N. Prasanth

Date of:

Occurrence : 3.10.2019
Complaint : 4.10.2019
Commitment : 24.2.2020
Sentence or Order : 7.9.2023
Explanation for delay : Due to Covid-19 Restrictions.

Foot Note:-

Crime No. & Name of Police Station : Cr. No. 957/2019 of Kunnamkulam Police station

The Sessions Court delivered the following:-

ORDER

The accused in the above case are facing trial for offences punishable u/ss. 143, 147, 148, 323, 324, 326, 308, 506 r/w 149 of IPC based on the final

report submitted by Sub Inspector of Police, Kunnamkulam.

2. The facts of the case, in brief, is as follows: At 3:15 p.m. of 03.10.2019 Mahesh, S/o Mani who was admitted at Royal Hospital, Kunnamkulam launched a complaint against the accused wherein it has been stated that at 9 p.m. of 03.10.2019 from the vacant plot of Arumukhan situated near Yuva Bhavana Club, the accused and other 7 persons came near him and attacked. Bibish attacked him with a sword stick on the back on his head. Adarsh attacked him with a knuckle duster on his nose. Lijin attacked him with an iron pipe on his left shoulder. Others hit him on his body and also kicked him. It is further alleged that the assault was made by declaring to kill him. When Bibish attacked him he evaded the assault and if it was not evaded it would have caused his death. It is further alleged that the accused assaulted his friends Jishnu, Subeesh and Jithin. Based on the above complaint a case was registered against the accused and 7 others u/ss. 143, 147, 148, 323, 324, 326, 308, 506 r/w 149 of IPC .

3. The investigation was taken up by S.I of Police, Kunnamkulam. During the course of the investigation it came to light that the accused have not used sword stick and the weapons used by the accused were knuckle duster, iron liver, granite stone, iron pipe and aanippara. The name of unknown persons were

deleted. After the completion of investigation a final report was filed against the accused alleging the aforesaid offences before the Judicial First Class Magistrate, Kunnankulam u/s 173(2) of Cr.P.C. The case was taken on file by the learned Magistrate as CP 96/19. The accused appeared before that court. After complying with the formalities the case was committed to the Court of Session on 24.02.2020. The case was taken on file by the Hon'ble Sessions Court on file as SC 352/20 and was made over to this court for disposal.

4. All accused appeared. Heard the accused and the prosecution on question of charge and perused the records.

5. On going through the records, I am of the considered view that there are sufficient materials before this court to presume that the accused have committed offences punishable u/ss. 143, 147, 148, 323, 324, 506(ii), 326 r/w 149 of IPC. However with regard to offence u/s 308 of IPC, it is the case of the victim that he was assaulted with knuckle duster, iron liver, stone, iron pipe and aanippara. The victim has sustained a lacerated wound left parietal scalp of head, contused abrasion with edema left lower eye lid, contused abrasion linear vertical area 5 x 1 c.m. with multiple puncture mark and fracture nasal born. On going through the records of the case what is seen is that the 2nd accused has attacked the first informant with a iron liver. This was evaded by the first

informant. However he sustained injury on his head. Later on the 3rd accused Adarsh attacked him with a stone, the 4th accused Lijin attacked him with an iron pipe. Except the assault by the 2nd accused on head no other assault were on the vital parts of the body. After the assault by the 2nd accused, 3rd and 4th accused attacked the victim. However they did not attacked him on his vital parts. So it can be seen that the intention of the accused was not to commit culpable homicide of the first informant as alleged by the prosecution. Hence I am of the considered view that offence u/s 308 r/w 149 of IPC is not made out against the accused. Hence the accused is discharged for the offence punishable u/s 308 r/w 149 of IPC. However charge will have to be framed against the accused u/ss. 143, 147, 148, 323, 324, 326, 506(ii) r/w 149 of IPC.

(Dictated to the Confidential Assistant, transcribed by her, corrected and pronounced by me in open court, on this the 7th day of September, 2023).

Sd/-

V. VINOD,
ASSISTANT SESSIONS JUDGE.

/True copy/

ASSISTANT SESSIONS JUDGE.