



2025:KER:30746

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE C.S. SUDHA

THURSDAY, THE 10TH DAY OF APRIL 2025 / 20TH CHAITHRA, 1947

CRL.A NO. 1136 OF 2009

AGAINST THE JUDGMENT DATED 26/07/2008 IN CC NO.536 OF
2007 OF CHIEF JUDICIAL MAGISTRATE ,THALASSERY

APPELLANT/COMPLAINANT:

CHANDRI.C.V. ,
D/O C.K.KUNHIRAMAN,
SHAKKEER QUARTERS, (PO) VARAM,, THALASSERY.

BY ADV SMT.K.V.BHADRA KUMARI

RESPONDENTS/ACCUSED AND STATE:

- 1 ADV.NAVANEETH KRISHNAN
S/O.V.V.PRABHAKARAN,
THEENDAKKARA HOUSE,
MATTANKIEL, KANNAPURAM AMSOM,
KANNAPURAM DESOM,
P.O.MOTTAMMAL, KANNUR.
- 2 SUJEER, S/O LATE T.P.RAVEENDRAN,
AGED 29 YEARS, MARUTHIYAD HOUSE,,
MOTTAMMALTHEKKU, KANNAPURAM AMSOM,
KANNAPURAM DESOM, P.O.MOTTAMMAL, KANNUR.
- 3 SURESH.T. , S/O RAJAGOPALAN, AGED 31
YEARS, THEENDAKKARA HOUSE, MATTANKIEL,,
KANNAPURAM AMSOM, KANNAPURAM DESOM, P.O. ,
MOTTEKKAL, KANNUR. (ABSCONDING)
- 4 CHANDRAMATHI T. TEACHER,
ELAYAVOOR U.P.SCHOOL,
P.O.MUNDAYAD, KANNUR DISTRICT.



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5 STATE OF KERALA REPRESENTED BY
 PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

 BY ADV SRI.R.SREEHARI
 SMT.SHEEBA THOMAS, PUBLIC PROSECUTOR.

 THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON
02.04.2025, THE COURT ON 10.04.2025 DELIVERED THE
FOLLOWING:



C.S.SUDHA, J.

Crl.Appeal No.1136 of 2009

Dated this the 10th day of April 2025

J U D G M E N T

In this appeal under Section 378(4) Cr.P.C., the appellant, who is the complainant in C.C.No.536/2007 on the file of the Court of the Additional Chief Judicial Magistrate, Thalassery, challenges the acquittal of respondents 1 to 4 for the offences punishable under Sections 448, 323, 294(b) read with Section 34 IPC.

2. The complainant filed a private complaint before the trial court alleging thus – accused 1 to 4 (A1 to A4) in furtherance of their common intention, on 26/09/2003 at 01:30 p.m. trespassed into the house of PW1, abused her and voluntarily caused hurt to her by beating her with their hands. Thus, as per the complaint, the accused persons were alleged to have committed the offences punishable under the aforementioned



Sections.

3. The trial court after complying with the necessary formalities took the case on file and issued summons to the accused persons. All the accused persons except A3 appeared before the trial court. After furnishing the copies of all the relevant prosecution records to A1, A2 and A4, the substance of accusation was read over and explained to them to which they pleaded not guilty.

4. PW1 to PW7 were examined and Exts.P1 to P8 were marked on the side of the complainant. After the close of the prosecution evidence, the accused were questioned under Section 313(1)(b) Cr.P.C. regarding the incriminating circumstances appearing against them in the evidence of the prosecution. The accused persons denied all those circumstances and maintained their innocence. No oral or documentary evidence was adduced by the accused.

5. On consideration of the oral and documentary evidence and after hearing both sides, the trial court by the



impugned judgment acquitted A1, A2 and A4 under Section 255(1) Cr.P.C. of all the offences alleged against them. The case against A3 was split up and refiled as C.C.No.292/2008. All the accused persons including the third accused whose case was split up by the trial court are seen to have filed the present appeal.

6. The only point that arises for consideration in this appeal is whether the finding of acquittal of the accused persons by the trial court requires any interference by this Court.

7. Heard both sides.

8. As noticed earlier, A3 who did not stand trial has also been made a party in this appeal, that is, respondent no.3. As he has not stood trial before the trial court, in this appeal I will only be considering the case against A1, A2 and A4, who stood trial.

9. I make a brief reference to the oral and documentary evidence adduced by the appellant/complainant in support of the case. The complainant examined herself as PW1 and deposed that the incident took place at about 01:30 p.m. on



26/09/2003, on which day the accused persons trespassed into her quarters. After trespassing into her house, they abused her in filthy language. She then ran into the house of PW4. The accused persons chased her and entered the house of PW4, at which place A1 beat her up. According to PW1, the second part of the incident which took place in the house of PW4 was seen by witnesses. PW1 does not specifically refer to the abusive or obscene words that are alleged to have been used by the accused persons on the said day.

9.1. PW2 deposed that on 26/09/2003 he had seen PW1 running into her quarters followed by three persons. However, he was unable to identify the persons who are alleged to have chased PW1.

9.2. PW3 deposed that the accused persons had told him about the incident narrated in the complaint. When he reached the quarters of PW1, the latter was not present there. He was told that PW1 was present in the house nearby and therefore he went there and he was then told by PW1 that she had pain on



her neck. PW1 was taken to the AKG Hospital and admitted. PW3 admitted that A1 and A4 are his son and wife respectively. After the incident, his wife had filed a case alleging commission of the offence punishable under Section 498A IPC against him.

9.3. PW4 deposed that on 26/09/2003 between 01:30 p.m. and 02:00 p.m. she heard a knock on the door. When she opened the door, PW1 ran into her house and took refuge. According to PW4, it was A1 who had beaten up PW1. She also heard the accused persons calling PW1 a prostitute. According to PW4, A4 had not directly abused PW1.

9.4. PW5, the husband of PW4 deposed that on the date of the incident they heard somebody knocking on the door. When PW4 his wife opened the door, PW1 and three persons entered their house. The said persons beat PW1. He asked the said persons to go out of his house. All the persons except PW1 went out of his house. He did not see the accused persons beating PW1. The accused persons did not assault PW1 after entering into his house. He had heard the sound of beating. PW1 was crying at that



time. PW5 also deposed that A4 had abused PW1 and said that because of PW1, she was unable to marry off her daughter.

(.....ഈ പുലയ്ക്കിട്ടി കാരണം എന്റെ മകൾക്ക് ഭർത്താവ് വരുന്നില്ല എന്ന് പറഞ്ഞത്4-ാം പ്രതിചന്ദ്രിയചിത്തവിളിച്ചത്.....).

9.5. The testimony of PW7 will show that he had not seen the incident.

9.6. PW6 deposed that while she was working as Medical Officer, AKG Hospital, Kannur, on 26/09/2003, she had examined PW1 and issued Ext.P8 wound certificate. PW1 had complained of pain on right shoulder and right side of neck.

The trial court on the basis of the aforesaid evidence found no materials to find the accused persons guilty of the offences alleged against him. As noticed earlier, PW1 does not specify the obscene words alleged to have been used by the accused persons. It is only PW5 who has referred to the obscene word alleged to have been used by A4. The evidence regarding trespass and voluntarily causing hurt is also not proved by satisfactory evidence. It appears that PW3, the husband of A4



and father of A1 was living with PW1 at the time of the incident. During the course of arguments it was submitted that PW3 and A4 are now divorced. It appears that some incident did take place. But the evidence on record is not sufficient or satisfactory to prove the offences beyond reasonable doubt against the accused persons. I do not find any infirmity in the impugned judgment in the light of the materials on record. Therefore, I find no grounds for interference. Hence, the appeal *sans* merit is dismissed.

Interlocutory applications, if any pending, shall stand closed.

Sd/-
C.S.SUDHA
JUDGE

Jms