



Crl.Appeal No.1039/2006

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

TUESDAY, THE 19TH DAY OF MAY 2026 / 29TH VAISAKHA, 1948CRL.A NO. 1039 OF 2006

AGAINST THE JUDGMENT DATED 27.05.2006 IN S.C NO.390 OF 2001
OF ADDITIONAL DISTRICT COURT (FAST TRACK-I), ALAPPUZHA ARISING OUT
OF THE ORDER/JUDGMENT IN CP NO.1 OF 2001 OF JUDICIAL MAGISTRATE OF
FIRST CLASS, RAMANKARI

APPELLANTS/ACCUSED NOS.1, 3 AND 5:

- 1 UNNIKRISHNAN, S/O. RAMANKUTTY NAIR,
PUTHUPARAMBIL VEEDU, WARD-I, NEELAMPEROOR PANCHAYATH.
- 2 MANESH, S/O. TOMY,
PANTHRANDILCHIRA VEEDU, WARD-I, NEELAMPEROOR
PANCHAYATH.
- 3 SURESH
KURUPPASSERRY VEEDU, WARD-1, NEELAMPEROOR PANCHAYATH

BY ADV SRI.C.S.MANU

RESPONDENTS/COMPLAINANT:

- 1 STATE OF KERALA
REPRESENTED BY THE CIRCLE INSEPCTOR OF POLICE,,
PULINKUNNU, NOTICE TO WHOM MAY BE SERVED ON THE, PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

ADDL.R2 MADHUSOODANAN V., AGED 54,
S/O VELUTHA, OTHALATHINADY CHIRA HOUSE,
KAINADI P.O, WARD NO.1, NEELAMPEROOR PANCHAYAT, P.O.
KAINADY, ALAPPUZHA DISTRICT, PIN - 686 534. (IMPLEADED
AS ADDL.R2 AS PER ORDER DATED 01.03.2024 IN CRL.M.APPL.
NO.2/24)



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BY ADVS.

PUBLIC PROSECUTOR SRI JAYAKRISHNAN.U

SRI.ANOOP JOSEPH FOR ADDL.R2

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 07.04.2026,
THE COURT ON 19.05.2026 DELIVERED THE FOLLOWING:



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“C.R”***A. BADHARUDEEN, J.******Crl.Appeal No.1039 of 2006-B1******Dated this the 19th day of May, 2026******J U D G M E N T***

Conviction and sentence in S.C.No.390/2001 on the files of the Additional Sessions Court (Fast Track-I), Alappuzha imposed as per judgment dated 27.05.2006 are under challenge in this appeal, filed at the instance of accused Nos.1, 3 and 5 in the above case. State of Kerala is the respondent herein.

2. Heard the learned counsel for the appellants as well as the learned Public Prosecutor appearing for the State of Kerala. Perused the verdict under challenge and the trial court records.

3. Since this is a case where two political parties are involved, they will be referred as rival political parties hereafter. Similarly the parties in the appeal will be referred as ‘prosecution’ and ‘accused’ for brevity and



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convenience.

4. The prosecution case is that the accused persons arrayed in the final report committed the offences punishable under Sections 143, 147, 148, 294(b), 323, 324, 326 and 307 r/w 149 of the Indian Penal Code ('IPC' for short).

5. The case of the prosecution is that at about 9.15 p.m on 13-6-2000, on Kainady- Era Public road in ward No.1 of Neelameroor Panchayat the accused persons out of their political enmity towards 28 year old Madhusoodhanan (injured), who owed allegiance to the rival political party, formed themselves into an unlawful assembly armed with deadly weapons, such as iron stick and hedge stake with the common object of committing rioting and committing murder of said Madhusoodanan. Then in prosecution of the aforesaid common object of the said unlawful assembly, the accused persons wrongly confined Madhusoodanan, and abused and attacked him with iron stick and hedge stake, on stating that he would be killed. The specific allegation is that the first accused beat Madhusoodanan with an iron stick on his face and left eye resulting fracture on his nasal bone and loss of his left eye sight, A2



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beat him with a hedge stake, on the dorsal side of his body. A3 also beat Madhusoodanan on his left shoulder, stating that he would not allow Madhusoodanan to live, A4 gave a blow with his knee on his umbilicus part and A5 beat Madhusoodanan with a hedge stake on the left side of his head and above the left ear. But Madhusoodanan survived the attack. On these premises the prosecution alleges commission of the above offences by the accused persons.

6. The learned Additional Sessions Judge considered the case and secured the presence of the accused persons for trial. Thereafter, charges for the said offences were framed and proceeded with trial. During trial, PW1 to PW11 were examined and Exts.P1 to P19 were marked on the side of the prosecution. In addition to that, M.O1 iron stick also was marked on the side of the prosecution. DW1 was examined and Exts.D1 to D4 were marked on the side of the defense.

7. On meticulous analysis of the evidence, accused Nos.1, 3 and 5 were found guilty of the offences punishable under Sections 143, 147, 148, 294(b), 323, 324, 326 and 307 r/w 149 of the IPC and accused Nos.1, 3 and 5 were sentenced as under:



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“Accordingly for their conviction under Section 307 r/w Section 149 IPC, the accused Nos.1, 3 and 5 are each sentenced to undergo Rigorous Imprisonment for a period of 5(five) years and to pay a fine of Rs.10,000/- (Ten thousand) each. In the default of payment of fine, the accused Nos.1, 3 and 5 shall undergo Rigorous Imprisonment for 6 (six) months each. For their conviction under Section 143 r/w. Section 149 IPC, the accused Nos.1, 3 and 5 are each sentenced to undergo Simple Imprisonment for 3 (three) months each. For their conviction under Section 147 r/w Section 149 IPC. the accused Nos. 1, 3 and 5 are each sentenced to undergo Rigorous Imprisonment for one year each. For their conviction under Section 148 r/w. Section 149 IPC, the accused Nos.1, 3 and 5 are each sentenced to undergo Rigorous Imprisonment for 2 (two) years each. For their conviction under Section 294(b) r/w. Section 149 IPC, the accused Nos. 1. 3 and 5 are each sentenced to undergo Simple Imprisonment for 2 (two) months each. For their conviction under Section 323 r/w. Section 149 IPC, the accused Nos.1, 3 and 5 are each sentenced to undergo Rigorous Imprisonment for 6 (six) months each. For their conviction under Section 324 r/w. Section 149 IPC, the accused Nos.1, 3 and 5 are each sentenced to undergo Rigorous Imprisonment for 2 (two) years and to pay a fine of Rs.3.000/- (Rupees three thousand) and on default, to suffer Rigorous Imprisonment for one month each. For their conviction under Section 326 r/w. Section 149 IPC, the accused Nos.1, 3 and 5 are sentenced to undergo Rigorous Imprisonment for 3 (three) years and to pay a fine of Rs.5,000/- (Rupees Five thousand) each and on default, to suffer Rigorous Imprisonment for 3 (three) months each. The substantive



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sentence of Imprisonment shall run concurrently. From out of the fine amount, as and when realised. a sum of Rs.25,000/- (Rupees Twenty five thousand) by way of compensation under Section 357(1) Cr.P.C. shall be paid to PW3 Madhusoodanan. The accused Nos.1, 3 and 5 shall be entitled to set off under Section 428 Cr.P.C. for the period of detention undergone by them in this case.”

8. In this case, going through the grounds argued to unsettle the verdict impugned, according to the appellants, PW3 to PW5 were close friends and they belong to same political parties and thus they are highly interested witnesses and the finding of the trial court that PW4 and PW5 were chance witnesses could not be justified. Thus the prosecution case failed to be proved beyond reasonable doubts with support of convincing evidence. Delay in lodging FIR is also raised as a ground to unsettle the verdict impugned. Later an attempt to compromise the case also has been made by filing a petition at the instance of PW3. While pursuing compromise of the matter, the learned counsel for the appellants has placed a decision of the Apex Court reported in [2021 KHC OnLine 6641 : 2021 KHC 6641 : 2021(2) KLD 828 : 2021 (12) SCALE 567 : 2021 CriLJ 4942 : AIR 2021 SC 5228 : 2021 (6) KLT OnLine 1102 : 2022 (13) SCC 635 : 2021 SCC OnLine SC 966], **Ramawatar v. State of Madhya**



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Pradesh, with reference to paragraph 13, where the Apex Court accepted compromise of a case at the post conviction stage by exercising the power under Article 142 of the Constitution of India and the offence considered therein was the offence punishable under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Even though the learned counsel for the accused was specifically asked to place any decision where the Hon'ble Supreme Court permitted compromise in a case at post conviction stage, where the trial court found commission of the offence punishable under Section 307 of IPC, he failed in this endeavour.

9. The learned Public Prosecutor resisted the contentions urged by the learned counsel for the appellants and placed a decision of the Apex Court reported in [2021 (1) KLT OnLine 1153 (SC)], **Murali v. State Rep. by the Inspector of Police**, to contend that compromise of a case at the post conviction stage involving finding of offence u/s 307 of IPC is impermissible. This is a case where the Apex Court explained the impact of Section 320(9) of Code of Criminal Procedure (Cr.P.C for short hereafter) and held that this provision would explicitly prohibit



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compounding except as permitted under the said provision and also held that the offence under Section 307 of IPC could not be compounded. In paragraph Nos. 8, 9 and 10 the Apex Court held as under:

“8. A perusal of the applications for impleadment and compounding makes it clear that the parties have on the advice of their elders entered into an amicable settlement. The Appellants have admitted their fault, taken responsibility for their actions, and have maturely sought forgiveness from the victim. In turn, the victim has benevolently acknowledged the apology, and considering the young age of the Appellants at the time of the incident, has forgiven the Appellants and settled the dispute. Learned Counsel for the victim-applicant has reiterated the same stance during oral hearings also.

9. There can be no doubt that Section 320 of the Code of Criminal Procedure, 1973 ("CrPC") does not encapsulate Section 324 and 307 Indian Penal Code under its list of compoundable offences. Given the unequivocal language of Section 320(9) Code of Criminal Procedure which explicitly prohibits any compounding except as permitted under the said provision, it would not be possible to compound the Appellants' offences.

10. Notwithstanding thereto, it appears to us that the fact of amicable settlement can be a relevant factor for the purpose of reduction in the quantum of sentence. In somewhat similar circumstances where



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the parties decided to forget their past and live amicably, this Court in Ram Pujan v. State of UP (1973) 2 SCC 456, held as follows:

“6. The only question with which we are concerned, as mentioned earlier, is about the sentence. In this respect we find that an application for compromise on behalf of the injured prosecution witnesses and the Appellants was filed before the High Court. It was stated in the application that the Appellants and the injured persons, who belong to one family, had amicably settled their dispute and wanted to live in peace. The High Court thereupon referred the matter to the trial court for verification of the compromise. After the compromise was got verified, the High Court passed an order stating that as the offence Under Section 326 of the Penal Code, 1860 was non-compoundable, permission to compound the offence could not be granted. The High Court all the same reduced the sentence for the offence Under Section 326 read with Section 34 of the Penal Code, 1860 from four years to two years.”

10. Thereafter the Apex Court described the case in paragraph 15 stating that, *the incident took place before more than fifteen years; the parties are residing in one and the same village and they are also relatives. The appellant was about 20 years of age at the time of commission of crime. It was his first offence. After conviction, the*



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petitioner was taken into custody. During the pendency of appeal before the High Court, he was enlarged on bail but, after the decision of the High Court, he again surrendered and is in jail at present. Though he had applied for bail, the prayer was not granted and he was not released on bail. Considering the toality of facts and circumstances, in our opinion, the ends of justice would be met if the sentence of imprisonment awarded to the appellant (Accused 1) is reduced to the period already undergone.”

and held in paragraph 13 as under:

“13. Given this position of law and the peculiar circumstances arising out of subsequent events, we are of the considered opinion that it is a fit case to take a sympathetic view and reconsider the quantum of sentences awarded to the Appellants. We say so because: first, the parties to the dispute have mutually buried their hatchet. The separate affidavit of the victim inspires confidence that the apology has voluntarily been accepted given the efflux of time and owing to the maturity brought about by age. There is no question of the settlement being as a result of any coercion or inducement. Considering that the parties are on friendly terms now and they inhabit the same society, this is a fit case for reduction of sentence.”

11. In addition to that, it is submitted by the learned Public Prosecutor that, in this case the prosecution categorically established the



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ingredients for the offences punishable under Sections 143, 147, 148, 294(b), 323, 324, 326 and 307 r/w 149 of the IPC relying on the evidence of PW3 to PW5, supported by the evidence of PW2 Doctor, Ext.P2 wound certificate and Ext.P3 discharge certificate. In such a case no interference in the verdict impugned is called for. It is also argued by the learned Public Prosecutor further that compromise of a case involving serious injuries which resulted in loss of the left eyesight of PW3 is unknown to law. Thus the legal position emerges from the discussion as aforesaid is emphatically clear on the point that non-compoundable offence punishable under Section 307 of IPC cannot be compounded after post conviction though compromise can have an impact in the matter of reduction of quantum of sentence. Therefore, the compromise cannot be considered and the petition for the said relief stands dismissed.

12. Now the points arise for consideration are:

(i) Whether the learned Additional Sessions Judge is right in holding that the appellants committed the offence punishable under Section 143 r/w 149 of the IPC?

(ii) Whether the learned Additional Sessions Judge is right in



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holding that the appellants committed the offence punishable under Section 147 r/w 149 of the IPC?

(iii) Whether the learned Additional Sessions Judge went wrong in holding that the appellants committed the offence punishable under Section 148 r/w 149 of the IPC?

(iv) Whether the learned Additional Sessions Judge is right in holding that the appellants committed the offence punishable under Section 294(b) r/w 149 of the IPC?

(v) Whether the learned Additional Sessions Judge went wrong in holding that the appellants committed the offence punishable under Section 323 r/w 149 of the IPC?

(vi) Whether the learned Additional Sessions Judge is right in holding that the appellants committed the offence punishable under Section 324 r/w 149 of the IPC?

(vii) Whether the learned Additional Sessions Judge went wrong in holding that the appellants committed the offence punishable under Section 326 r/w 149 of the IPC?

(viii) Whether the learned Additional Sessions Judge is right in



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holding that the appellants committed the offence punishable under Section 307 r/w 149 of the IPC?

(ix) Is it necessary to interfere with the impugned judgment in any manner?

(x) The order to be passed?

Points (i) to (x)

13. In this case, the crucial witness is PW3, who sustained serious injuries in the occurrence. He testified regarding the occurrence. According to him, the occurrence was at 9.15 p.m on 13.06.2000. While he was proceeding to his house after participating the meeting of his youth organisation held at the party office Kainady and when he reached at the scene of offence, the accused persons wrongly confined and attacked him with iron stick and hedge stakes. The 1st accused beat him with an iron stick and the same fell on his nose and left eye and the same caused serious injuries to him with bleeding. Then the 2nd accused beat him with a hedge stake on the back side of his buttock and the 3rd accused beat him with a hedge stake on his left shoulder. The 4th accused kicked him with his knee on his navel part and the 5th accused beat him with a hedge stake



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on the back of his buttock resulting bleeding injuries and he fell on the ground. He had given the names of two persons who had reached the scene of occurrence, viz, PWs 4 and 5. After sustaining injuries, he was taken to medical college Hospital, Kottayam by PWs 4 and 5, where he was admitted and treated. He further deposed that as a result of the injuries sustained, he lost his left eye sight and that he identified the accused as the assailants with the aid of street light and moon light. According to him, the accused persons, who were sympathisers of the rival political party, attacked him with their common object of committing his murder because of political rivalry, though he had survived. He testified that in the occurrence, he gave Ext. P4 First Information Statement to the Police. He identified M.O1 as the weapon of offence used by the 1st accused.

14. Apart from the evidence of PW3, PW4 and PW5 are the occurrence witnesses cited by the prosecution to prove the occurrence and to substantiate and corroborate the evidence of PW1. Among them, PW4 was the Unit Secretary of the youth organisation. His evidence is that at about 9.30 p.m on 13-6-2000, he along with PW3 came to Kainady junction after attending the meeting of youth organisation held at the office



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of the parent political party at Kainady and they talked for some time with Chidambaran (PW5). Thereafter PW3 had gone to his house. After some time, he heard a hue and cry from the road in front of old Police Station, Kainady. He went there and saw the accused persons standing there holding weapons, viz., iron stick, stick etc. They confined PW3 (Madhusoodanan) and abused and uttered obscene words on him. When Madhusoodanan implored for mercy, the 1st accused beat PW3 with an iron stick stating that he would kill him and it fell on his nose and left eye resulting bleeding injuries. Then the 2nd accused beat PW3 with a hedge stake on the back side of his body and the 3rd accused beat PW3 with a hedge stake stating PW3 not allowing them to live and it fell on his left shoulder. Then the 4th accused kicked on his abdomen and the 5th accused beat twice PW3 with a hedge stake on the left side of his head and above the left ear resulting bleeding injury. PW3 who had sustained bleeding injuries fell on the ground. Thereafter, the accused persons ran away from the place with the weapons of offence. He along with others hired a taxi and took PW3 to the Medical College Hospital, Kottayam. He stated that as a result of the injuries sustained, PW3 lost his left eye sight and the



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accused persons attacked PW3 with their common intention to do away him, who was their political rival. He identified MO.1, the iron stick used by the 1st accused to attack PW3. During his cross-examination, Ext.D1 contradiction was marked on the side of the accused.

15. One Chidambaran got examined as PW5 as an occurrence witness. He testified that he is a Fisherman, who had been residing on the northern side of the place of occurrence. He deposed that at about 9.15 p.m on 13-6-2000, he reached at kainady Junction from Kottayam. Simultaneously, PWs 3 and 4 came there after attending the meeting of their youth organisation. He had reiterated the version of PW3 and PW4 without any ambiguity.

16. Apart from the injured eye witness and the occurrence witnesses, the prosecution examined PW2 Dr.Pramod Menon, who was the Lecturer in the Department of ENT attached to the Medical College Hospital, Kottayam. His evidence is that at about 12.10 a.m on 14.06.2000, he had examined Madusoodanan (PW3) and issued Ext.P2 wound certificate and Ext.P3 discharge certificate pertaining to PW3. The injuries noted in Ext.P2 are stated as under:



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“(1) Lacerated wound 3 cm long, one cm deep at the root of the nose extending to medial Canthus of left eye.

(2) Lacerated injury 4 cm long just below left eye-brow. There is bleeding from left eye and Periorbital Edema of left eye.

(3) Lacerated wound 3 cm long on the left side of Scalp above left ear.

(4) Small abrasions 1/2 cm x 1/2 cm on the centre of left Pinna.

Further the medical evidence discloses that X-ray of the Paranasal Sinus and nasal bone and CT Scan showed fracture of nasal bone. Nasal process of left Maxilla Nasal Septum. left Maxilla and left Ethmoid Sinus. Blow out fracture of left Orbit and lens dislocation posteriorly. The patient was sent for Ophthalmology consultation, which showed Scleral Tear and Choroidal detachment. The evidence of PW2 further discloses that during the course of treatment the patient was transferred to Ophthalmology Department on 14-6-2000 and he was discharged from there on 29-6-2000. Ext. P3 is the discharge certificate pertaining to PW3 and issued by PW2. PW2 had expressed his opinion that all the injuries found on the body of the injured could be caused as alleged. The injury Nos.1 and 2 are vital part of the body and those injuries could be caused by weapons like iron rod and stick shown to him. He also expressed his opinion that injury on the left eye is sufficient to loss eye sight. There is thus overwhelming evidence to show that PW3 sustained fatal bleeding injuries resulting loss of his eye sight at about 9.15 p.m. on 13-6-2000.”

17. In the instant case, the occurrence was at 9.15 p.m on



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13.06.2000 on the road in front of old Police Station, Kainady, as deposed by PW3, PW4 and PW5, corroborated by Ext.P2 wound certificate, Ext.P5 F.I.R and Ext.P6 scene mahazar. In order to show that light was available in the place of occurrence so as to identify the assailants, the prosecution relied on Ext.P6 scene mahazar, which would show the availability of 2 street lights near the place of occurrence capable of identifying the assailants.

18. While raising plea of absolute innocence, one witness was examined on the side of the defense as DW1, who also admitted the presence of the light in harmony with the prosecution case in this regard. In the instant case, as already pointed out, the occurrence was at 9.15 p.m on 13.06.2000 and PW6, the Sub Inspector of Police, Kainady Police Station had given the evidence that Ext.P4 First Information Statement was given by PW3 (the information received from the hospital at 3.30 p.m on 14.06.2000) and recorded by Kuruvila (CW11) and accordingly crime No.25/2000 of Kainady Police Station, alleging commission of offences punishable under Sections 143, 147, 148, 294(b), 323, 324, 326 and 307 r/w 149 of the IPC and as supported by Ext.P5 FIR, was registered at once.



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Ext.P4 is the body note relating to PW3 prepared by Kuruvila, which was also marked through PW6.

19. It is argued by the learned counsel for the appellant/accused that there is no evidence to show the loss of eye sight to PW3 as opined by an Ophthalmologist. Adverting to the contentions, it is discernible that during examination, PW3 categorically stated that he had lost sight in his left eye in the occurrence. PW2 also categorically deposed that, after initial treatment, he was referred to the Ophthalmology Department on 29.06.2000, and that the injury to the left eye diagnosed therein would be sufficient to cause loss of sight in the left eye. Therefore, this contention is found to be untenable.

20. Delay in lodging the FIR has been raised as a ground to disbelieve the prosecution case. On perusal of the evidence given by PW6, the same would show that in relation to the occurrence at 9.15 p.m on 13.06.2000, FIS given by PW3 was recorded at 3.30 p.m on the next day and soon thereafter FIR was registered and the evidence would show that Kuruvila recorded the statement of PW3 at the hospital, while he was undergoing treatment pursuant to the very serious injuries, he had



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sustained in the occurrence. Therefore, there is no fatal delay in lodging the FIR and the FIR was found to be registered within a reasonable time. Therefore the challenge raised on the ground of delay in lodging the FIR is found to be unsustainable.

21. Apart from the aforesaid evidence, PW7 was examined by the prosecution to prove that there was unlawful assembly by the accused persons and he deposed in support of the prosecution stating that he saw the accused persons at 9 p.m on 13.06.2000 at the place of occurrence and he also stated that he had identified the accused in the light available from the street light. Even though Exts.D3 and D4 contradictions were extracted, during his cross examination, the same are not material contradictions to disbelieve the version of PW7.

22. Ext.P6 scene mahazar is proved through PW8 Antony Thomas. M.O1 is the iron stick recovered at the instance of the 1st accused at 12.40 p.m on 13.07.2000 as per Ext.P7 mahazar. Even though PW9 turned hostile, his evidence is that he had witnessed the recovery whereby the 1st accused voluntarily picked up M.O1 iron stick and handed over the same to the Circle Inspector of Police. He also admitted that he had put his



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signature in Ext.P7 mahazar prepared during recovery of M.O1 and he also identified the 1st accused at the dock during his examination.

23. PW10 and PW11 investigated this crime. PW10 deposed that as on 15.06.2000 he had recorded the statements of the witnesses and he had prepared Ext.P6 scene mahazar. He also deposed supporting Ext.P8 report which would show the full name and address of the accused persons as well as Exts.P9 to P13 search memorandums and Ext.P14 to P18 search lists which were proved through him. It was PW11 who recorded the statement of the 1st accused disclosing authorship of concealment of M.O1 and according to him, the accused volunteered that he had kept the iron stick near the place of occurrence and on the basis of this disclosure statement when he followed him after recording his statement disclosing authorship to concealment of M.O1 the accused picked up and gave M.O1 to him. In fact, the evidence of PW11 regarding recovery of M.O1 by following the procedure under Section 27 of the Evidence Act is not at all shaken and the same is corroborated by the evidence of PW9 as well. Thus the recovery of M.O1 as volunteered by the first accused would corroborate the ocular versions of PW3 to 5 and 9.



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24. In the instant case, the main challenge raised by the appellant to unsustain the verdict of the Sessions Court is that PW3, PW4 and PW5 are interested witnesses. In fact, this contention cannot be countenanced for the reason that PW3, the injured, who sustained very serious injuries, including loss of his left eye sight, though he survived, had given candid evidence in support of the prosecution allegations and the overt acts done by the appellants while they attempted to murder him. In such a case, the solitary evidence of PW3 inspires confidence and is wholly reliable. Therefore the evidence of PW3 supported by medical and other evidence, even excluding the evidence of PW4 and PW5, is sufficient to hold that the appellants committed the offences found to be committed by the appellants. It is a well settled law that the evidence of an injured witness carries more credibility since he would speak of the occurrence with assurance of truth with mark and seal of the injuries he suffered out of the occurrence. Even otherwise, PW4 and PW5 could not be treated as interested witnesses, as argued by the learned counsel for the appellant as their presence at the place of occurrence after the meeting of the organization is a fact to be found from the prosecution evidence.



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25. Thus on scrutiny of the evidence of PW3 to PW5, the challenge raised by the appellant against their evidence is found to be unsustainable and, therefore, the same is set at rest.

26. On re-appreciation of evidence, this Court is of the view that the learned Additional Sessions Court rightly appreciated the evidence and entered into conviction finding that the accused committed the offences punishable under Sections 143, 147, 148, 294(b), 323, 324, 326 and 307 r/w 149 of the IPC and the said conviction is only to be justified.

27. Coming to the sentence, following the ratio in *Murali's* case (*supra*), the sentence can be modified.

28. In the result, the Appeal is allowed in part. The conviction imposed by the trial Court on the appellants is confirmed and the sentence is modified as under:

(i) Appellants/accused Nos.1, 3 and 5 are sentenced to undergo simple imprisonment for a period of four years each and to pay a fine of Rs.10,000/- (Ten thousand only) each for the offence punishable under Section 307 r/w Section 149 IPC and in default of payment of fine, they shall undergo simple imprisonment for a period of one month each;

(ii) Appellants/accused Nos.1, 3 and 5 are sentenced to



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undergo simple imprisonment for a period of two months each for the offence punishable under Section 143 r/w. Section 149 IPC;

(iii) Appellants/accused Nos.1, 3 and 5 are sentenced to undergo simple imprisonment for a period of three months each for the offence punishable under Section 147 r/w. Section 149 IPC;

(iv) Appellants/accused Nos.1, 3 and 5 are sentenced to undergo simple imprisonment for a period of one year each for the offence punishable under Section 148 r/w. Section 149 IPC;

(v) Appellants/accused Nos.1, 3 and 5 are sentenced to undergo simple imprisonment for a period of one month each for the offence punishable under Section 294(b) r/w. Section 149 IPC;

(vi) Appellants/accused Nos.1, 3 and 5 are sentenced to undergo simple imprisonment for a period of four months each for the offence punishable under Section 323 r/w. Section 149 IPC;

(vii) Appellants/accused Nos.1, 3 and 5 are sentenced to undergo simple imprisonment for a period of six months each and to pay a fine of Rs.3,000/- (Rupees Three thousand only) each for the offence punishable under Section 324 r/w. Section 149 IPC and in default of payment of fine, to undergo simple imprisonment for one month each;

(viii) Appellants/accused Nos.1, 3 and 5 are sentenced to undergo simple imprisonment for a period of three years each and to pay a fine of Rs.5,000/- (Rupees Five thousand only) each for the offence punishable under Section 326 r/w. Section 149 IPC and in default of payment of fine, to undergo simple imprisonment for one month each;



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(ix) The substantive sentence of imprisonment shall run concurrently and the default sentence shall run separately;

(x) If the fine amount be realised. a sum of Rs.25,000/- (Rupees Twenty five thousand) by way of compensation under Section 357(1) Cr.P.C., shall be paid to PW3 Madhusoodanan;

(xi) Accused Nos.1, 3 and 5 shall be entitled to set off under Section 428 Cr.P.C. for the period of detention undergone by them in this case.

29. The appellants/accused Nos.1, 3 and 5 are directed to surrender before the Additional Sessions Judge, Fast Track Court-I, Alappuzha, to undergo the sentence forthwith, failing which the learned Additional Sessions Judge is directed to execute the sentence forthwith, without fail.

Registry is directed to forward a copy of this judgment to the Additional Sessions Court for information and compliance.

Sd/-

A. BADHARUDEEN, JUDGE

rtr/