

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S).1148 OF 2019
Arising out of SLP (Crl.) No.2822 of 2019

ALI & ANR.

Appellant(s)

VERSUS

THE STATE OF KERALA

Respondent(s)

O R D E R

Leave granted.

The incident that occurred at 8.45 p.m. on 11.04.2006 led to the death of one Subramaniam. A-1 is alleged to have caused stab injuries to the deceased. A-1 was convicted under Section 302 IPC and sentenced to life imprisonment which was affirmed by the High Court. A-2 and A-3 are alleged to have facilitated the commission of offence and in the said incident that occurred on 11.04.2006, they attacked PW-1 with sticks. They were convicted under Sections 324 and 326 IPC and sentenced to undergo imprisonment of two years and six years respectively. Their conviction and sentence was affirmed by the High Court, aggrieved by which they are before us.

The incident occurred due to political rivalry between sympathizers of United Democratic Front and Left Democratic Front. According to the First

Information Report registered on the basis of the statement given by PW-1, he received injuries which according to PW-13 are as follows:

- "1. Incised wound over left bruised region
6x1 cm bone deep.
2. Diffuse contusion on the dorsum of
the right foot.
3. Tenderness over right 4th and 5th
metatarsals.

X-ray revealed fracture of back of fourth metatarsal bone."

PW-1 deposed that A-2 attacked him with a stick on the right foot due to which he sustained a fracture. He further stated that A-3 beat him with a stick on his back. Apart from the evidence of PW-1, there is nothing else mentioned against A-2 and A-3 for either attacking or assisting A-1 in causing the death of Subramaniam. They were not charged under Section 34 IPC.

In respect of A-3, the only allegation made against him was that he beat accused No.3 with a stick on his back. There is no corresponding injury in the wound certificate exh. P-14 issued by the doctor. We are of the opinion that A-3 is entitled for a benefit of doubt in view of lack of any other material on the basis of which he has been convinced under Section 324 and 326 IPC.

A-2 is attributed to have caused an injury on the right foot of PW-1 which resulted in a fracture.

After carefully considering the entire evidence on record, we do not see any reason to interfere with the conviction of A-2 under Sections 324 and 326 IPC.

For the afore-mentioned reasons we affirm the conviction of A-2 under Sections 324 and 326 IPC. However, we reduce the sentence of imprisonment under Section 326 from six years to three years. A-3 is entitled for benefit of doubt is acquitted both under Sections 324 and 326 IPC. A-3 is directed to be released if he is not required in any other case.

The appeal is, accordingly allowed. Pending applications, if any, stand disposed of.

.....J
(L. NAGESWARA RAO)

.....J
(HEMANT GUPTA)

NEW DELHI;
29th July, 2019

ITEM NO.32

COURT NO.12

SECTION II-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (CrI.) No(s).2822/2019

(Arising out of impugned final judgment and order dated 18-09-2018 in CRLA No. 1481/2012 passed by the High Court Of Kerala At Ernakulam)

ALI & ANR.

Petitioner(s)

VERSUS

THE STATE OF KERALA

Respondent(s)

Date : 29-07-2019 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO
HON'BLE MR. JUSTICE HEMANT GUPTA

For Petitioner(s) Mr. Haris Beeran,Adv.
Mr. Mushtaq Salim,Adv.
Mr. Usman Ghani Khan,Adv.
Mr. Radha Shyam Jena, AOR

For Respondent(s) Mr. G. Prakash, AOR
Mr. Jishnu M.L.,Adv.
Ms. Priyanka Prakash,Adv.
Ms. Beena Prakash,Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeal is allowed in terms of the signed
order. Pending application(s), if any, stand disposed
of.

(B.Parvathi)
Court Master

(Beena Jolly)
Court Master

(Signed order is placed on the file)