

SUPREME COURT OF INDIA

Binoy

Vs.

State of Kerala

Crl.A.Nos.288-289 of 2015

(M.Y. Eqbal and Shiva Kirti Singh JJ.)

13.02.2015

JUDGMENT

SHIVA KIRTI SINGH, J.

1. Leave granted.

2. On behalf of both the appellants, the initial submission is to the effect that their conviction for offences under Sections 324, 452 and 323, IPC is not justified by the prosecution evidence available on record. But on a perusal of the judgment of the trial court which convicted the appellants for offences under Sections 308, 452 and 323 read with Section 34 of the IPC as well as the appellate judgment by the High Court which altered the conviction under Section 308 IPC to one under Section 324 IPC and also reduced the sentences awarded by the trial court to rigorous imprisonment for six months under Section 324 IPC and R.I. for three months each under Sections 452 and 323 IPC, we find no merit in the aforesaid contention. Both the injured witnesses P.W.1 and 2 as well as P.W.8 have supported the prosecution case which also gets support from the injury reports of both the injured witnesses. Hence, we find no good reason to interfere with the conviction of the appellants.

3. The other issue raised on behalf of the appellants is that the High Court while allowing the appeal in part failed to give any reasons for not extending the benefit of Probation of Offenders Act to the appellants. The trial court, while considering the question of sentence, specifically held that considering the nature of the offences committed by the accused persons the Probation of Offenders Act cannot be invoked in their favour and there were no extenuating circumstances in favour of the accused persons. In appeal, the High Court has also noticed the serious

allegation of use of sharp weapon such as sword by the accused persons who chased the injured and then caused incised injuries on their persons. Even then the High Court showed leniency by altering conviction under Section 308 IPC to one under Section 324 IPC. It also reduced sentence of three years to six months for Section 324 IPC and further reduced sentence of six months each under Section 323 IPC and three years each under Section 452 IPC to R.I. for a period of three months each under Sections 452 and 323 IPC. From the order of the trial court on the question of sentence it transpires that the only plea for showing leniency was a claim that the appellants have got aged mother.

4. In the facts and circumstances, the view taken by the trial court for not extending the Probation of Offenders Act cannot be faulted and hence we find no good reason to interfere in the matter.

5. Both the appeals which arise out of common judgment are, therefore, dismissed.