

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.SOMARAJAN

TUESDAY, THE 2<sup>nd</sup> DAY OF APRIL 2024 / 13TH CHAITHRA, 1946

CRL.REV.PET NO. 238 OF 2023

CRIME NO.72/2021 OF KALPAKANCHERRY POLICE STATION, MALAPPURAM  
AGAINST THE JUDGMENT DATED 18.01.2023 IN CC NO.486 OF 2021 OF  
JUDICIAL MAGISTRATE OF FIRST CLASS -I, TIRUR

REVISION PETITIONER/DE FACTO COMPLAINANT/VICTIM:

CHEKKUTTY, AGED 52 YEARS,  
S/o KOYA HAJI, KAYALMADATHIL HOUSE,  
CHERIYAMUNDAM P.O, TIRUR TALUK,  
MALAPPURAM DISTRICT, PIN - 676106

BY ADVS. MANAS P HAMEED  
MOHAMED RAFEEQ KAYALMADATHIL

RESPONDENTS/STATE & ACCUSED:

- 1 STATE OF KERALA,  
REPRESENTED BY THE PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031
- 2 THE STATION HOUSE OFFICER,  
KALPAKANCHERRY POLICE STATION,  
MALAPPURAM, PIN - 676551
- 3 ASHARAF, AGED 32 YEARS,  
S/o EANU, THRITHALA HOUSE, KURUKKOL,  
CHERIYAMUNDAM P.O, TIRUR TALUK,  
MALAPPURAM DISTRICT, PIN - 676106

R3 BY ADV P.T.SHEEJISH

BY PUBLIC PROSECUTOR SRI SANGEETHARAJ N R

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION  
ON 02.04.2024, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:

**ORDER**

The right to plead guilty shall not be used as a device to get a lesser sentence. In the case of pleading guilty by the accused, the court should not adopt a liberal approach and no concession can be given simply on the reason that the accused pleaded guilty in the matter of awarding sentence. On the other hand, the sentence should reflect a proper balance. In the instant case, the accused remained absconded for a long time and not even appeared before the trial court, though the offence alleged are very serious offences which would come under the purview of Sections 324, 341 and 506(i) IPC. The injury alleged to have been inflicted on the victim as evident from the wound certificate shows the manner in which the injuries were inflicted which are on the vital part, the head of the victim. That was not taken into consideration by the Magistrate while awarding a lesser sentence of fine simply on the



reason that the accused through their counsel pleaded guilty. As discussed earlier, the sentence should reflect a proper balance in which the offence was committed and the gravity of injury sustained. The trial court ought to have ordered substantive sentence to the extent which would reflect a proper balance with the gravity of the injury sustained.

2. At this juncture, the learned counsel for the third respondent fairly submitted that the case was actually adjourned by notification for four consecutive postings, and this was the reason why the respondent could not appear in person before the trial court and pleaded guilty through the counsel. As stated above, the mere fact that the accused came up or appeared through the counsel and pleaded guilty does not mean that he deserves only a minimum sentence. The sentence must reflect the injuries sustained by the victim with the necessary attending circumstances. Hence, the impugned order of sentence will stand set aside, and the matter is remanded back to the trial court for fresh consideration and to



order a proper sentence. The accused will be at liberty to withdraw the pleading of guilty and to go for trial, if so advised. The accused shall appear before the trial court on 10.06.2024.

The Criminal Revision Petition is allowed in part accordingly.



Sd/-

**P . SOMARAJAN**

**JUDGE**

DMR/-

**HIGH COURT OF KERALA  
CERTIFIED COPY**



**APPENDIX OF CRL.REV.PET 238/2023**

PETITIONER'S ANNEXURES

- Annexure A1                    A TRUE COPY OF FIR DATED 08.03.2021 IN  
CRIME NO.72/2021 OF KALPAKANCHERY POLICE  
STATION, MALAPPURAM DISTRICT
- Annexure A2                    A TRUE COPY OF THE FINAL REPORT DATED  
10.03.2021 IN CRIME NO.72/2021 OF  
KALPAKANCHERY POLICE STATION, MALAPPURAM  
DISTRICT
- Annexure A3                    A TRUE COPY OF THE ACCIDENT REGISTER-CUM-  
WOUND CERTIFICATE DATED 07.03.2021 ISSUED  
FROM DISTRICT HOSPITAL, TIRUR
- Annexure A4                    A CERTIFIED COPY OF THE JUDGMENT DATED  
18.01.2023 IN C.C.NO.486/2021 PASSED BY  
THE COURT OF JUDICIAL FIRST CLASS  
MAGISTRATE-I, TIRUR
- Annexure A5                    A TRUE COPY OF THE DAIRY EXTRACT IN  
C.C.NO.486/2021 ON THE FILE OF JUDICIAL  
FIRST CLASS MAGISTRATE-I, TIRUR

HIGH COURT OF KERALA

CERTIFIED COPY

// TRUE COPY //

P.A. TO JUDGE