# IN THE HIGH COURT OF KERALA AT ERNAKULAI

PRESENT

THE HONOURABLE MR. JUSTICE P.SOMARAJAN

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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
- THE STATION HOUSE OFFICER,
  KALPAKANCHERY 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:



### <u>ORDER</u>

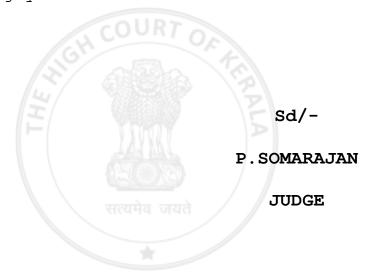
The right to plead guilty shall not be used as a device to get a lesser sentence. In the case of pleading guilty by the accused, the court should not adopt a liberal approach and no concession can be given simply on the reason that the accused pleaded quilty in the matter of awarding sentence. On the other hand, the sentence should reflect a proper 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) injury alleged to have been inflicted on the victim from the wound certificate shows evident 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 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 mean that he deserves only a minimum does The sentence must reflect the injuries sentence. 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.



DMR/-

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

// TRUE COPY //

P.A. TO JUDGE