

Karnataka High Court

Sri Manjappa vs State Of Holehonnur on 8 June, 2021

Author: Dr.H.B.Prabhakara Sastry

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF JUNE 2021

BEFORE

THE HON'BLE Dr. JUSTICE H.B. PRABHAKARA SASTRY

CRIMINAL REVISION PETITION No.414 OF 2015

BETWEEN:

1. Sri Manjappa,
S/o Nanjappa,
Aged abut 67 years,
2. Smt.Nagamma,
W/o Manjappa,
Aged about 60 years,

Both are residing at
Chiguri Kurubara Beedi,
Holehonnur Town,
Bhadravathi-577 301.

.. Petitioners

(By Smt.Haleema Ameen, Amicus Curiae
for petitioner No.2,
Petition against petitioner No.1
abated vide Court order dated
17.12.2019)

AND:

State of Holehonnur
Police Station,
Represented by
State Public Prosecutor
High Court of Karnataka,
Bangalore-560 009.

.. Respondent

(By Smt. K.P.Yashodha, HCGP)

CrI.R.P.No.414/2015

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This Criminal Revision Petition is filed under Section 397 of Cr.P.C. praying to call for the records in C.C.No.2958/2010, dated 23.02.2013, on the file of the I Addl.Civil Judge and JMFC, Bhadravathi and to call for records in CrI.Appeal No.57/2013, on the file of the Fast Track Court at Bhadravathi, dated 9.10.2014

and to set aside the order passed against the petitioners in C.C.No.2958/2010, dated 23.02.2013, on the file of the I Addl.Civil Judge and JMFC, Bhadravathi and sentence confirmed in Crl.Appeal No.57/2013, on the file of the Fast Track Court at Bhadravathi, dated 9.10.2014, for the alleged offence under Sections 504, 323, 506(2) read with Section 34 of IPC.

This Criminal Revision Petition having been heard through Video Conference and reserved for orders on 02.06.2021, coming on for pronouncement of orders this day, the Court made the following:

ORDER

The present petitioners were tried as accused by the Court of learned I Addl.Civil Judge & J.M.F.C., at Bhadravathi, (hereinafter for brevity referred to as the `trial Court') in C.C.No.2958/2010, for the offences punishable under Sections 504, 323, 506(2) read with Section 34 of Indian Penal Code, 1860 (hereinafter for brevity referred to as the `IPC') and were convicted by the judgment of conviction and order on sentence dated 23.02.2013.

Aggrieved by the same, the accused preferred an appeal in Criminal Appeal No.57/2013, before Fast Track Court, at Bhadravathi, (hereinafter for brevity referred to as the `Sessions Crl.R.P.No.414/2015 Judge's Court'), which after hearing both side, dismissed the appeal filed by the accused by its judgment dated 09.10.2014. Being aggrieved by the same, the accused have preferred the present revision petition.

2. The summary of the case of the prosecution is that the complainant (PW-1) Javaraiah has stood as a surety for a loan of a sum of `70,000/- availed by accused No.1 from a Bank. Since accused No.1 failed to repay the said loan amount, the complainant on 14.03.2010, at about 11.00 a.m., went to the house of accused No.1, located at Chiguri Kurubara Beedi, Holehonnur Town, within the limits of respondent-Police Station and asked him to repay the loan amount. The accused Nos.1 and 2, who are the husband and wife respectively, reacted by abusing the complainant in filthy language and caused hurt with hands and threatened him that they would kill him by pouring petrol and setting fire. Thereafter, the complainant has filed a private complaint under Section 200 of Code of Criminal Procedure, 1973, (hereinafter for brevity referred to as `Cr.P.C.") against the accused in the trial Court. The matter was referred to the respondent-Police under Section 156(3) of Cr.P.C. The respondent-Police after registering a crime in their station Crl.R.P.No.414/2015 Crime No.94/2010 and investigating the matter, submitted charge sheet against the accused for the offences punishable under Sections 504, 323, 506(2) read with Section 34 of IPC.

3. In order to prove the alleged guilt against the accused, the prosecution got examined six witnesses from PW-1 to PW-6 and got marked documents from Exs.P-1 to P-4. Neither any witness was examined nor any documents were marked as exhibits from the side of the accused.

4. After hearing both side, the trial Court by its impugned judgment of conviction and order on sentence dated 23.02.2013, convicted the accused (present petitioners) for the offences punishable

under Sections 504, 323, 506(2) read with Section 34 of IPC and sentenced them accordingly.

As observed above, the appeal challenging the said judgment of conviction and order on sentence filed in the learned Sessions Judge's Court in Criminal Appeal No.57/2013 also came to be dismissed. Aggrieved by the same, the petitioners/accused have filed the present petition.

5. During the pendency of this petition, learned counsel appearing for the petitioners sought retirement from this matter, Crl.R.P.No.414/2015 as such, petitioner No.2 was got produced before this Court. At the request of petitioner No.2, this Court by its order dated 17.12.2019, appointed Smt.Haleema Ameen, learned counsel as Amicus Curiae for accused No.2/petitioner No.2-Smt.Nagamma. On the same day, recording the report of death of accused No.1/petitioner No.1-Manjappa, the petition against him was ordered as abated. As such, the present petition is confined to petitioner No.2 only.

6. The trial Court and the Sessions Judge's Court's records were called for and the same are placed before this Court.

7. Heard the arguments of learned counsel from both side. Perused the materials placed before this Court including the trial Court and Sessions Judge's Court's records.

8. For the sake of convenience, the parties would be henceforth referred to as per their rankings before the trial Court.

9. After hearing the learned Amicus Curiae for petitioner No.2 and learned High Court Government Pleader for the Crl.R.P.No.414/2015 respondent-State, the only point that arise for my consideration in this revision petition is:

Whether the concurrent finding recorded by the trial Court, as well as the Sessions Judge's Court that the accused committed the alleged offences punishable under Sections 504, 323, 506(2) read with Section 34 of the Indian Penal Code, 1860, warrants any interference at the hands of this Court?

10. Learned Amicus Curiae for petitioner No.2 in her argument submitted that though there is no dispute that accused No.1 and the complainant (PW-1) were colleagues working in VISL, but, there is no evidence that PW-1 has stood as surety for the loan alleged to have been availed by accused No.1. She also submitted that there is a delay in lodging the complaint which has not been properly explained. She more emphatically submitted that non-seizure of the chopper (machhu) alleged to have been used by the accused in the alleged commission of crime would vitiate the case of the prosecution. She further stated that the prosecution also could not make out the motive behind the alleged commission of crime. She further contended that PW-1 in his evidence has stated that accused have proceeded to assault him with a chopper, but, he has not stated that they Crl.R.P.No.414/2015 have assaulted him. As such, there is no commission of crime attracting Section 323 of IPC, but, it is only an attempt to commit the same. She further submitted that there is no evidence against accused No.2 i.e., the present surviving petitioner, as such, since the petition

against deceased petitioner No.1 (accused No.1) has already stood abated and there is no evidence against accused No.2 (petitioner No.2) for having committed the alleged offence, the petition deserves to be allowed.

11. Learned High Court Government Pleader in her argument submitted that since the petitioner could not make out any illegality or any impropriety in the impugned judgments, the revision petition itself is not maintainable. She further submitted that the evidence of the prosecution witnesses have been properly analysed by the trial Court and the Sessions Judge's Court in their proper perspective. She also submitted that non-seizure of the chopper and non-marking of the alleged weapon as a material object would not vitiate the case of the prosecution when the prosecution has proved its case by producing trustworthy evidence in the form of examining the ocular witnesses. She also stated that prosecution witnesses have Crl.R.P.No.414/2015 spoken about the motive and their evidence that the accused have assaulted PW-1 and threatened him of killing would itself go to show that they had motive.

12. The first point of contention of the petitioner is that there is delay in lodging the complaint. The complainant in his very complaint filed under Section 200 of Cr.P.C. has explained the delay stating that after the incident, since he had a life threat given to him by the accused, he could not go to the respondent- police and lodge a complaint. However, after three days, he went to the respondent-police station with his friends, but, the police refused to register his complaint stating that he has come up with three days delay, as such, they would not register the complaint. This made him to lodge a private complaint under Section 200 of Cr.P.C. The complainant in his evidence as PW-1 has repeated the same statement that he approached the respondent-police three or four days after the incident and since they refused to receive his complaint, he has to file a private complaint. Even in his cross-examination, PW-1 has reiterated the same statement explaining the delay. His said explanation for delayed lodging of the complaint has not been specifically and categorically denied or disputed from the accused side in the Crl.R.P.No.414/2015 cross-examination of PW-1. Therefore, the contention of learned Amicus Curiae that the alleged delay in lodging the complaint has not been explained, is not acceptable. Further, the fact that the complainant has explained the delay in his complaint itself and that he has explained the delay in his evidence as PW-1 and which explanation given by him for the delay since has not been categorically and specifically denied and since the cause shown for the delay appears to be genuine and trustworthy, the first contention of the learned Amicus Curiae that the delay in lodging the complaint itself would vitiate the case of the prosecution is not acceptable.

13. PW-1 in his examination-in-chief has reiterated the contentions taken up by him in his complaint. He has also stated that after his complaint was referred for investigation to the police, a scene of offence panchanama was drawn by the police as per Ex.P-2 in his presence. The witness has also identified his complaint at Ex.P-1.

In his cross-examination, the witness has stated that himself and accused No.1 were working together in VISL. Thus, it is evident that the complainant and accused No.1 were known Crl.R.P.No.414/2015 to each other. It is also not in dispute that accused No.2 (petitioner No.2) is the wife of accused No.1. An attempt was made in the form of defence from the accused side that it was

the complainant himself who had availed the loan, to which, accused No.1 has stood as a surety, however, since the complainant failed to repay the loan amount, it was the accused No.1 who had paid a sum of `70,000/- towards the loan availed by the complainant. Thereafter, since accused No.1 instituted a complaint against the complainant for the repayment of the said loan amount, the complainant with an ulterior motive has filed a false case against the accused. The suggestions made to PW-1 on these lines in his cross-examination were specifically denied by the witness. As such, the said defence of the accused having confined only to an unadmitted suggestion would not shake the evidence of the prosecution witnesses and would not introduce any suspicion or any doubt in the case of the prosecution.

About the incident, PW-1 has stated that on the alleged date of incident, in the afternoon, when he approached the accused and asked accused No.1 to repay the loan amount, the accused No.1, joined by his wife, who is accused No.2, started abusing him in filthy language and threatened him of dire CrI.R.P.No.414/2015 consequences and also went to assault him with a chopper. However, his friends CW-1 Veeranna and CW-3 Ramalingaiah, who were also there, rescued him.

In the cross-examination, PW-1 has given more details about the location of the house of the accused, its approximate measurements and also in what manner the incident had taken place. He has given some more details about the incident and stated that at the time of incident, accused No.2 (petitioner No.2) was instigating her husband (accused No.1) stating that the complainant must be killed with the chopper and he must be burnt by pouring kerosene. The witness also has stated that though accused No.1 swung the chopper, however, the said chopper was forcibly taken away by CW-3 Ramalingaiah from the hands of accused No.1. The witness further stated that accused also threatened him stating that in case if he comes to their house demanding repayment of loan amount, they would burn him by pouring petrol. The denial of the incident suggested to the witness were not been admitted as true by the witness.

14. The evidence of PW-1 was further partly corroborated by PW-2 (CW-2) Veeranaa, who has also stated that on the CrI.R.P.No.414/2015 alleged date of incident, at about 4.00 p.m., when himself along with PW-1 had been to the house of accused No.1 demanding the repayment of the loan amount, both the accused talked in a manner that they are not liable to pay any amount and abused CW-1 (PW-1) in filthy language and attempted to assault him. The witness has stated that PW-1 has stood as a surety for a loan amount availed by accused No.1 from the Society, however, he had not repaid the loan amount, for which, the loan amount was being deducted from the salary of CW-1/PW-1. This has made CW-1 to approach the accused and demanding them for repayment of the loan amount. PW-2 has also stated that scene of offence panchanama as per Ex.P-2 was drawn in his presence. Since this witness did not speak anything about the alleged life threat said to have been made by the accused against the complainant, at the request of the prosecution, the witness was treated as hostile and the prosecution was permitted to cross- examine him. However, the witness did not support the case of the prosecution any further.

This witness was subjected to a detailed cross-examination from the accused side wherein he has stated that, on the date of the incident, he accompanying with CW-3 Ramalingaiah, had CrI.R.P.No.414/2015 joined the complainant (PW-1) Javaraiah when they went to the house of the

accused. Thus, he made it clear that, apart from him, even CW-3 (PW-3) Ramalingaiah was also gone with them, as such, he too was an eye witness to the alleged incident. However, he stated that after some time of beginning of the incident, he came back towards the road thinking that the incident may aggravate and ten minutes thereafter, PW-1 and CW-3 came to his place.

Even in the cross-examination of PW-2 also, suggestions were made to the witness repeating the defence taken by witness in the same manner as has been suggested to PW-1, however, even PW-2 also denied those suggestions and did not admit that it was accused No.1 who had stood as a surety to the loan alleged to have been availed by PW-1 from the Society.

15. The evidence of PW-2 when perused and analysed carefully, would go to show that, with respect to the motive behind the commission of the crime, PW-1 has stated that the loan which is said to have been availed by accused No.1 was from Canara Bank, whereas, PW-2 has stated that the loan was availed from the Society. PW-1 has stated that since accused Crl.R.P.No.414/2015 No.1 did not repay the loan amount, a Garnishee order was issued against him for recovery of the loan amount, whereas, PW-2 has stated that the loan amount was deducted from the salary of PW-1 and the said deduction was going on, as such, PW-1 had gone to the house of the accused.

Regarding the time of incident also, PW-1 in his examination-in-chief has stated that the incident had taken place at 11.00 a.m. or 12.00 O'Clock in the afternoon. The charge sheet of the police also speaks that the alleged incident is said to have been taken place between 11.00 to 12.00 noon. However, PW-2 in his examination-in-chief has stated two timings about the incident, at one place, he has stated that it has taken place at about 4.00 p.m. and later on, he has stated that, it has taken place at 11.00 a.m. About the date of the incident, according to the complainant and prosecution, the incident has taken place on 14.03.2010, whereas, PW-2 in his evidence has stated that the incident has taken place on the dated 02.04.2010. Further, about the incident, when PW-1 has stated that on the date of the incident, he was accompanied by PW-2 and PW-3, but, PW-2 has Crl.R.P.No.414/2015 stated that, when PW-1 went to the house of the accused, both the accused talked in a manner as though they are not liable and the matter had come at the stage of altercation. These major discrepancies and contradictions in the evidence of PW-2 about the date of incident, time of incident, manner of incident and the alleged stage of incident when PW-2 is said to have approached the scene and witnessed the incident makes his evidence not trustworthy to believe. Therefore, it is not safe to believe the evidence of PW-2 as fully corroborating the case of the prosecution.

16. PW-3 (CW-3) Ramalingaiah has given his evidence on the line of what PW-1 has stated in his evidence. He has also stated that both accused No.1 and PW-1 are his friends and accused No.1 had availed a loan from the Canara Bank, for which, complainant had stood as surety. Since accused No.1 though was a borrower, did not repay the loan amount and the banker had taken legal action against the surety i.e., PW-1. In that regard, when they had been to the house of the accused in the morning at about 11.00 or 12.00 noon, on 14.03.2010 and asked accused No.1 to repay the loan amount, the accused objected to the same and stated that he would not repay the Crl.R.P.No.414/2015 loan amount and these people can do whatever they want. The witness has further stated that, in the process, when the talkings were continued, the accused No.1 took out a

chopper from his house and swung it towards PW-1 aiming at his head, however, himself, joined by PW-2, rescued the complainant. The witness also has stated that accused No.2 (petitioner No.2) stated that she would pour petrol and burn PW-1. He has further stated that when he joined the complainant to the police station to lodge a complaint, the police refused to receive the complaint and asked them to go to the Court.

PW-3 in his cross-examination has given some more details about the incident and as to what made him to be present in the place of the incident on the said date. He has stated that the date of the incident was Sunday, as such, there was a holiday for his work. His house is located about half a kilometer from the house of the complainant and same is the distance of his house and PW-2 - Veeranna. It was at the specific request of the complainant to accompany him to go to the house of the accused, he had gone to the house of the accused. He has also stated that the complainant had received a notice from Canara Bank demanding repayment of the loan amount, in which regard, Crl.R.P.No.414/2015 complainant was repeatedly asking accused No.1 to clear the loan. It is in that regard, the incident has taken place. The witness has also stated that he too was present when the police drew a scene of offence panchanama. The denial suggestions made to the witness were not admitted as true by him, rather, he has reiterated in his cross-examination that he was an eye witness to the alleged incident and it was the accused who have committed the alleged offence against the complainant.

17. PW-4 - Sathish is a witness to the scene of offence panchanama at Ex.P-2 and he has identified his signature at Ex.P-2(a). However, since he stated that he does not know as to why he has put his signature, he was treated as hostile and prosecution was permitted to cross-examine him, still, the prosecution could not get any further support from him.

18. PW-5 and PW-6 are the police witnesses, among whom, PW-5 has stated about he conducting the investigation in the matter and filing the charge sheet. PW-6 has stated about he receiving the private complaint from the Court through a Head Constable of his Police Station and registering a crime in their station Crime No.94/2010 and submitting FIR to the Court. He has also stated that he recorded the statements of CW-2, CW-3 and handed over further investigation to Police Sub-Inspector.

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19. The evidence of PW-1 is fully corroborated by the evidence of PW-3. Since PW-1, as well PW-3 have withstood the thorough and searching cross-examination and also given more details about the alleged incident and involvement of the accused in the commission of the crime, there is no reason to disbelieve or suspect their evidence. Their evidence have come in uniformity and the acquaintance of PW-3 with the accused is also not in dispute. Though either the complainant or the respondent-Police have not produced any document of alleged loan said to have been availed by accused No.1 and the alleged suretyship of the complainant towards the alleged loan said to have been availed by accused No.1, still, the evidence of PW-1 and PW-3 that accused No.1 had availed the loan, for which, PW-1 had stood as a surety, has come in a uniform manner and could not be shaken in their cross-examination. PW-3 has stated that repeatedly PW-1 was requesting the accused to

repay the loan amount after complainant receiving a notice from Canara Bank, despite which, accused No.1 did not repay the loan amount. Furthermore, PW-1 himself is the victim and PW-3 is an eye witness, who has spoken about the incident. In such circumstance, mere non-production of alleged loan document or suretyship document CrI.R.P.No.414/2015 by the prosecution would not by itself make the prosecution case doubtful.

20. The case of the prosecution is that the accused have voluntarily caused hurt to PW-1 (CW-1) Javaraiah. According to the learned Amicus Curiae for petitioner No.2, since PW-1 claiming himself to be a victim has not stated that he was assaulted by the accused, the alleged offence punishable under Section 323 of IPC is not made out.

The offences alleged includes the one punishable under Section 323 of IPC, which is the punishment for voluntarily causing hurt. Section 319 of IPC defines 'hurt' stating that whoever causes bodily pain, disease or infirmity to any person is said to cause hurt. Therefore, causing bodily pain, disease or infirmity to the alleged victim is a necessary ingredient to constitute the act as a 'hurt'. In the instant case, neither PW-1 nor PW-3 have anywhere stated that either of the accused either physically or through any weapon assaulted PW-1. But, the evidence of both these witnesses is that accused No.1 attempted to assault PW-1 by swinging a chopper aiming at the head of PW-1, however, it was foiled by PW-2 and PW-3.

CrI.R.P.No.414/2015 Therefore, the evidence of none of the prosecution witnesses mentions of any act committed by either of the accused resulting in bodily pain or disease or infirmity to PW-1. On the other hand, their evidence would go to show that by using a chopper and attempting to assault PW-1 with the said weapon, the act of the accused was being confined only to an attempt to voluntarily cause hurt to PW-1. Therefore, the offence punishable under Section 323 of IPC is independently not made out by the prosecution, but, Section 323 read with Section 511 of IPC is proved beyond reasonable doubt.

21. Learned Amicus Curiae for petitioner No.2 vehemently submitted that the non-seizure of the alleged chopper vitiates the case of the prosecution. The said argument is not acceptable for the reason that even though the chopper said to have been used by the accused in the commission of the crime is not seized by the prosecution, but, PW-1 has stated that, after the incident, he has given that chopper back to the accused. Still it cannot be ignored of the fact that the charge levelled against the accused is not for the offence of voluntarily causing hurt by dangerous weapons or means punishable under Section 324 of IPC, but, it is of voluntarily causing hurt as defined under Section 321 of IPC, CrI.R.P.No.414/2015 which is punishable under Section 323 of IPC. Furthermore, the evidence of PW-1 and PW-3 clearly go to show that accused No.1 had made use of a chopper, however, he could not succeed in lodging a blow on the PW-1 in his attempt. The said evidence of witness and reliable eye witness is sufficient to believe and prove the case of the prosecution for the offence punishable under Section 323 read with Section 511 of IPC. As such, the argument of learned Amicus Curiae that non-recovery of chopper is diluting the case of the prosecution is not acceptable.

22. It is also the contention of the learned Amicus Curiae for petitioner No.2 that there is no evidence against the participation of petitioner No.2 (accused No.2) in the commission of crime.

The said argument also is not acceptable for the reason that evidence of PW-1 and PW-3 clearly go to show that accused No.2, being the wife of accused No.1, was not only present in the place of the incident which has taken place in their house, but, also has actively participated in the commission of crime and was instigating her husband to assault the complainant. PW-1 in his cross-examination has specifically stated that accused No.2 was telling her husband i.e., accused No.1 that he should kill the complainant by assaulting him with CrI.R.P.No.414/2015 chopper and he must be burnt with kerosene. Even PW-3 also in his examination-in-chief itself has stated that accused No.2 has threatened the complainant that she would burn the complainant by pouring petrol. Therefore, the evidence of PW-1 and PW-3 would clearly go to show that both the accused had a common intention of assaulting, abusing and threatening the complainant and they have committed the act in furtherance of their common intention. As such, the contention of the learned Amicus Curiae for petitioner No.2 that there is no evidence against accused No.2/petitioner No.2 is also not acceptable.

23. Lastly, learned Amicus Curiae contended that the motive behind the crime has not been established by the prosecution. As already analysed above, the evidence of PW-1 and PW-3 proves that complainant had stood as a surety for the loan availed by accused No.1. In that regard, the complainant had received a notice by the lender about legal action to be taken against him. It is in that process, when PW-1, PW-2 and PW-3 had been to the house of the accused asking accused No.1 to repay the loan amount, at that point of time, the accused retaliated by abusing the complainant in filthy words, attempted to assault and also put life threat to him. Both PW-1 and PW-3 CrI.R.P.No.414/2015 have stated that the accused abused the complainant in filthy language and attempted to assault him and they have also stated that accused No.2 threatened of burning the complainant with petrol. The said act of the accused though was instantaneous, but, still would go to show that being enraged by the demand for the repayment of the loan amount made by the complainant, the accused took the law into their hands, developed a common intention and committed the alleged offence. Therefore, it cannot be said that there is absence of motive behind the alleged commission of crime.

24. Though both the trial Court, as well the learned Sessions Judge's Court have not analysed the evidence of prosecution witnesses in a detailed manner, but, with their very brief analysis of the evidence, they have come to a conclusion holding the accused No.2 (petitioner No.2) as guilty for the offences punishable under Sections 504, 323, 506(2) read with Section 34 of IPC. However, the finding of both the Courts that accused No.2/petitioner No.2 is also found to be guilty of the offence punishable under Section 323 of IPC alone requires to be modified and reduced to the one punishable under Section 323 read with Section 511 of IPC.

CrI.R.P.No.414/2015 Further the sentence ordered by the trial Court for the proven guilt being proportionate to the gravity of the offence committed by the accused, except requiring interference towards the offence punishable under Section 323 of IPC, as the said offence is now reduced to Section 323 read with Section 511 of IPC, the rest of the judgment impugned before this Court deserves to be confirmed and the petition of petitioner No.2 deserves to be partly allowed by modifying the conviction for the offence punishable under Section 323 of IPC to the one under Section 323 read with Section 511 of IPC.

25. Accordingly, I proceed to pass the following:

ORDER The Criminal Revision Petition is allowed in-part. The judgment of conviction and order on sentence passed by the learned I Addl.Civil Judge & J.M.F.C., Bhadravathi, in C.C.No.2958/2010, dated 23.02.2013, which was further confirmed by the learned Presiding officer, Fast Track Court, Bhadravathi, in Criminal Appeal No.57/2013, dated 09.10.2014, stands modified only to the extent that the judgment of conviction and order on sentence passed against petitioner No.2/accused No.2 for the offence punishable under Section CrI.R.P.No.414/2015 323 of IPC is modified holding the accused No.2/petitioner No.2 as guilty of the offence punishable under Section 323 read with Section 511 of IPC. Accordingly, the order on sentence imposing a fine of `500/- for the said offence is also reduced to `250/-.

The rest of the impugned judgments holding the accused No.2/petitioner No.2 guilty of the offence punishable under Section 504 and 506(2) read with Section 34 of IPC and sentence ordered on those two proven guilt remain unaltered.

The Court while acknowledging the service rendered by the learned Amicus Curiae for the petitioner No.2 - Smt.Haleema Ameen, recommends honorarium of a sum of not less than `4,000/- to her payable by the Registry.

Registry to transmit a copy of this order to both the trial Court and also to the Sessions Judge's Court along with their respective records forthwith.

Sd/-

JUDGE bk/