

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 29TH JUNE 2007 / 8TH ASHADHA 1929

Crl.Rev.Pet.No. 135 of 1999()

**SC.38/1993 of ADDL. SESSIONS COURT, THRISSUR DT.8.1.1997
CRA.8/1997 of ASSISTANT SESSIONS COURT, THRISSUR DT.15.1.99.**
.....

REVN. PETITIONER: IST APPELLANT/ IST ACCUSED

**UMMER, S/O.KINNATTINGAL YOOSEF,'
RESIDING AT LAKSHAMVEEDU COLO NY,
PUDUSSERY DESOM,
CHERUTHURUTHY, VILLAGE.**

**BY ADV. SRI.P.VIJAYA BHANU
SRI.S.R.MANOJ**

RESPONDENT: RESPONDENT/ COMPLAINANT

**THE STATE OF KERALA,
REP.BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA AT ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI.C.K.SURESH

**THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 29 /06 /2007 , THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

CRL.RP. NO.135/1999

ORDER ON CRL.MP. 480/1999 IN CRL.RP. 135/1999

DISMISSED

29.06.2007

SD/- K.R.UDAYABHANU, JUDGE

/TRUE COPY/

P.S. TO JUDGE

tss

K.R. UDAYABHANU, J.

Crl. R.P. No.135 of 1999

Dated 29th June, 2007

ORDER

The revision petitioner stands convicted for the offences under sections 448 and 506(i) IPC and sentenced to undergo simple imprisonment for 3 months each.

2. The revision petitioner along with others were tried for the offences under sections 448, 354, 506, 509, 306 read with 34 IPC in S.C.No.38/1993 for allegedly abetting the commission of suicide by the deceased, daughter of PW-2, who was doing a training course in the nursing home owned by PW-1.

3. The prosecution case is that on 24-9-86 at about 3.30 p.m the revision petitioner/A1 along with A2 and A3 trespassed in the particular nursing home wherein the deceased was working and that A1 caught hold of her right hand and threatened her with dire consequences and that on account of fear and mental agony she committed suicide on 25-9-86 by hanging in her house.

4. The evidence adduced in the matter consisted of the testimony of PWs 1 to 9; Exts.P1 to P8. The defence got marked the contradictory portions of the depositions of the witnesses as Exts.D1 to D2(d) series. Although convicted for the offences, the appellate court acquitted the accused for the rest of the offences except for the offences under sections 448 and 506 (i).

5. It is the evidence of PW-1 doctor who is running the nursing home and PW-8 Lab Assistant constitute direct evidence as to the incident. I find that nothing has been brought out in the cross examination of the above to disbelieve their evidence. No contradiction with the previous statement has been brought out. In the circumstances and in view of the the concurrent findings of the court below, I find that the incident as such stands proved.

6. Counsel for the revision petitioner has contended that the offence under section 448 will not lie as the nursing home cannot be equated to house as contemplated

under section 442 IPC. The counsel has relied on the decision reported in **Chacko George v. State of Kerala** (1968 KLT 219). As a nursing home cannot be equated as house as contemplated under section 442 IPC, the charge under section 448 cannot be sustained. The accused is acquitted of the offence under section 448 IPC. All the same, the conviction under section 506(i) has to be sustained.

7. The conviction is confirmed. As far as the sentence is concerned, the counsel pleaded for leniency pointing out that the incident has taken place in 1986 and that the accused right now is aged 62. In the circumstance, I find that the sentence is liable to be modified. The sentence is confined to pay a fine of Rs.10,000/- and in default to undergo simple imprisonment for 6 months. The fine if

realised shall be paid to PW-2, the father of the deceased.

The Crl.R P is disposed of accordingly.

K.R.UDAYABHANU,
JUDGE.

Kvm/-

K.R.UDAYABHANU, J.

CRL.R.P. 135 OF 1999

ORDER

29-6-2006