2026:KER:26753

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE JOBIN SEBASTIAN

THURSDAY, THE 26TH DAY OF MARCH 2026 / 5TH CHAITHRA, 1948

CRL.REV.PET NO. 212 OF 2016

AGAINST THE JUDGMENT DATED 19.01.2016 IN Crl.A NO.62 OF 2015 OF ADDITIONAL DISTRICT & SESSIONS COURT-III, KASARAGOD ARISING OUT OF THE JUDGMENT DATED 20.02.2015 IN CC NO.657 OF 2009 OF JUDICIAL MAGISTRATE OF FIRST CLASS-I, KASARAGOD

REVISION PETITIONER/APPELLANT/ACCUSED:

DAMODARAN K.
AGED 55 YEARS
S/O,.KUNHIRAMAN NAIR, RESIDING AT KARAMANTHODY,
KARADUKA VILLAGE, KASARAGOD TALUK AND DISTRICT.

BY ADVS.
SRI.M.SASINDRAN
SRI.A.ARUNKUMAR

RESPONDENT/RESPONDENT/COMPLAINANT:

STATE OF KERALA
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, RNAKULAM 682 031.

BY ADV.
SMT.MAYA M.N, P. P.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 26.03.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

"C.R."

JOBIN SEBASTIAN, J

.....

Crl.R.P.No.212 of 2016

.....

Dated this the 26th day of March, 2026

O R D E R

This Criminal Revision Petition has been filed under Section 397 r/w Section 401 of the Code of Criminal Procedure, challenging the judgment dated 19.01.2016 in Crl. Appeal No. 62/2015 on the file of the Additional Sessions Court–III, Kasaragod, arising out of the judgment dated 20.02.2015 in C.C. No. 657/2009 on the file of the Judicial First Class Magistrate Court-I, Kasaragod. The revision petitioner herein is the sole accused in the said case.

2. The prosecution case, in brief, is that on 11.05.2009 at about 12.00 p.m., the accused committed house trespass by entering into a room bearing No. KP III/773 of Karadka Panchayat, situated at Mulleriya, which had been taken on rent by PW1 from the accused. It is alleged that the accused committed mischief by flinging out the household articles of PW1 kept in the said room and thereby caused damage to the tune of Rs.10,000/- to PW1. Hence, the accused is alleged to have committed offences punishable under Sections 454 and 427 of the IPC.

3. In order to bring home the guilt of the accused, the prosecution had examined nine witnesses as PW1 to PW9 and marked Exts. P1 to P3. PW1 is the de facto complainant, who was residing in the rented room allegedly leased out by the accused. PW2 is the wife of PW1 and was also residing in the said room during the relevant period. PW3, PW4, PW5, and PW9 are independent witnesses examined by the prosecution to prove the occurrence. PW6 is the Head Constable attached to Adhur Police Station, who recorded the statement of PW1 and registered the FIR. PW7 is the Sub Inspector of Police who laid the final report, and PW8 is the Sub Inspector of Police who conducted the major part of the investigation.

4. After trial, the learned Magistrate found the accused guilty of the offences punishable under Sections 454 and 427 of the IPC and sentenced him to undergo simple imprisonment for a period of one year and to pay a fine of Rs.2,000/- for the offence punishable under Section 454 of the IPC, with a default sentence of simple imprisonment for one month. For the offence punishable under Section 427 of the IPC, the accused was sentenced to undergo simple imprisonment for six months and to pay a fine of Rs.1,000/-, with a default sentence of simple imprisonment for fifteen days.

5. Aggrieved by the said judgment, the accused preferred an

appeal. The learned Additional Sessions Judge, while confirming the finding of guilt, modified the sentence. For the offence punishable under Section 454 of the IPC, the sentence was reduced to simple imprisonment for three months and a fine of Rs.2,000/-, with a default sentence of simple imprisonment for one month. For the offence punishable under Section 427 of the IPC, the sentence was reduced to simple imprisonment for three months, along with a direction to pay compensation of Rs.15,000/- to PW1, with a default sentence of imprisonment for three months.

6. Heard Sri. M. Sasindran, the learned counsel for the revision petitioner, and Smt. Maya M. N., the learned Public Prosecutor, and also perused the records.

7. This is a case where the landlord is alleged to have trespassed into a tenanted room and committed mischief by throwing out the household articles belonging to the tenant. Apart from the evidence of PW1, the de facto complainant, the prosecution has examined PW2, his wife, and four independent witnesses as PW3, PW4, PW5, and PW9, the neighbours, to prove the occurrence.

8. From the prosecution case, it is evident that at the time of the incident, neither PW1 nor PW2 was present in the rented room, as

they were at their relative's house at Kollam, and therefore, they are not eyewitnesses to the actual occurrence.

9. The law was set in motion on the basis of the First Information Statement given by PW1. In order to establish the occurrence, the prosecution mainly relied on the evidence of PW3, PW4, PW5, and PW9, who were cited and examined as eyewitnesses.

10. In his evidence, PW1 deposed about the facts which he noticed upon returning from Kollam after visiting a relative. He categorically stated that, on reaching the room, he found that all the household articles kept therein had been thrown out and vandalised. His evidence further indicates that he sustained a loss of approximately Rs.10,000/- due to the said incident.

11. From the impugned judgment, it is evident that PW3, PW4, PW5, and PW9 supported the prosecution case by deposing that they had witnessed the accused entering the room occupied by PW1 on rent and committing the act of mischief by throwing out the household articles.

12. Both the Trial Court and the Appellate Court found no reason to disbelieve the testimonies of these independent witnesses,

who had no apparent motive to falsely implicate the accused, and based the conviction primarily on their evidence. I also find no reason to disbelieve the evidence of PW3, PW4, PW5, and PW9, who are the eyewitnesses to the occurrence. A careful and holistic reading of their testimonies shows that their evidence is consistent and free from material contradictions or omissions.

13. Moreover, it is well settled that a court exercising revisional jurisdiction will interfere with the findings of the courts below only when such findings suffer from illegality, impropriety, or perversity. Unless it is shown that the judgment of the Trial Court or the Appellate Court is perverse, unreasonable, or suffers from non-consideration of relevant material or misreading of evidence, interference in revision is not warranted. The revisional court cannot reappreciate the evidence as an Appellate Court and substitute its own view merely because another view is possible.

14. In **State of Kerala v. Puttumana Illath Jathavedan Namboodiri** [AIR 1999 SC 981], the Hon'ble Supreme Court held thus:

> *"In its revisional jurisdiction, the High Court can call for and examine the record of any proceedings for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order. In other words, the*

> *jurisdiction is one of Supervisory Jurisdiction exercised by the High Court for correcting miscarriage of justice. But the said revisional power cannot be equated with the power of an Appellate Court nor can it be treated even as a second Appellate Jurisdiction. Ordinarily, therefore, it would not be appropriate for the High Court to reappreciate the evidence and come to its own conclusion on the same when the evidence has already been appreciated by the Magistrate as well as the Sessions Judge in appeal, unless any glaring feature is brought to the notice of the High Court which would otherwise tantamount to gross miscarriage of justice."*

15. Keeping in mind the above principles, I find no ground to interfere with the finding of guilt recorded by the learned Trial Court, which has been rightly confirmed by the Appellate Court. However, insofar as the sentence imposed on the accused is concerned, it is necessary to take note of the fact that the genesis and origin of the occurrence lie in a dispute between the landlord/accused and the tenant (PW1) in respect of the tenanted room.

16. Although the accused is the owner of the room into which he is alleged to have trespassed, the evidence on record clearly establishes that the said room had been let out to PW1 and was in the lawful possession of PW1 at the time of the occurrence, as a tenant. It is well settled that offences such as criminal trespass and house

trespass are offences against possession and not against ownership. Therefore, even a true owner cannot, under the guise of ownership, unlawfully enter premises in the lawful possession of another with the intent to commit an offence.

17. In the present case, the mere fact that the accused is the owner of the room does not, *ipso facto*, absolve him of criminal liability when such entry is effected with the intention to commit an unlawful act. Since the possession of the tenanted room has been clearly established to be with PW1, any unauthorised entry into the said room with the requisite criminal intent squarely attracts the offence of house trespass.

18. Accordingly, I have no hesitation in holding that the act of the accused constitutes the offence of house trespass, notwithstanding his ownership of the room. Furthermore, the testimony of the eyewitnesses, corroborated by other material evidence on record, clearly establishes that the accused also committed an act of mischief by forcibly throwing out the household articles belonging to PW1, the tenant.

19. However, as already noted, the genesis of the case lies in a dispute between the landlord/accused and the tenant with respect to

the tenanted premises. It is also pertinent that no criminal antecedents have been alleged or proved against the accused. Taking into account the nature of the dispute between the accused and PW1, as well as the motive which led to the commission of the offence, I am of the considered view that the sentence imposed by the learned Trial Court, as affirmed by the Appellate Court, is somewhat harsh and warrants interference. Accordingly, the sentence is liable to be reduced in the peculiar facts and circumstances of the case.

20. In the result, this criminal revision petition is allowed in part. Without interfering with the finding of guilt, the sentence imposed on the accused is modified as follows:

(i) For the offence punishable under Section 454 of the IPC, the accused is sentenced to undergo imprisonment till the rising of the Court.

(ii) For the offence punishable under Section 427 of the IPC, the accused is sentenced to undergo imprisonment till the rising of the Court and to pay compensation of Rs.15,000/- (Rupees Fifteen Thousand only) to PW1 under Section 357(3) of the Cr.P.C. In default of payment of compensation, the accused shall undergo simple imprisonment for a

period of one month.

The substantive sentences shall run concurrently.

21. The revision petitioner/accused is directed to appear before the Trial Court on 01.06.2026 to undergo the modified sentence imposed by this Court. In the event of failure to appear, the Trial Court shall take appropriate steps to execute the sentence in accordance with law.

With the above affirmation of conviction and modification of sentence, the criminal revision petition stands allowed in part.

Sd/-

JOBIN SEBASTIAN
JUDGE

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APPENDIX OF CRL.REV.PET NO. 212 OF 2016

PETITIONER ANNEXURES

Annexure A1	**A TRUE COPY OF THE ADDRESS PAGE OF THE PASSPORT OF THE PETITIONER**
Annexure AII	**A TRUE COPY OF THE APPLICATION DATED 09.06.2022 FOR ISSUING OF FRESH PASSPORT SUBMITTED BY THE PETITIONER**
Annexure AIII	**A TRUE COPY OF THE LETTER DATED 17.06.2022 ISSUED FROM THE OFFICE OF THE REGIONAL PASSPORT OFFICER, KOZHIKODE TO THE PETITIONER.**