

**(2016) 12 SC CK 0093**

**SUPREME COURT OF INDIA**

**Case No:** Criminal Appeal No. 1181 of 2016 (Arising out of SLP(Crl) No.2983 of 2015.

Nair Mohan Sivaram - Appellant  
@HASH State of Kerala

APPELLANT

Vs

RESPONDENT

**Date of Decision:** Dec. 2, 2016

**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 313
- Penal Code, 1860 (IPC) - Section 279, Section 304A

**Citation:** (2017) AIR(SCW) 1116 : (2017) AIRSC 1116 : (2017) AIISCR(Crl) 274

**Hon'ble Judges:** Pinaki Chandra Ghose and Uday Umesh Lalit, JJ.

**Bench:** Division Bench

**Advocate:** R. Basant, Sr. Adv., Roy Abraham, Ms. Reena Roy, Ms. Seema Jain, Baldev Singh for Himinder Lal, Advocates, for the Appellant; C.K. Sasi, Manu Krishnan, Jaimon Andrew, Rakeesh Panicker N.P. for Naresh Kumar, Advocates., for the Respondent

**Final Decision:** Disposed Of

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**Judgement**

@JUDGMENTTAG-ORDER

1. Leave granted.
2. This appeal arises out of order dated 19.02.2015 passed by the High Court of Kerala at Ernakulam in Criminal Revision Petition No.1178 of 2005 whereby, while confirming the conviction of the appellant for the offences punishable under Sections 279 and 304A of the Indian Penal Code, 1860 ("IPC" for short) the High Court reduced the sentence to one month under the first count and to three months under the second count with a further direction to pay compensation of Rs. 50,000/-.
3. While issuing notice, this Court had directed the appellant to implead the injured victim as also the legal representatives of the deceased as party respondents. An application for impleadment was therefore filed on behalf of the appellant seeking

to implead the legal heirs of the deceased Shaji and the injured victim. Notices were thereafter issued to the legal heirs of the deceased as also to the injured victim.

4. Learned counsel appearing on behalf of the injured victim and legal heirs of the deceased has since then filed an affidavit dated 12.11.2016 submitting that the parties have settled the matter and appropriate compensation has been paid by the appellant to the injured as well as to the legal heirs of the deceased.

5. We have heard Mr. R. Basant, learned senior counsel appearing for the appellant, Mr. C.K. Sasi, learned counsel appearing for the respondent-State of Kerala and Mr. Jaimon Andrew, learned counsel appearing for the injured victim as well as the legal heirs of the deceased.

6. A perusal of the statement of the appellant under Section 313 of the Cr.P.C. shows that soon after the incident, the appellant had taken the injured to the hospital. This conduct on the part of the appellant according to the counsel is consistent with the submission that the accident in question was wholly an error of judgment and in any case the appellant had not run away from the place of occurrence.

7. Having gone through the record, we do not find any infirmity in the concurrent view taken by the courts below in finding the appellant was guilty of the offences in question. However, since the parties have settled the matter and the incident had occurred long back in the year 1996, in our view, it would not be appropriate to send the appellant to suffer imprisonment at this length of time.

8. In view of the aforesaid and in the light of the conduct of the appellant in removing the injured to the hospital soon after the incident, while upholding his conviction on the aforesaid counts we set aside the imprisonment on both counts but maintain the direction as regards compensation. According to the appellant, the compensation amount has already been deposited in the High Court. We direct that the deposited amount, along with interest, if any, be made over to the injured as well as heirs of the deceased upon proper application.

9. The appeal is disposed of in the aforesaid terms.