

IN THE COURT OF THE JUDICIAL FIRST-CLASS MAGISTRATE -I.
SULTHAN BATHERY

Present: Smt. Safeena C.C,
Judicial First-Class Magistrate-I,
Sulthan Bathery.

Saturday 22nd day of November, 2025
1st day of Agrahayana, 1947

C M P. NO 1098/25 IN CALENDAR CASE NO 113/2019

Complainant	:	State represented by the Sub Inspector of Police, Ambalavayal Police Station in Crime No. 171/18. (By Sri. Aneesh Joseph-APP Gr.I)(In charge)
Accused	A1	Muhammed Shafi S/o Yousaf, aged 26/19, Chengodan House, Marappanmoola, Pulpally amsom.
	A2	Vineesh S/o Krishakumar, aged 20/19. Konnakattu House, Puthuchola, Kuppadi.
	A3	Jagath Bahadur S/o Beer Bahadur, aged 20/18, Lakshmi Nilayam, Nandankavala, Ambalavayal amsom.
	A4	Akhil S/o Rajan, aged 20/18, Valliyammal House, Kuttikkaitha, Ambalavayal amsom.
	A5	Rithusobh S/o Prakasan, aged 21/18, Thandayamparambil House, CC, Krishnagiri amsom.
	A6	Harikrishnan S/o Jayaprakash, aged 24/19, Karikulathil House, Noolpuzha 66, Noolpuzha amsom. (By Adv. K.S. Manoj Kumar)
Charge	:	U/Ss 143,147,447,323,353, 294(b) r/w Sec. 149 IPC.
Order	:	All accused acquitted u/s 321(b) Cr.P.C (Correspondence to 360 of BNSS.

This case having been heard finally on 20.11.25 and stood over this day's proceedings, the court passed the following: -

O R D E R.

The petition was filed by the learned Assistant Public Prosecutor under Section 321 of the Cr.P.C.; however, by the time of filing, the Bharatiya Nagarik Suraksha Sanhita (BNSS) had come into force. Accordingly, though presented under Section 321 of the Cr.P.C., it is treated as a petition under Section 360 of the BNSS for the purpose of further proceedings.

02. The averments in the petition are as follows: - The Assistant Public Prosecutor, who has independently examined the facts, has opined that the prosecution has a bleak chance of success. The Government of Kerala, vide letter No. L3/38/2024/ Home dated 14.02.2025, has communicated that it has no objection to the withdrawal of prosecution, subject to the sanction of this Hon'ble Court. Considering the lack of corroborative evidence, the circumstances in which the incident took place, and the age and background of the accused, it is the considered view that continuing prosecution would serve no fruitful purpose and may only prolong litigation unnecessarily. In the interest of justice, public peace, and to avoid a waste of judicial time, the case is deemed fit for withdrawal under Section 321 of the Code of Criminal Procedure. Withdrawal of prosecution in this matter would bring finality to the dispute, maintain social harmony, and serve the broader public interest. Administrative sanction for withdrawal has also been obtained from the Government, vide Order No. L3/38/2024 Home-Part 1 dated 14.02.2025, and accordingly, permission for withdrawal under Section 321 Cr.P.C. is respectfully prayed for.

03. The prosecution case is that on 07.06.2018, near Ambalavayal

Government Higher Secondary School, the accused persons, who were activists of the SFI, in furtherance of their common object, unlawfully assembled and, along with JCLs, trespassed into the school premises. It is alleged that they committed rioting, forcibly expelled students from their classrooms, assaulted teachers, voluntarily caused hurt to them, and obstructed them from discharging their official duties. By these acts, the accused are alleged to have committed offences punishable under Sections 143, 147, 447, 323, 353, and 294(b) read with Section 149 of the Indian Penal Code.

04. CW1 to CW3 were already examined in this case as PW1 to PW3. PW1 testified before the Court that at the time of the incident, he was the principal in charge of the Plus Two section at Ambalavayal Government Higher Secondary School. On 07.06.2018 at about 12:00 hours, approximately ten persons trespassed into the classroom, forcibly drove the students out, locked the classrooms, and then attacked and shouted at the teachers who came to the office room. They demanded that he leave the class, stating that it was a protest. When he asked them to put their demands in writing, they allegedly assaulted and abused the teachers. PW1 lodged a complaint regarding the incident, which is marked as Ext.P1.

05. PW2 testified that on 07.06.2018 he was working as a teacher at Ambalavayal Government Higher Secondary School. At the relevant time, he was sitting in the staff room when he heard a commotion outside. Along with Emmanuel Sir, Jobin Sir, and Raghunathan Sir, he went out and witnessed the disturbance. When they enquired about the issue, two persons pushed them aside, abused them, entered the staff room, and assaulted the principal. PW2 stated that he was not aware of their names but would be able to identify them on sight. He further stated that none of the assailants were present in Court on the day of his testimony.

06. PW3, who was the principal in charge of VHSSC Ambalavayal, stated that the incident occurred at about 11:30 hours on a working day. Several persons trespassed into the office, locked him inside, and left the students outside. Two persons had locked him in the room, but he did not remember the identity of the assailants. At this stage, the learned Assistant Public Prosecutor sought permission under Section 154 of the Indian Evidence Act to treat him as a hostile witness. PW3 denied the suggestion that the accused were former students and that he was giving false testimony to help them.

07. Subsequent to the examination of the above witnesses, the prosecution filed a petition seeking withdrawal from the case, which was numbered as CMP No.1098/2025. In pursuance of this petition, notices were issued to CW1 and CW3 on 15.07.2025 and duly served on 29.07.2025, directing them to appear before the Court. Despite several opportunities, both witnesses failed to attend and no sufficient cause was shown for their non-appearance. As all procedural steps to secure their presence had been duly complied with, the Court was constrained to proceed with the matter in their absence to avoid undue delay and prevent the proceedings from being indefinitely stalled due to their non-cooperation.

08. Section 321 of the Code of Criminal Procedure empowers the public prosecutor, with prior sanction from the competent authority, to withdraw from the prosecution at any stage if it is in the interest of justice. In the present case, the Assistant Public Prosecutor has independently evaluated the facts and circumstances, considering the absence of corroborative evidence regarding the alleged incident, the context of the incident arising from a student protest. The Government of Kerala, through letter No. L3/38/2024/Home dated 14.02.2025, has indicated that it has no objection to

the withdrawal, subject to the Court's approval.

09. On a careful examination of the records, it is seen that although CW1 stated that the accused were former students, the incident appears to have arisen from sudden provocation and a momentary lapse of restraint rather than from any premeditated intention. The evidence on record does not satisfactorily establish the essential ingredients of the alleged offences, and the occurrence appears to have taken place in the course of a student protest undertaken in furtherance of a social cause, thereby diminishing the degree of criminal culpability attributable to the accused. CW1 and CW3, who are key witnesses, did not appear despite due notice and had earlier turned hostile, providing no support to the prosecution case. In the absence of corroborative evidence and considering the relatively minor nature of the alleged offences, further prosecution would serve no useful purpose. The Court is therefore satisfied that the requirements of Section 321 CrPC are met, and that withdrawal in the present case would advance the ends of justice, prevent unnecessary wastage of judicial time.

10. In the result consent is granted to withdraw from the prosecution of the case and the accused are acquitted under Section 321(b) Cr.P.C. (Correspondent to 360 BNS) Their bail bonds stand cancelled and they are set at liberty.

(Pronounced by me in open Court this the 22nd day of November 2025)

sd/-

JUDICIAL FIRST CLASS MAGISTRATE-I

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JUDICIAL FIRST-CLASS MAGISTRATE-I
SULTHAN BATHERY