

IN THE COURT OF JUDICIAL MAGISTRATE OF THE FIRST CLASS-I, CHERTHALA

Present: Savithri.V, Judicial Magistrate of the First Class-I

Dated this, the 26th day of February, 2024

C. C. No.506/2018

Complainant : State-represented by Sub Inspector of Police,
Cherthala police station in crime No.
658/2011.
[By APP, Cherthala-I]

Accused : Vishnupriya
[by Adv. Sri. S. Unnikrishnan]

Offences : under sections 323, 324, 294(b), 34 of IPC

Plea : Not guilty

Finding : Not guilty

Sentence/order : Accused is acquitted under section 248(1)
of Cr.P.C.

DESCRIPTION OF ACCUSED

Sl. No.	Name	Father's/ Husband's name	Occupation	Residence	Age
1	Vishnupriya	Ajithkumar	...	Illathuveli House, CMC.10, Cherthala.	36

DATE OF:-

Occurrence	Complaint	Date of appearance	Released on bail	Commencement of trial	Close of trial	Sentence or order
28/05/2011	02/08/2012	29/01/2024	29/01/2024	29/01/2024	24/02/2024	26/02/2024
Service of copy of judgment or finding			Explanation for delay.			
....						

This case having been finally heard and this day the court delivered
the following:

J U D G M E N T

The case stands charge sheeted by the Sub Inspector of Police, Cherthala Police Station in crime No.658/2011 against the accused Nos.1 and 2 alleging commission of offences punishable under sections 323, 324, 294(b), 34 of IPC.

2. Case of the prosecution is as follows:- Due to prior animosity towards prosecution witness No.1, with the intention to cause her hurt, at 3.30 p.m. on 28/05/2011, near Kalikulam junction situated at Cherthala Municipality Ward No.10, accused No.1 caught hold of her shawl and hit on her head and face with his hands. Accused No.1 threw a granite stone at her, causing her pain. When prosecution witness No.3 tried to intervene, accused No.2 threw a granite stone at her, thereby causing swelling on the ankle of her right leg. Accused No.2 also verbally abused her using obscene words. Thereby the accused persons are alleged to have committed the above said offences.

3. Originally this case was taken on file as C.C.No.1286/2014. In that case, accused on 19/04/2018 accused No.1 was acquitted under section 248(1) of Cr.P.C. and case against accused No.2 is split up and refiled as C.C.No.506/2018. In this case, non bailable warrant issued against the accused but she did not appear before the court. After issuing 82, 82 steps against the accused, she appeared before the court and she was enlarged on bail. Copies of all prosecution records were served to her in compliance of Section 207 Cr.P.C. After hearing and perusal of records, charge under sections 323, 324, 294(b), 34 of IPC was framed, read over and explained to her to which she pleaded not guilty.

4. In order to prove its case prosecution cited witness Nos.1 to 6. Prosecution examined witness No.1 as PW1 and marked Exbt.P1. Prosecution witness No.2 is no more. The remaining witness Nos.3 to 6 are given up by the learned Asst. Public Prosecutor. Hence prosecution evidence is closed.

5. Examination under section 313 Cr.P.C. is dispensed with as there is no incriminating circumstances in the prosecution evidence. No evidence is adduced from defence side.

6. Heard.

7. Following points arose for consideration.

- (1) Whether the prosecution could prove that the accused, at 3.30 p.m. on 28/05/2011, voluntarily caused hurt to PW1 and prosecution witness No.3 and thereby committed the offence under section 323 of IPC?
- (2) Whether the prosecution could prove that the accused, on the above said date and time, voluntarily caused hurt to PW1 and prosecution witness No.3 with a granite stone, as a dangerous weapon and thereby committed the offence under section 324 of IPC?
- (3) Whether the prosecution could prove that the accused, on the above said date and time, verbally abused PW1 using obscene words and thereby committed the offence under section 294(b) of IPC?
- (4) What is the punishment if any to be awarded to the accused?

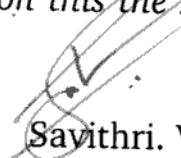
8. **Point Nos.1 to 3:-**For the sake of convenience these points are considered together. The informant was examined as PW1. PW1 deposed before the court that she had given a statement to the police regarding the incident involved in the case. Through her Exbt.P1 First Information Statement got marked. She deposed before the court that she sustained injury in the incident but she does not know who attacked her.

9. None of the prosecution witness examined identified the accused as the person who attacked him in the incident in this case and on analysis of entire prosecution evidence, there is no evidence to connect the accused persons with the offences alleged. Therefore, it can be safely concluded that prosecution failed to prove the guilt of the accused persons beyond reasonable doubt. Hence these points are found against the prosecution.

10. **Point No.4:-** In view of my finding on point Nos.1 to 3, accused is found not guilty of offences punishable under sections 323, 324, 294(b), 34 of IPC and she is acquitted under section 248(1) of Cr.P.C. Her bail bond stands cancelled and she is set at liberty.

Property is received in this case and entered in Thondy Register as T.R.No.352/2014. Property (കരിക്കൽ കപ്പം), being valueless shall be destroyed after appeal period is over.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court on this the 26th day of February, 2024.


Sayithri. V,
Judicial Magistrate of the First Class-I,
Cherthala.

APPENDIX

Witnesses for Prosecution:

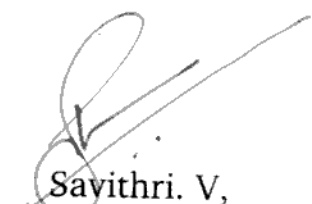
PW1 : Vinitha

Exhibits for Prosecution:

P1 : First Information Statement marked through PW1

Defence witness: Nil

Defence exhibits: Nil


Sayithri. V,
Judicial Magistrate of the First Class-I,
Cherthala.