

**IN THE COURT OF THE JUDICIAL MAGISTRATE OF THE FIRST CLASS,
PATHANAPURAM**

Present :- Shri.Sajith.V, Judicial First Class Magistrate

Tuesday, 24th day of February, 2026/5th day of Phalguna, 1947

CALENDAR CASE NO. 1755/17

Complainant : State represented by the Sub Inspector of Police,
Pathanapuram Police Station (Crime No. 1680/17)

(By Sri.S.Salil Raj, APP Gr.I, Pathanapuram)

Description of Accused:

Sl.No	Name	Age	Father's Name	Religion	Residence
1	Salim	47/17	Abdul Rahman	---	Thekkekonil veedu, Padam Pathirikkal muri, Pathanapuram.
2	Asad	43/17	Abdul Rahman	---	Thekkekonil veedu, Padam Pathirikkal muri, Pathanapuram.

(By Adv. Sri.J.Bahuleyan)

Offence : u/s. 294(b),506(i) of Indian Penal Code and section 119(a) of the Kerala Police Act.

Plea : Not Guilty

Finding : Not Guilty

Sentence or Order : Accused numbers 1 and 2 are found not guilty of the offences punishable U/ss 294(b),506(i) of Indian Penal Code and section 119(a) of the Kerala Police Act and they are acquitted of the said charge under section 255(1) Cr.P.C.

DATES OF

Offence	Complainant	Apprehension or appearance	Release on bail	Commencement of trial	Commencement of evidence	Period of detention undergone during investigation, Inquiry of trial for the purpose of S.428 Cr.P.C.	Close of trial	Sentence or order
05/09/17	25/12/17	04/01/19	04/01/19	01/07/23	08/11/23	---	20/02/26	24/02/26

This case coming on for today's proceedings, the Court delivered the following;

JUDGMENT

This is a case charge sheeted by the Sub Inspector of Police, Pathanapuram Police station against the accused alleging commission of offences punishable U/s. 294(b), 506(i) of Indian Penal Code and section 119(a) of the Kerala Police Act.

2. **The prosecution case is as follows:** On 05/09/2017 at about 9 am, at the house of the defacto complainant at Vellamthetti, the accused numbers 1 and 2, due to animosity, for the reason that CW2 restrained the accused from taking their cows through the front side of the house and caused destruction of those crops, the first accused uttered obscene words against CW2, and when the same was recorded by CW1, the first accused uttered abusive words against her and lifted his clothes with intent to degrade the dignity of women. Further, the second accused uttered abusive words against them and attempted to throw stones at them. Thus, the accused numbers 1 and 2, in furtherance of their common intention, committed the offences punishable under sections 294(b) and 506(i) of the Indian Penal Code and section 119(a) of the Kerala Police Act.

3. On filing of the final report, the case was taken on file and summons were issued to the accused. They turned upon summons and were enlarged on bail. Copies of prosecution records were served to them u/s. 207 of Cr.PC. Particulars of offences was read over and explained to them. They pleaded not guilty and claimed to be tried for the offences punishable under sections 294(b),506(i) of Indian Penal Code and section 119(a) of Kerala Police Act.

4. Thereafter the case was posted for prosecution evidence. On behalf of the prosecution, six witnesses were examined as PW1 to PW6, and Ext.P1 to P5 were marked. After closing the prosecution evidence, the accused were examined u/s 313 (1) (b) of Cr.P.C. The accused persons denied all the incriminating circumstances found against them in the prosecution evidence and pleaded innocence. From the side of defence, Exbt. D1 and D2 were marked. No other defence evidence adduced.

5. Heard both sides.

6. The points that arise for consideration are as follows:

1. Whether the accused numbers 1 and 2, in furtherance of their common intention, uttered abusive words against PW1 and PW2 and thereby committed the offence punishable under section 294(b) of the Indian Penal Code?
2. Whether the accused numbers 1 and 2, in furtherance of their common intention, threatened PW1 and PW2 and thereby committed the offence punishable under section 506(i) of the Indian Penal Code?
3. Whether the accused number 1 lifted his clothes with intent to degrade the dignity of PW1 and thereby committed the offence punishable under section 119(a) of the Kerala Police Act?
4. Sentence or order?

Point numbers 1 to 3:

7. For convenience and brevity, these points are discussed together. PW1 deposed that she is the complainant in this case, and the incident happened on 05/09/2017 at about 9 am at the roadside in front of her house at Padam. She further deposed that, at the roadside, her father-in-law had cultivated spinach and oatmeal; hence, PW2, her mother-in-law, instructed the first accused not to take his cow through the said pathway. At that time the first accused uttered abusive words against PW2; when PW1 attempted to record the same on her phone, the first accused lifted his clothes and uttered abusive words against her. Further, the second accused came there and uttered obscene words against them and attempted to throw stones at them. The first and the second accused uprooted the crops, and they did the same due to the animosity, for having prohibited by PW2 from passing through the said way with their cows. PW1 further deposed that she gave an FIS before the Patanapuram police in the said incident and the said FIS bears her signature and further deposed that she could identify the accused persons.

8. PW2 deposed that PW1 is her daughter-in-law and the incident of this case happened 5 years ago at 10 am, in front of the road of her house. The accused number 1 took his cows through the said road, and when she prohibited the same, he uttered obscene words against her. When the same was photographed by PW1, the first accused lifted up his clothes. Thereafter, the second accused came there and uttered abusive words against them. PW2 further deposed that she gave a statement before the police in the said incident and can identify the accused.

9. PW3 deposed that PW1 is her daughter-in-law and PW2 is his mother. On 05/09/2017 at about 9 am, the accused numbers 1 and 2 came to the road in front of his house and uttered obscene words. When PW1 attempted to record the same on her mobile phone, the first and the second accused lifted their clothes and uttered abusive words against her. The first and the second accused did the same due to the animosity, for having prohibited by PW2 from passing through the said way with their cows.

PW1 further deposed that he gave a statement before the Pathanapuram police and further deposed that he could identify the accused persons.

10. PW4 deposed that PW1 is her daughter-in-law and PW2 is her husband's mother. On 05/09/2017 at 9 am, the accused number 1 was going through the northern side of their house, and at that time she noticed that the cow had destroyed the crops cultivated there. When PW3 prohibited the same, the first accused uttered abusive words, and the second accused uprooted the crops. PW4 further deposed that when PW1 attempted to record the same on her mobile phone, the first accused uttered obscene words and lifted up his clothes. At that time the second accused threw stones at them. The first and the second accused uprooted the crops, and they did the same due to the animosity, for they were prohibited by PW2 from passing through the said way with their cows. PW4 gave a statement before the Pathanapuram police in the said incident and further deposed that she could identify the accused persons.

11. PW5 deposed that he had attested as a witness in the scene mahazar prepared by the police.

12. PW6 deposed that on 05/09/2017, while he was working as a sub-inspector at Pathanapuram Police Station, he registered an FIR as per the FIS given by the PW1. Thereafter he prepared a scene mahazar in the presence of the witnesses and arrested the accused persons. Further, he filed a report before the court after identifying the correct name and the address of the accused persons. Then he filed the final report before the court after completing the investigation. He further deposed that he can identify the accused persons arrested by him.

Analysis of the case

13. I have gone through the available evidence before the court and the arguments advanced by the learned APP and the counsel for the accused. The offences alleged against the accused are 294(b) and 506(i) of the Indian Penal Code and section

119(a) of the Kerala Police Act. With respect to section 294(b) of the Indian Penal Code, PW1 reproduced the obscene words uttered by the accused persons during the examination in chief. PW1 deposed that, when she attempted to record the video of the first accused, he uttered obscene words against her. But on going through the rest of the evidence, she did not depose that when the first accused uttered abusive words, it caused annoyance to the others. PW2 to PW4 are the occurrence witnesses, and they also deposed that the accused uttered abusive words, but whether the abusive words caused annoyance to the others is not deposed by them. Section 294(b) of the Indian Penal Code has two major ingredients. The first one is uttering abusive words in the public place or near to the public place, and the second one is that it must cause annoyance to the others. In the case at hand, the witnesses deposed that the incident happened at the road in front of their house; hence, there is no doubt regarding whether the accused uttered abusive words at a public place or near the public place. The evidence of the witnesses would reveal that the place of occurrence was a public place. Even though the incident happened in the public place, there is no evidence on record to show that the same caused annoyance to others.

14. In ***James Jose v. State of Kerala (2019 (3) KHC 531)***, the honourable High Court of Kerala held that *“In order to secure a conviction, the provisions of S.294 of IPC require two particulars to be proved by the prosecution, namely (i) the offender has done any obscene act in any public place or has sung, recited or uttered any obscene song or word in or near any public place; and (ii) has so caused annoyance to others. If the act is not obscene, or is not done in any public place, or the song recited or uttered in or near any public place or that it causes no annoyance to others, no offence is committed.”*

15. In the case at hand, there is no evidence as to whether the obscene words caused annoyance to others. There is no oral evidence by PW1 to PW4, as the obscene words caused annoyance to others. Hence, the offence under section 294(b) of the Indian Penal Code is not proved.

16. Regarding section 506(i) of the Indian Penal Code, PW1 and PW4 deposed that the accused attempted to throw stones at them. In order to attract the offence punishable under section 506(i) of the Indian Penal Code, threatening another with any injury to his person, reputation or property is a mandatory requirement. In the instant case, PW1 deposed that the accused number 1 attempted to throw stones at her, but no witnesses deposed before the court that the accused threatened to cause injury to any person. Mere deposition as to the first accused attempting to throw stones is not sufficient to attract the offence punishable under section 506(i) of the Indian Penal Code.

17. The other offence alleged against the accused is that the accused number 1 lifted his dhoti while PW1 attempted to take his video on her mobile phone. Hence, the accused is alleged to have committed the offence under section 119(1)(a) of the Kerala Police Act.

Section 119(1)(a) provides for the **punishment for atrocities against women.**

1. Any person who—(a) performs, in public places, any sexual gestures or acts degrading the dignity of women shall be punished.

As per section 119(1)(a) of the Kerala Police Act, twin conditions must be satisfied to secure a punishment; that is, the accused must perform a sexual gesture against a woman, and the said sexual gesture shall be in the nature of degrading the dignity of such women.

18. In the case at hand, on going through the Ext P1 FIS itself, there is no statement as to whether the act of the accused number 1 degraded her dignity. There is only a bare statement that the first accused lifted his dhoti. PW1 to PW4 were examined before the court. All the witnesses stated before the court that the accused number 1 lifted his dhoti while PW1 attempted to take his video over her phone. But no one deposed that such an act of the accused degraded the dignity of PW1.

19. Moreover, the prosecution did not have an allegation of a specific act of a sexual nature, but only an allegation that the accused number 1 lifted his dhoti in front of PW1. They have no case that the accused exhibited nudity or any other sexual acts against her. In the absence of any specific sexual act and in the absence of evidence as to such an act degrading the dignity of PW1, the accused cannot be made liable for the said offence.

20. In the light of the foregoing discussion and appreciation of the oral and documentary evidence on record, this Court is of the considered view that the prosecution has failed to establish the essential ingredients of the offences alleged against the accused persons. There is no satisfactory evidence to prove that the alleged obscene words caused annoyance to others so as to attract Section 294(b) of the Indian Penal Code, nor is there any material to show that the accused criminally intimidated PW1 so as to constitute an offence under Section 506(i) of the Indian Penal Code. Likewise, the prosecution has not succeeded in proving that the act attributed to accused number 1 amounted to a sexual gesture degrading the dignity of PW1 within the meaning of Section 119(1)(a) of the Kerala Police Act. In the absence of proof of the statutory ingredients of the aforesaid offences, the accused persons are entitled to the benefit of doubt. Accordingly, the accused numbers 1 and 2 are found not guilty of the offences alleged and are acquitted.

Point number 4:

21. In view of the finding on Points No. 1 to 3, Point No. 4 is also found against the prosecution. In the result, the accused numbers 1 and 2 are found not guilty of offences punishable under section 294(b), 506(i) of Indian Penal Code and section 119(a) of the Kerala Police Act., and they are acquitted u/s. 255(1) of Cr.P.C. The bail bonds of the accused stands cancelled and the sureties are discharged. The accused numbers 1 and 2 are set at liberty.

No material objects produced.

(Dictated to the Confidential Asst., transcribed and typed by her, corrected and pronounced by me in open court on this the 24th day of February, 2026)

Sd/-
Judicial First Class Magistrate
Pathanapuram

APPENDIX

A. Witnesses for the Prosecution :

Rank	Name	Whether Eye Witness, Police Witness, Expert witness, Medical Witness, Other Witness
PW1	Thansi	Occurrence Witness
PW2	Alma Beevi	Occurrence Witness
PW3	Hassan Kutty	Occurrence Witness
PW4	Saleena	Occurrence Witness
PW5	Riyas	Mahazar Witness
PW6	Abdul Manaf	Police witness

B. Defence Witness:

Rank	Name	Whether Eye Witness, Police Witness, Expert witness, Medical Witness, Other Witness
Nil	Nil	Nil

C. Court Witness:

Rank	Name	Whether Eye Witness, Police Witness, Expert witness, Medical Witness, Other Witness
Nil	Nil	Nil

List of prosecution/Defence/Court Exhibits

A. Prosecution Exhibits:

Sl. No	Exhibit Number	Description
1	P1	Frist Information Statement dated 05/09/17 proved by PW1 on 08/11/23
2	P2	Scene mahazar dated 06/09/17 proved by PW5 on 05/01/26
3	P3	First information Report dated 05/09/17 proved by PW6 on 04/02/26
4	P4	Bail bond dated 16/09/17 proved by PW6 on 04/02/26
5	P5	Address report dated 16/09/17 proved by PW6 on 04/02/26

B. Defence Exhibits:

Sl.No.	Exhibit Number	Description
Nil	Nil	Nil

C. Court Exhibits:

Sl.No.	Exhibit Number	Description
1	D1	Relevant portion of statement on PW3 proved by PW3 on 06/02/25
2	D2	Relevant portion of statement on PW3 proved by PW3 on 06/02/25

D. Material Objects:

Sl.No.	Exhibit Number	Description
Nil	Nil	Nil

//True copy//

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