

IN THE SESSIONS DIVISION, ALAPPUZHA

Present: Smt. Rekha Laurian, Assistant Sessions Judge, Alappuzha.

Monday the 30th day of March, 2026/09th day of Chaithram, 1948.

S.C. No.234/2021
(filed on 13.04.2021)

(C.P. No.73/2020 of the Judicial First Class Magistrate Court-I, Alappuzha)
(Cr. No.647/2020 of Police Station, Alappuzha North)

Complainant : State of Kerala represented by the
Sub Inspector of Police,
Alappuzha North Police Station.

(By Addl. Public Prosecutor- Sri.P.Praveen)

Accused :A1. Dineesh, aged 38 years, S/o.Dinesan, Vallikadu
Veedu, Avalookunnu P.O, Ward No.14, Aryad
Panchayath.
A2. Risvan Nissar, S/o.Muhammed Nissar,
Puthenchira Puthen Veedu, Thirumala Ward,
Alappuzha Municipality.
(split up)

(Adv. Soumya.P.S.)

Offences : U/Ss.427, 294(b), 308 r/w 34 IPC.

Plea : Not guilty

Finding : Not guilty

Sentence/Order : Accused No.1 is found not guilty of offence under
Sections 427, 294(b), 308 r/w 34 IPC. Accused is
acquitted u/s.235(1) Cr.P.C.

Description of the Accused

Sl No.	Name	Father's Name	Religion	Occupation	Residence	Age
1.	Dineesh	Dinesan	Hindu	-	Vallikadu Veedu, Avalookunnu P.O, Ward No.14, Aryad Panchayath.	38

Date of								
Occurrence	Complaint	Apprehension	Release on bail	Commitment	Commencement of trial	Close of trial	Sentence/ Order	Explanation for delay
14.05.20	14.05.20	A1- 16.06.20	A1- 17.02.21	20.02.21	24.10.24	24.03.26	30.03.26	No delay

This case having been finally heard on 24.03.2026 and the Court on 30.03.2026 delivered the following:

JUDGMENT

This is a case taken on file based on a final report filed by the Sub Inspector, Alappuzha North P.S. in Crime No.647/2020 of Alappuzha North police station for the offence punishable u/Ss.427, 294(b), 308 r/w 34 IPC.

2. **Gist of the averments in prosecution case is as follows:** - CW1 and family were residing at home stay run by the 1st accused. Since the complainant defaulted in payment of rent the 1st accused along with 2nd accused in furtherance of their common intention, on 14.05.2020 at 8.30 pm, attacked CW1 near Pichu Ayer junction and shouted obscene words. They demanded money and 2nd accused took an iron rod from the scooter. The 1st accused brandished the iron rod towards the head of the complainant and he evaded the attack. They caused destruction to the glass on the

left side of car bearing Reg.No.TN-07-BL-6500 and caused mischief of Rs.29,000/-. If the complainant wouldn't have evaded the attack, it would have cause death of the complainant. Thus the accused are alleged to have committed the above offences.

3. Based on the First Information Statement of CW1, a case was registered against the accused by Sub Inspector, Alappuzha North police station and investigation stands completed to file a final report before the Learned Judicial First-Class Magistrate-I, Alappuzha. On receiving the final report, the Learned Magistrate took cognizance against the accused for the offence punishable u/Ss.427, 294(b), 308 r/w 34 IPC.

4. On issuance of summons, the accused appeared before the Judicial First-Class Magistrate's Court-I, Alappuzha. All the copies of prosecution records were furnished to them u/s 207 of Cr.P.C and the case stands committed to Hon'ble Sessions Court, Alappuzha u/s 209 of Cr.P.C, vide order dated 20.02.2021 in CP.73/2020. The Hon'ble Sessions Court, Alappuzha made over the case for trial to this court.

5. The 2nd accused absconded and case against him is split up. When the case is made over to this court, summons was issued and the 1st accused appeared before the court. On hearing both sides and after perusal of the prosecution records, a

charge was framed against the 1st accused u/Ss.427, 294(b), 308 r/w 34 IPC. Charge was read over and explained to him to which he pleaded not guilty.

6. From the side of the prosecution, *PWs 1 to PW11 were examined and Exts.P1 to P16 were marked*. In spite of repeated issuance of process CW1 was not produced. So steps u/sec 82 and 83 CrPC was initiated and was completed. Hence trial was proceeded in his absence. CW6 and CW12 were given up. **The material objects in this case were marked as MO1 and MO2**. On completion of prosecution evidence, the 1st accused was questioned u/s 313(1)(b) Cr.P.C and he denied all the incriminating circumstances against him. Since then, the counsel appearing for both sides addressed their arguments u/s 232 Cr.P.C and the case proceeded to the next stage. The 1st accused was called upon to tender defence evidence. However, no defence evidence was adduced.

7. Heard both sides.

8. Points that arise for consideration are the following:-

1. Has the both accused on 14.05.2020 at 8.30 pm, in furtherance of common intention, abused CW1 using obscene words, at the tar road, near Pichu Ayyar junction in Vazhizherry Ward, Alappuzha Municipality and thereby committed offence punishable u/s.294(b) r/w 34 of IPC as alleged?

2. Has the 1st accused along with 2nd accused, in furtherance of their common intention, committed mischief by braking the glass of CW1's car with an iron rod causing loss of Rs.49,000/- to him and thereby committed offence punishable u/s.427 r/w 34 of IPC as alleged?
3. Has the 1st accused along with 2nd accused, in furtherance of their common intention, beat on the head of CW1 with an iron rod and thereby attempted to commit culpable homicide not amounting to murder of PW1 and thereby committed offence punishable u/s.308 r/w 34 of IPC as alleged?
4. Sentence or Order ?

9. **Point Nos.1 to 3 :-** For the sake of brevity and convenience these points are discussed together. The learned Additional Public Prosecutor urged to take the matter as heard.

10. The learned counsel for accused urged that there is no incriminating evidence against the accused to connect the accused with the alleged offence. So, the accused may be acquitted of the charge levelled in this case.

11. PW1 is cited as an ocular witness. He stated that he does not know the incident. He denied the prosecution case. The contradiction in his statements were confronted with the witness.

12. PW2 is also an ocular witness. He is a shop owner. He stated that a car was caused destruction in front his shop. He does not know the complainant or the accused.

13. PW3 is an attester of mahazar. He stated that he signed the mahazar at Pichu Ayyar junction. It was marked as Ext.P4.

14. PW4 is the witness to the recovery mahazar and he denied the prosecution case.

15. PW5 was Village officer of Alappuzha West Village. He prepared scene plan. It was marked as Ext.P2. As per scene plan the scene of occurrence is to the western side of Pichu Ayyar junction.

16. PW6 is an ocular witness. He is a shop owner. He stated that a car came in front of his shop. The Tyre was punched, they asked for repairing the puncher. Then some persons came in a motor bike and caused destruction to the vehicle. But he could not identify any person. He denied the prosecution case. The portion in which 161 statement stating that he know the accused was confronted. He denied. It was marked as Ext.P3.

17. PW7 was the AMVI working at RTO office. He inspected Toyota Innova car bearing registration No.TN-07-BL-6500. The damage certificate was marked as Ext.P4. As per the damage certificate loss was assessed to Rs.49,000/-

18. PW8 was CPO who was the witness to vehicle mahazar. He stated that red scooter of Piageo Company bearing Reg.No.KL 04-AM-8145 was inspected. He is and attester to the mahazar. It was marked Ext.P5.

19. PW9 is the owner of scooter baring KL-04-AM-8145. He stated that during covid time the accused and his friend took his vehicle for going to town.

20. PW10 was sub inspector police of Alappuzha North Police station. He recorded FIS. It was marked as Ext.P6. He registered crime 647/2020 u/s 427, 294(b), 308 r/w 34 IPC. The FIR was marked Ext.P7. He conducted the investigation and prepared Ext.P1 mahazar. He inspected the vehicle bearing Reg. No.TN-07-BL-6500. The mahazar was marked Ext.P8. The address report of the 1st accused was marked as Ext.P9. The contradictions were proved though the witness. The 1st accused was arrested. The arrest records were marked as Ext.P11 series. The iron rod was seized as per Ext.P12 mahzar. The relevant portion of confession which led to recovery was marked as Ext.P12(a). The property was included in KPF form. The property list was marked Ext.P13. The glass pieces were included in property list. It was marked as Ext.P14. The glass pieces were identified and marked as MO1series. The iron rod was marked as MO2. During cross examination, he stated that the iron rod was recovered after one month. It was not identified by the complainant.

21. PW11 was the Sub Inspector who completed the investigation. He took over the investigation on 16.06.2020. The report was marked as Ext.P15. He prepared

inventory of scooter bearing Reg.No.KL-04-AM-8145 it was marked as Ext.P16. He completed the investigation and filed the final report. During cross examination, he stated that as per the damage certificate right side rear door glass is broken and right side glass is broken.

22. Heard both sides. Complainant could not be traced out.Steps u/s82,83 CrPC was completed. Even though the ocular witnesses were examined by the prosecution, they did not support the prosecution case. The only witnesses that supported the prosecution are the officers who recorded the FIS and conducted the investigation. But the evidence did not in any way improve the case of the prosecution. The damage certificate is contrary to the prosecution case. Now, there is absolutely no evidence to prove that the 1st accused has committed the offences alleged against him. I have considered submissions and perused the entire evidence on record. From the available evidence tendered by PW1 to PW11, it is revealed that nothing material was brought out to improve the prosecution case. On an evaluation of the available evidence on record, it is clear that there is no incriminating evidence to connect the 1st accused with the alleged offence and the accused deserves benefit of doubt. Point is answered against the prosecution and decided accordingly.

23. Hence I am of the view that prosecution failed to prove the offences u/Ss.427, 294(b), 308 r/w 34 IPC. On an evaluation of the available evidence on

record, it is clear that the prosecution failed to prove its case beyond reasonable doubt.

Points are answered against the prosecution and decided accordingly.

24. **Point No.5:-** In the light of the finding on the above points, the accused No.1 is found not guilty of the offences alleged against him.

In the result, the accused No.1 is found not guilty of any the offences alleged against him and he is acquitted u/s.235(1) Cr.P.C. for offences punishable offences u/Ss. 427, 294(b), 308 r/w 34 IPC and he is set at liberty. Bail bond executed by accused would survive for a further period of six months, as envisaged u/s. 437-A of the Code of Criminal Procedure.

Case against 2nd accused is split up and refiled.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court on this the 30th day of March, 2026.

Sd/-

Rekha Laurian
ASSISTANT SESSIONS JUDGE.

APPENDIX

Witnesses for prosecution

- | | | |
|-----|---|---|
| PW1 | - | Navas, dated 05.03.2026. |
| PW2 | - | Sadick, dated 05.03.2026. |
| PW3 | - | Dayalan, dated 05.03.2026. |
| PW4 | - | Sreekumar, dated 05.03.2026. |
| PW5 | - | Jayasimhan.P.V, dated 05.03.2026, Village Officer, Alappuzha West Village. |
| PW6 | - | Nijas, dated 11.03.2026. |
| PW7 | - | Sarath Senan, dated 11.03.2026, Assistant Motor Vehicle Inspector, Alappuzha. |
| PW8 | - | Sumesh, dated 11.03.2026, Civil Police Officer, Alappuzha North Police station. |

- PW9 - Babu P.M, dated 11.03.2026.
 PW10 - B.Sundaresan, dated 17.03.2026.
 PW11 - Siva Kumar.R, dated 17.03.2026, Sub Inspector, Alappuzha North Police station.

Exhibits for prosecution

- P1 - Scene mahazar, dated 15.05.2020.
 P2 - Scene plan, dated 18.06.2020.
 P3 - Relevant portion of 161 statement
 P4 - Damage certificate, dated 15.05.2020.
 P5 - Vehicle mahazar, dated 16.06.2020.
 P6 - FIS, dated 14.05.2020.
 P7 - FIR, dated 14.05.2020.
 P8 - Vehicle mahazar, dated 15.05.2020.
 P9 - Address report(A1), dated 17.05.2020.
 P10 - Address report(A2), dated 16.06.2020.
 P11 - Arrest memo(A1), dated 16.06.2020.
 P11(a) - Inspection memo(A1), dated 16.06.2020.
 P12 - Seizure mahazar, dated 16.06.2020.
 P12(a) - Disclosure statement, dated 16.06.2020.
 P13 - Property list, dated 20.05.2020.
 P14 - Property list, dated 17.06.2020.
 P15 - Report, dated 16.06.2020.
 P16 - Inventory mahazar, dated 23.06.2020.

Witnesses for defence :-Nil

Exhibits for defence :-Nil

Material Objects

- MO1 - Broken glass pieces
 MO2 - Iron rod

Id/-
 ASSISTANT SESSIONS JUDGE