

IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE-I, ALAPPUZHA.

Present:-Smt. Shana Beegam, Judicial First Class Magistrate.

Dated this, the 11th day of March, 2026.

CC No. 1842/2019

Complainant : State-represented by Sub Inspector of Police, Alappuzha North Police Station in crime No. 1615/2015.

[By Asst. Public Prosecutor, Alappuzha]

Accused : 1. Suresh @ Kuuvi Suresh, S/o. Baby, Veliyil veedu, Poonthoppu ward, Alappuzha Municipality.
2. Renjith, S/o. Rajan, Cherukulath Kambiyil veedu, Ashramam ward, Alappuzha Municipality.
3. Najeeb, S/o. Kunjumammed, Kambiyil veedu, Avalookunnu ward, Alappuzha Municipality.
4. Manikuttan @ Sajithkumar, S/o. Palani, Cherukulath veedu, Ashramam ward, Alappuzha Municipality.

(By Adv. Pramel P)

Offence : U/s. 341, 323, 427 r/w. 34 IPC

Plea : Not guilty.

Finding : Not guilty.

Sentence : Accused Nos. 2 to 4 are acquitted u/s. 255 (1) Cr.P.C. 1st accused is absconding. Hence, case against him is split up and refiled as CC...../2019.

DESCRIPTION OF THE ACCUSED

Sl. No	Name	Father's name	Calling	Residence	Taluk	Age
1.	Suresh	Baby	.....	Alappuzha	Ambalapuzha	40
2.	Renjith	Rajan	.....	"	"	36
3.	Najeeb	Kunjumammed	.....	"	"	54
4.	Manikuttan @ Sajithkuar	Palani	....	"	"	54

DATE OF							
Occurrence	Complaint	Apprehension	Released on bail	Commencement of trial	Close of trial	Sentence or order	Explanation for delay
6.1.15	4.3.16	20.8.19	20.8.19	9.12.19	9.3.26	11.3.26	No delay

This case having been finally heard on 11.03.2026 and on the same day the court delivered the following:-

JUDGMENT

This case is initiated against the accused on the basis of a final report filed by the Sub Inspector of Police, Alappuzha North Police Station in crime No. 1615/15 alleging commission of offences u/s. 341, 323, 427 r/w. 34 IPC.

2. The prosecution case, in brief is that the accused persons who were having animosity with CW1 that he claimed back the money borrowed by them from CW1 and with their intention to restrain, abuse and assault CW1, on 06.11.2015 at 22.30 pm, in front of Shalu Textiles situated at

Kaichoondi Junction, while CW1 & CW2 were about to leave from the shop in car, the accused persons wrongfully restrained them, and thereafter, the first accused forcefully pull down CW1 out of the car and slapped on his left cheek, the second accused caught his shoulder and pushed him back and kicked on his abdomen and the 3rd accused kicked on his back and 4th accused kicked on his abdomen. It is also alleged that during the alleged incident an amount of Rs. 13000/- was lost to CW1. Thus, the accused persons are alleged to have committed the offences mentioned above.

3. Originally this case was taken on file as CC 509/2016 on the file of this court. Later, the case was transferred to Judicial First Class Magistrate Court – II, Alappuzha as per the order of Hon'ble Chief Judicial Magistrate, Alappuzha vide order No. C2-294/2019 dated 10.1.2019 and the file is taken on file as CC 167/2019. On receipt of summons, the accused Nos. 1 to 4 appeared before that court and they were released on bail. Copies of relevant prosecution case records were furnished to them. Particulars of the offences u/s. 341, 323, 427 r/w. 34 IPC read over and explained to the accused Nos. 1 to 4 to which they pleaded not guilty. During trial, 1st accused absconded and hence, case against him was split up and the court proceeded the case with other accused persons.

4. Later on 3.9.2024, the case was again transferred to this court as per the order of Hon'ble Chief Judicial Magistrate, Alappuzha vide order No. C2-6065/2024 dated 1.8.2024 and this court taken the case on file as above.

5. In order to prove the case, prosecution cited CWs 1 to 6 to prove their case and examined PWs 1 to 6 and Exts. P1 to P6 were marked. As CW6, the Investigatng Officer is no more, an additional witnesses who is familier to the signature of CW6 was examined After completing the

prosecution evidence, the accused Nos. 2 to 4 were examined u/s. 313 Cr.P.C. They denied all the incriminating evidence adduced against them. From the side of defence, Exbts. D1 to D6 were marked subject to proof. Heard both sides.

6. Points that arise for consideration are:-

1. Whether the accused Nos. 2 to 4 along with the 1st accused, in furtherance of their common intention, wrongfully restrained PW1 in front of his shop named Shalu Textiles situated at Kaichoondy Junction and voluntarily caused hurt to PW1 and also causing a loss of Rs. 13000/- to PW1 on 6.11.2015 at 10.30 pm as alleged ?
2. Finding and order ?

Point No. 1

7. According to the prosecution case, the accused persons who were having animosity with PW1 that he claimed back the money borrowed by them from CW1 and with their intention to restrain, abuse and assault PW1, on 06.11.2015 at 22.30 pm, in front of Shalu Textiles situated at Kaichoondi Junction, while PW1 & PW2 were about to leave from the shop in car, the accused persons wrongfully restrained them, and thereafter, the first accused forcefully pull down PW1 out of the car and slapped on his left cheek, the second accused caught his shoulder and pushed him back and kicked on his abdomen and the 3rd accused kicked on his back and 4th accused kicked on his abdomen. It is also alleged that during the alleged incident an amount of Rs. 13000/- was lost to PW1. Thus, the accused persons are alleged to have committed the offences mentioned above.

8. PW1 deposed before the court that, he is running shop named Shalu Textiles at Kaichoondy Junction. He is running the said establishment from 2008. The alleged incident was happened on 06.11.2015 at 10.30 p.m. At that time he closed his shop and was about to leave from the shop in his car which was parked in front of the shop. PW2 was also there. She is the manager of the said establishment. While they were about to leave, the accused persons restrained their car. Thereafter, the first accused dragged him from the car and ordered him to close the shop by 08.00 p.m. Thereafter PW1 intimidated the first accused that he shall not interfere in his matters. By that time the first accused slapped on his left cheek. Second accused caught hold his shoulder and pushed him back. While he fell down he kicked on his abdomen. The third accused kicked on his back and the fourth accused kicked on his abdomen. During the incident he had incurred a loss of ₹ 13,000. While PW2 screamed the accused persons took heels from there. He had seen the incident on the light of high mass situated there. Thereafter he had undergone treatment at Medical College Hospital. He further deposed that the accused nos. 1, 2 and 3 at various times came to his shop demanding money and he had given the same. As he claimed back the borrowed money, they were in animosity with him and due the same reason they had done all these acts against him. The second accused had demanded ₹3, 000 about 1 month before the incident and he denied the same and hence he left from the shop in anger. He had filed Exhibit P1 complaint before the police station. He also deposed that he could identify the accused persons.

9. PW2 deposed before the court that she knew PW1. She is the manager at Shalu Textiles. The incident happened on 06.11.2015 in front of the shop at about 10.30 p.m. She along with PW1 was About to leave from the

shop in the car. At that time the accused persons restrained their vehicle and the first accused ordered PW1 to close the shop by 08.00 p.m. and PW1 in reply stated to the first accused that not to interfere in his matters. At that time, the first accused dragged PW1 out of the car and second accused caught hold his collar and pushed him down, kicked his abdomen. While he was about to rise, third accused kicked on his back. He again fell down and at that time the fourth accused Kicked on his abdomen. She got out from the car and screamed. At that time the locals gathered there and hence the accused persons took into heels. The accused persons had several times claimed money from PW1 and had also borrowed money from him. The third accused during night time taken items from the shop without giving money and While the money was asked, he was in animosity with PW1. She also deposed that she could identify the accused persons and during the incident ₹ 13,000 was lost to PW1.

10. PW3 deposed before the court that he knew PW1. The incident was happened on 06.11.2015 at around 10.00 to 10.30 p.m. in front of Shalu Textiles situated on the west of Kaichoondi junction. At that time he was coming from south to north in his bike to purchase things. PW1 and PW2 after closing the shop was about to leave in the car. While they were about to leave, a lean person opened the door of the car and ordered PW1 to close his shop at 08.00 p.m. At that time PW1 got out of the car and replied to him that he shall not interfere in his matters. Thereafter, the lean person caught hold the collar of PW1 and slapped on his face. The second accused pushed PW1 down and kicked on his abdomen. While he was about to rise, the third accused kicked on his back and thereafter PW1 fell down. At that time the fourth accused also kicked on his abdomen. On hearing the screaming of PW2, the people gathered there. Thereafter, the accused persons left from there. PW1 was

taken to hospital. He also deposed that he could identify the accused persons. He had also deposed that they were discussing about money transaction. He had witnessed the incident in the light.

11. PW4, the doctor deposed before the court that while he was working as Casualty Medical Officer at General Hospital, Alappuzha, he had examined PW1 on 07.11.2015. Who came with alleged history of assault by identifiable person and he was beaten up by iron rod. The injuries noted are contusion on forehead and abrasion on the left ear. He had pain on abdomen and had given a history of hitting on abdomen. Exhibit P2 is the wound certificate prepared by PW4.

12. PW5 deposed before the court that while the Investigating Officer inspected the place of occurrence, he was not present there. However, he identified his signature in Exhibit P3. He further deposed that as per the direction of police, he had put signature in Exhibit P3.

13. PW6 deposed before the court that during 2015 he was working as Senior Civil Police Officer at Alappuzha North Police Station. During this time he had worked along with CW6 who was working as Sub Inspector of Police at the same station. He further deposed that he is acquainted with the signature and handwriting of CW6. He identified the signature of CW6 in Exhibit P1 statement. He also deposed that CW6 had prepared Exhibit P3 mahazar and identified his signature in the same. He also identified the signature of CW6 in Exhibit P5 bail bond and Exhibit P6 address report of the accused persons. He also identified the signature of CW6 in the charge sheet laid before the court against the accused persons.

14. So, the above discussed are the evidence brought by the prosecution and the accused before the court. Now, I may discuss the above evidence in the light of the legal provisions. The offences alleged against the accused are under sec. 341, 323 , 427, 34 of IPC.

15. According to the prosecution, the accused persons who were having animosity with PW1 with respect to money transactions and with their intention to abuse , assault and restrain PW1 who is running shop named Shalu Textiles at Kaichoondy Junction, on 6.11.2015 at 10.30 pm, restrained the car while PW1 & PW2 were about to leave in the same after closing the said shop and thereafter committed the alleged acts.

16. At the very outset, it is to be noted that the alleged incident was happened on 06.11.2015 at about 10.30 p.m. and Exhibit P4 FIR is registered on 07.11.2015 on the basis of Exhibit P1 complaint given at about 14.48 p.m. on 06.11.2015 by PW1. The learned counsel for the accused contended that there is an unexplained delay of 16 hours in giving Exhibit P1 complaint by PW1. On going through the prosecution records, it could be gathered that the reason for the delay had not been explained anywhere. Further on verification of Exhibit P4 FIR it could also be gathered that the type of information received is as "written" and it is admitted by PW1 before the court. However the said written complaint had not been produced before the court. Further going through the testimonies of PW1 to PW3, it could be gathered that they had given deposition in tune with the prosecution case. However, it is just like a scripted testimonies before the court. Each and every deposition of PW1 to PW3 are same. On going through their evidence, it could be gathered that they were very well-tutored witnesses.

17. According to the version of PW1, PW2 and PW3, the first accused

had slapped on his left cheek, the second accused pushed him down and kicked on his abdomen, third accused kicked on his back and fourth accused kicked on his abdomen. Going through Exhibit P2 wound certificate, the details of injuries noted by PW4 are Contusion on forehead and abrasion on the left ear. The injuries deposed by PW1 to PW3 are not corroborating with Exhibit P2 wound certificate. It is important to be noted that the history stated by PW1 to PW4 is that assault by identifiable four persons and he was beaten up by iron rod. The prosecution has no such case that PW1 had been attacked using an iron rod and even PW1 had no such case at all while he deposed before the court.

18. Further from the side of the defence, though Exhibits D1 to D6 had been marked subject to proof, and as the Investigating Officer CW6 was no more, they could not prove the same through the Investigating Officer. The learned counsel for the accused contended that the same had caused prejudice to the accused persons. Further from the evidence of PW1, it could be gathered that CCTV was installed at his shop and recordings were kept by him. However, he had not handed over the same to the Investigating Officer. The act of PW1 not handing over the recordings would also create doubt on the prosecution case. Further PW2 who was along with PW1 was a staff in the shop of PW1. PW3 was also a customer of PW1. There are no independent witnesses cited by the prosecution to establish their case in spite of availability of nearby shop owners and other local people.

19. It is pertinent to note that though PW1 and PW2 deposed that RS. 13000/- was lost to PW1 which was kept in the pocket of PW1 other than the oral testimonies there is absolutely no evidence to establish the same. Further, the loss is not ascertained by the prosecution. There is no evidence to

establish the exact amount of money which was kept by PW1. Hence, the ingredient of sec. 427 IPC is not satisfied.

20. So going through the entire evidence brought before the court by the prosecution, it could be gathered that the prosecution had miserably failed to establish their case beyond reasonable doubt against the accused persons. Hence, the accused are entitled to an acquittal. Point No. 1 is found in favour of the accused persons.

Point No. 2:-

21. In the light of the findings on point No. 1, accused Nos. 2, 3 and 4 are found not guilty of the offences u/s. 341, 323, 427 & 34 of the IPC.

In the result, accused Nos. 2, 3 and 4 are acquitted of the charge under section 255 (1) Cr.P.C. They are set at liberty and their bail bonds stand cancelled.

Case against the 1st accused is split up and refiled as CC/2019

Dictated to the Confidential Assistant, transcribed by him, corrected and pronounced by me on this the, 11th day of March, 2026.

Sd/-

**Judicial First Class Magistrate-1,
Alappuzha.**

APPENDIX**Prosecution Witnesses :-**

- PW1 : Sajithkumar
PW2 : Lali
PW3 : Mdhuranatha Sabu
PW4 : Anas Salih, Duty Medical Officer
PW5 : Shemeer
PW6 : Sanu N.P, Sub Inspector of Police (Addl. Witness)

Prosecution Exhibits:-

- P1 : FI Statement dated 7.11.2015 marked through PW1
P2 : Wound certificate dated 7.11.2015 marked through PW4
P3 : Scene mahazar dated 7.11.2015 marked through PW6
P4 : FIR dated 7.11.2015 marked through PW6
P5 : Bail bond dated 15.11.2015 marked through PW6
P6 : Address report dated Nil dated marked through PW6

Witnesses for the defence:- Nil

Exhibits for the defence:-

- D1 to D3: Relevant portions of 161 Cr.PC. statement of CW2 marked through PW2
D4 to D6: Relevant portions of 161 Cr.PC. statement of CW2 marked through PW2

Material objects marked:- Nil

Sd/-
Judicial First Class Magistrate-1,
Alappuzha.