

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE-
II,ALAPPUZHA**

Present:-Ms.Seethal.M.Sasidharan, Judicial First Class Magistrate-II

Dated this the 25th day of March, 2026/ 4th Chaithra 1948

C.C.No. 1756/22

Complainant : State of Kerala represented by Sub
Inspector of Police, Mannancherry
Police Station in Crime No.301/18
(By Nageswary k.k , APP, JFMC II
Alappuzha)

Accused

1. Rahul, S/o Remanan, 22/18 years,
Pathirapally veli, ward no.21
Mannancherry Panchayath
Mannancherry.P.O.
2. Madhusudanan, 59/18 years, S/o
Krishnankutty, Manaparambil, Ward
No 22 , Mannancherry Panchayath
Mannancherry.P.O
3. Maneesh.M.Madhu, 31/18 years, S/
o Madhusoodhanan, Manaparambil,
Ward No 22 Mannancherry
Panchayath , Mannancherry.P.O,
4. Mahesh.M.Madhu, 31/18 years, S/o
Madhusoodhanan, Manaparambil,
Mannancherry.P.O,
5. Bijesh Biju, 27/18 years, S/o Vijayan,
Manaparambil, Ward No 22
Mannancherry Panchayath ,
Mannancherry.P.O
6. Ajesh, 24/18 years, S/o Vijayan,
Manaparambil, Ward No 22
Mannancherry Panchayath ,

Mannancherry.P.O,

7.

Aneesh, 22/18 years, S/o Vijayan,
Manaparambil, Ward No 22
Mannancherry Panchayath ,
Mannancherry.P.O,

(By Adv . Sameer.P.A)

Offences : u/S. 341, 323, 324, 294(b), 427 r/w
34 IPC

Plea : Not guilty

Finding : The accused are found not guilty of
the offences u/s 341, 323, 324,
294(b), 427 r/w 34 IPC .

Sentence or order : The accused are acquitted of the
offence u/s 341, 323, 324, 294(b),
427 r/w 34 IPC , u/S.248(1) Cr.P.C

Description of the accused

Name	Father's/husband's Name	Occupation	Residence	Age
Rahul	Remanan		Pathirapally veli, Mannancherry.P.O, Mannancherry Panchayath ward no.21	22/18
Madhusudanan	Krishnankutty		Manaparambil, Mannancherry.P.O, Mannancherry Panchayath ward no.22	59/18
Maneesh.M.Madhu	Madhusoodhanan		Manaparambil, Mannancherry.P.O, Mannancherry panchayath ward no.22	31/18
Mahesh.M.Madhu	Madhusoodhanan		Manaparambil, Mannancherry.P.O, Mannancherry panchayath ward no.22	31/18
Bijesh Biju	Vijayan		Manaparambil, Mannancherry.P.O,	27/18

			Mannancherry pamchayath ward no.22	
Ajesh	Vijayan		Manaparambil, Mannancherry.P.O, Mannancherry pamchayath ward no.22	24/18
Aneesh	Vijayan		Manaparambil, Mannancherry.P.O, Mannancherry pamchayath ward no.22	22/18

Dates of

Occurrence	Complaint	Appearance	Period of detention undergone during investigation, inquiry of trial for the purpose of S.428 Cr.PC	Release on bail	Commencement of trial
18.02.2018	16.08.2018	01.03.2023	-	02.03.2024	01.03.2026

Commencement of evidence	Close of trial	Sentence or order	Reason for delay
17.02.2026	23.03.2026	25.03.2026	

This case having been finally heard on 23.03.2026, the Court on 25.03.2026 delivered the following:-

J U D G M E N T

1. This case is instituted upon a final report filed by the Sub Inspector of Police, Mannancherry Police Station in Crime No.301/18 against the accused alleging offences punishable under section 341, 323, 324 , 294(b) , 427 r/w 34 of Indian Penal Code (hereinafter referred to as IPC, in short).
2. **Prosecution case in brief** : The first accused , owing to his enmity with PW3 arising out of an incident in which PW3 had allegedly

attacked his father with a chopper, and with the common intention of causing hurt to PW3, wrongfully restrained him on 18-02-2017 at about 7:00 PM near the house of the second accused, Madhusoodhanan and punched him on his face . The second accused hurled abuses at PW3, the third accused struck him on his back with his hand, and the fourth accused stamped on his hip, causing him pain. PW3 ran away from the spot, and when he reached in front of his house, the fifth, sixth, and seventh accused followed him on a motorcycle bearing registration number KL-04 X 9834. The fifth accused, who was armed with an iron rod, struck him on the shoulders, causing him to fall down. The sixth and seventh accused then assaulted PW3 by beating and kicking him. During the course of the incident, PW3 lost Rs. 6,500/- which was kept in his pocket. Thus the accused are alleged to have committed offences u/s 341, 323, 324, 294(b), 427 and 34 of IPC .

3. On completion of investigation, chargesheet was filed before the Judicial Magistrate of First Class Court – 1, Alappuzha and it was taken on file of that court as CC 1634/18. Thereafter the case was transferred to this court for trial vide order No SS1/21 of Hon'ble Chief Judicial Magistrate ,Alappuzha and it was taken on file of this court as CC 1756/22 .
4. All Accused entered appearance before this court and they were enlarged on bail. Copies of prosecution records were served to accused in compliance with section 207 of CrPC . After hearing both sides and perusing the records , charge was framed against the accused for the offence under section 341, 323, 324, 294(b) , 427 and 34 of IPC .It was read over and explained to the accused to which they pleaded not guilty .
5. From the side of prosecution, PW1 to PW7 were examined and Ext.P1 to P9 and MO1 were marked. Death certificate of CW2 was

produced. When the examination of witnesses for prosecution have been completed, the accused were examined under section 313 (1)(b) of CrPC. They denied all the incriminating circumstances that appeared against them in prosecution evidence and pleaded innocence. Though the accused were called to enter upon their defence, no evidence was adduced.

6. Heard both sides and perused the records.
7. The points that arise for consideration of this court are:-
 - (1) Did the first accused ,on 18.02.2018 at 7.00 PM , wrongfully restrain PW3 near the house of second accused named Manaparambu House and thereby commit offence u/s 341 of IPC ?
 - (2) Did the third and fourth accused on the day , time and place above mentioned and sixth and seventh accused on the same day near PW3's house voluntarily cause hurt to PW3 and thereby commit offence u/s 323 of IPC ?
 - (3) Did the fifth accused on the abovementioned day , in front of PW3's house voluntarily cause hurt to PW3 with an iron rod and thereby commit offence u/s 324 of IPC
 - (4) Did the second accused ,on the day , time and place above mentioned hurled abuses at PW3 and thereby commit offence u/s 294(b) of IPC ?
 - (5) Did accused ,on the day , time and place above mentioned cause a loss of Rs 6500/- to PW3 and thereby commit offence u/s 427 of IPC?
 - (6) Did the accused commit above acts in furtherance of their common intention to voluntarily cause hurt to PW3 and are thus liable for all the above acts u/s 34 of IPC ?
 - (7) If found guilty, what is the proper sentence or order to be passed?

8. **Point No. 1 to 6 :** For the sake of convenience and to avoid repetition of facts, these points are discussed together. The specific case of the prosecution is that on 18-02-2018 at about 7:00 PM near the house of the second accused, Madhusoodhanan, the first accused wrongfully restrained PW3 and punched him on his face . The second accused hurled abuses at PW3, the third accused struck him on his back with his hand, and the fourth accused stamped on his hip, causing pain. PW3 ran away from the spot, and when he reached in front of his house, the fifth, sixth, and seventh accused followed him on a motorcycle bearing registration number KL-04 X 9834. The fifth accused, who was armed with an iron rod, struck him on the shoulders, causing him to fall down. The sixth and seventh accused then assaulted PW3 by beating and kicking him. During the course of the incident, PW3 lost Rs. 6,500/- which was kept in his pocket. Accused are alleged to have caused hurt to PW3 out of an enmity arising out of an incident in which PW3 had allegedly attacked the first accused's father with a chopper.
9. Prosecution has examined PW1 to PW7 to prove the above incident . The informant in this case was examined as PW3 and he deposed that on 18-02-2018 at about 7:00 PM, near Mana Paramba Temple, he was wrongfully restrained and slapped on his face. Thereafter, Madhusudhanan's elder son, Manish, stamped and punched him and the second son, Mahesh, kicked and hit him. He further deposed that Vijesh slapped him and all these four persons attacked him first . He further deposed that while he was at home preparing to go to the hospital, three others, including Rahul, and brother of Vijesh came and struck him on his back with an Iron pipe, causing him to fall on the road. He further stated that he was admitted at Vandanam hospital for about eight days. According to him there was a boundary dispute

between himself and the accused and it was out of the said enmity they attacked him . He identified his signature in the First Information Statement given by him before the police, which was marked as Ext. P2. He further identified MO1 as the Iron rod used by the accused to attack him.

10. PW6 is the wife of PW3 who is cited as an occurrence witness to the incident happened in front of their house . She deposed that on 18-02-2018 at about 7:30 PM Rahul(A2), Ajeesh(A6) , and Aneesh(A7) came to their house and A2 struck on her husband's hand with an iron rod and that A6 and A7 stamped him . She further deposed that after filing a complaint at the police station, her husband was taken to the General Hospital, where he was diagnosed with a fracture of the hand. She further deposed that her husband had informed her that these accused have earlier attacked him while he was going for association meeting . She also stated that the incident had arisen from a prior dispute between her husband and Rahul's father, Ramanan. She further stated that she had seen the accused clearly at the scene under the light and identified MO1 as the weapon that was used to strike her husband.
11. PW5 is the police officer who recorded Ext. P2 statement of PW3. He deposed that the statement of PW3 was recorded at General Hospital Alappuzha and he had observed swelling on PW1's left shoulder . Ext. P2(a) is the body note prepared by PW5 while recording Ext. P2.
12. PW4 is the doctor who examined PW3 .He deposed that while he was working as CMO at General Hospital, Alappuzha, on 18.02.2018 at 9.10 pm ,he examined PW3 who came with alleged history of assault by Madhusudhanan, Maneesh and other known persons. He further deposed that on examination a swelling on left temporal area of face was noted and PW3 also complained of pain on his back and left shoulder. He deposed that he had advised ortho consultation. He

opined that the injuries noted in body of PW3 could have been occurred in the alleged incident. PW4 identified Ext. P3 wound certificate as having been issued by him.

13. PW1 is the police officer who was an attesor to the mahazar prepared by PW7 while seizing the vehicle used by the accused. He deposed that the mahazar was prepared on 24/02/2018 and the vehicle mahazar was marked as Ext P1. PW7 is the investigating officer, and he deposed regarding the various steps taken by him during the course of his investigation. He deposed that based on Ext. P2 statement of PW3, he registered Ext. P3 FIR against the accused persons and had prepared Ext. P5 Scene Mahazar after visiting the place of occurrence. He further deposed that the place of occurrence was near Manaparambu Temple. He deposed that he had seized MO1, the iron rod used by the accused to attack PW3, from the spot. He described the iron rod as being approximately 67 cm in length and 10 cm in width, with one end closed and the other end open. He deposed that the said rod had been produced before the court along with Ext. P6 property list, and he identified it as MO1. He further deposed that he had arrested the accused and subsequently released them on bail after executing the bail bonds. He also deposed that during the course of investigation, he had seized the vehicle bearing registration number KL-04 X 9834, in which the accused allegedly came to PW3's house.
14. The learned APP contended that the testimonies of PW3 and PW6 are consistent with the prosecution case and are further corroborated by the injuries noted by PW4 in Ext. P3 wound certificate. She argued that the evidence clearly establishes that the accused, in furtherance of their common intention, conjointly caused hurt to PW3 and that MO1 was used in the commission of the offence. It was further submitted that the prosecution has succeeded in proving the guilt of the accused beyond reasonable doubt. Per contra, the learned

counsel for the accused argued that there was a delay of four days in lodging the FIS by PW3, for which the prosecution has offered no satisfactory explanation. It was further contended that the prosecution failed to adduce any cogent or reliable evidence linking MO1 with the injuries allegedly sustained by PW3. According to the defence, the injuries recorded in Ext. P3 wound certificate do not tally with the prosecution version, thereby rendering the case doubtful. He further contended that the testimonies of PW3 and PW6 suffer from serious infirmities, and that the accused are entitled to benefit of doubt.

15. The prosecution heavily relies on the testimonies of PW3 and PW6 to prove the occurrence of the alleged incident. CW2, an occurrence witness, was reported as no more during the pendency of the trial, and hence his evidence could not be brought forth by the prosecution. One of the contentions raised by the learned counsel for the accused is the delay in lodging of FIS by PW3. As per the prosecution case, the incident is alleged to have occurred on 18.02.2018 at about 7.00 p.m, near the house of the second accused and later in front of the house of PW3 on the same day . Ext. P2 statement is seen recorded on 22.02.2018 at around 13:45 hours, after a delay of four days from the time of the alleged incident. On a perusal of Ext. P2, it is seen that the statement was recorded at the General Hospital, Alappuzha, where PW3 had been admitted. PW5, the police officer who recorded Ext. P2, has also stated that PW3 was under admission in the said hospital at the time of recording the statement. Hence, on an analysis of the evidence on record, it can be concluded that there is a satisfactory explanation for the delay of four days in lodging the FIS, and such delay is not fatal to the prosecution case.
16. The prosecution alleges that the fifth accused attacked PW3 with MO1, causing contusion on his left shoulder and thus he is alleged to

have committed offence under section 324 of IPC. Section 324 of IPC reads as follows:

324. Voluntarily causing hurt by dangerous weapons or means—

“Whoever, except in the case provided for by section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.”

17. It is the settled position of law that in order to attract the offence under Section 324 of IPC, the prosecution has to establish that the accused voluntarily caused hurt to any person and that such hurt was caused by means of an instrument referred to in this section. The Hon'ble Apex Court in **State of Uttar Pradesh v. Indrajeet AIR 2000(7) SCC 249** has held that the fact whether an instrument would constitute a dangerous weapon would depend upon the facts of particular case depending upon various factors like size, sharpness, etc. of the weapon used.
18. Though it is stated in the FIR and the final report that the fifth accused attacked PW3 with MO1, a perusal of Ext. P2 and the testimonies of PW3 and PW6 reveals that it was the first accused, Rahul, who is alleged to have attacked PW3 with an iron rod. PW3, in his deposition before the Court, stated that three persons, including Rahul and the brother of Vijesh, struck him on his back with an iron pipe, whereas the prosecution case is that the first accused, Rahul, inflicted a blow on PW3's shoulder with an iron rod. On analyzing Ext. P2(a), the body

note prepared by PW5 while recording Ext. P2 statement, a contusion is noted on the left shoulder of PW3. However, Ext. P3 wound certificate does not mention any such injury on the shoulders of PW3. The only injury recorded on his body is a swelling on the dorsal part of his face. Thus the injuries as noted in Ext P2 (a) body note and in Ext P3 Wound certificate does not tally with each other .

19. In the instant case, the weapon of offence, as alleged by the prosecution, is an iron rod, which was identified by PW3 before this Court as MO1. MO1 was recovered by PW7 from near PW3's house , on 22.02.2018, i.e., four days after the alleged incident. As per Ext. P6 property list, MO1 is an iron rod measuring 67 cm in length and 10 cm in width. However, although PW3 and PW6 identified MO1 in Court as the weapon used by the accused, it is significant to note that neither in their statements before police nor during their testimony before this Court did they provide any description of the weapon used to attack PW3. This omission is significant while assessing the credibility of their identification of MO1.
20. Further, though MO1 was seized on 22.02.2018 , it was produced before this Court only on 10.04.2018. The prosecution has not offered any satisfactory explanation for the delay in producing the material object before the Court. The unexplained delay, coupled with the absence of any prior description of the weapon by PW3, creates a doubt regarding the recovery and identification of MO1 as the weapon of offence.
21. It is further pertinent to note that PW6, the doctor, was not shown MO1 during his examination before the court to ascertain whether the injuries sustained by PW1 could have been caused by such a

weapon. In the absence of such evidence, this court is unable to arrive at the conclusion that MO1 was used by the accused to inflict injuries on PW1. Accordingly, this Court finds that the prosecution has failed to prove beyond reasonable doubt the use of MO1 by the accused .

22. PW3 deposed in court that he proceeded to the police station soon after the occurrence of the incident and from there was taken to Vandanam Medical College Hospital, where he remained admitted for about eight days. He further stated that his statement was recorded at the said hospital. However, PW5 denied this account, asserting that PW3's statement was recorded at General Hospital, Alappuzha. Both PW5 and PW7 also denied that PW3 came to the police station immediately after the incident. PW6, who initially stated that she had given a statement to the police regarding the incident, later, during cross-examination, deposed that she had not given any statement and that it was CW2, her brother, who had done so. In view of the discrepancies in the testimonies of PW3 and PW6, and their inconsistency with the medical evidence, the prosecution has failed to prove beyond reasonable doubt that the accused wrongfully restrained and voluntarily caused hurt to PW3. Accordingly the prosecution has failed to prove that the accused committed offence u/s 324 , 323 and 341 of IPC .

23. The other offence alleged against the accused is under Section 294(b) of the IPC. Ext. P2 FIS does not specify the abusive words allegedly used by the accused, and neither PW3 nor PW6 deposed about such words before this Court. It is well-settled that, to attract the offence under Section 294(b), the words uttered must be capable of arousing sexually impure thoughts in the minds of the hearers **[See Sangeetha Lakshmana v. State of Kerala, 2008 (2) KLT 745]**. In the absence of

any evidence regarding the nature of the words, the offence under Section 294(b) of the IPC cannot be said to be made out. Similarly, although the prosecution alleges that Rs. 6,500/- was lost from the pocket of PW3 during the incident, neither PW3 nor PW6 has made any such statement in Court. Accordingly, there is no evidence to establish that PW3 sustained a loss of Rs. 6,500/-, and the offence under Section 427 of the IPC is likewise not attracted in the present case. Hence, in view of the discussions made above, it can be held that there is no sufficient ingredient to attract the offences alleged against the accused and hence these points are found against the prosecution.

24. **Point No 6:-** In light of the findings on point no.1 to 5, accused are found not guilty of the offences punishable u/S. 341, 323, 324, 294(b), 427 of IPC.

In result, all accused are acquitted of the abovementioned offences, u/S.248(1) of Cr.P.C. Their bail bond stands cancelled and they are set at liberty.

MO1, Iron rod, shall be confiscated on the expiry of the appeal period and, in the event of an appeal, after the disposal of appeal.

Dictated to the Confdl. Asst., typed by her, corrected by me and pronounced in open court on this 25th day of March, 2026.

Seethal.M. Sasidharan
Judicial First Class Magistrate -II

APPENDIX

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution Witness:-

Rank	Name	Whether Eye witness, Police witness, Expert witness, Medical witness, other witness
PW1	Pramod	Police witness
PW2	Sumesh	Other Accused
PW3	Purushan	Other Accused
PW4	Dr. Baburajan	Medical witness
PW5	Shajimon	Police witness
PW6	Shobha	Other Accused
PW7	Binu.R	Police witness

B. Defence Witness:- NilC.Court Witness:- Nil

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS

A. Prosecution Exhibits :-

Sl. No.	Exhibit Number	Description
1	P1/PW1	Vehicle Mahazar dated 24.02.2018 proved on 08.01.2026
2	P2/PW3	First Information Statement dated 22.02.2018 proved on 28.01.2026
3	P2(a)/PW5	Body note dated 22.02.2018 proved on 04.02.2026
4	P3/PW4	Wound Certificate dated 18.02.2026 proved on 17.02.2026
5	P4/PW	First Information Report dated 22.02.2018 proved on 19.03.2018

6	P5/PW7	Scene Mahazar dated 22.02.2018 proved on 19.03.2026
7	P6/PW7	Property List dated 22.02.2018 proved on 19.03.2026
8	P7/PW7	Address Report dated nil proved on 19.03.2026
9	P8/PW2	Bail bond dated nil proved on 19.03.2026
10	P9/PW7	Third party Kychit dated nil proved on 19.03.2026

B. Defence Exhibits:- Nil

C.Court Exhibits:- Nil

D.Material Objects:- Nil

Sl. No.	Exhibit Number	Description
1	MO1	Iron rod

Judicial First Class Magistrate-II,
Alappuzha