

IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE**AMBALAPUZHA**

Present : Aiswarya Ann Jacob

Judicial Magistrate of First Class

Dated this, the 06th day of June, 2025

C. C. No. 175/2021

Complainant : State of Kerala represented by the Sub
Inspector of police, Vanitha Police
Station in Crime No.5/2021.

Accused : Shylaja, aged 52/2021 years,
D/o. Bhuvanendran, Shyju Nivas,
Muhamma PO, Muhamma P/W-12.

Rep. by A.P.P., Ambalapuzha

Offences : U/s.341, 294(b), 323 of Indian Penal
Code

Plea : Not guilty

Finding : Not guilty

Sentence or Order : Accused is acquitted u/s.255(1) of Cr. P. C.

DESCRIPTION OF THE ACCUSED

Sl. No.	Name of the Police Station and Crime No. of the offence	Name	Father's name	Occu- pation	Residence	Age
1.	Vanitha Police Station in Crime No.05/21	Shylaja	Bhuvanendran		Shyju Nivas, Muhamma PO, Muhamma P/W-12.	52/21

DATES OF

Occurrence	Complaint	Apprehension	Release on bail	Commitment	Commencement of trial	Commencement of Evidence
16.01.21	18.01.21	07.12.21	07.12.21	...	07.12.21	15.06.22

Close of trial	Sentence/ Order	Service of Copy of Judgment or finding on account	Explanation of delay	Period of detention undergone during investigation, inquiry of trial for the purpose of section 428 Cr.P.C.
03.06.26	06.06.26	...	No delay	...

This case having been heard on 03.06.2026 and the court on 06.06.2026 delivered the following :

J U D G M E N T

1. This is a case instituted on a final report filed by the Sub Inspector of police, Vanitha Police Station in Crime No.05/2021, alleging commission of offences punishable u/s.341, 294(b), 323 of Indian Penal Code against the accused.
2. Prosecution case in brief is that the accused on 16/01/2021 at 20:15 hours wrongfully restrained PW1 in front of the Varanda of Multi Disciplinary Intensive Care Unit, Medical College Vandanam by grabbing her collar and hurled abusive words. The accused thereafter slapped on her left cheek causing her to fall down and stamped on her abdomen. Thus, the accused is alleged to have committed the aforesaid offences.
3. On the appearance of the accused before the court, she was released on bail and copies of relevant prosecution records were furnished to her. After hearing both sides, particulars for offences u/s. 341, 294(b), 323 of IPC was read over and explained to accused to which she pleaded not guilty and claimed to be tried.

4. The prosecution examined PW1 to PW7 and Exts.P1 to P7 were marked. After closure of the prosecution evidence, the accused was examined u/s.313 (1) (b) CrPC with regard to the incriminating circumstances appearing against her. She denied all the allegations levelled against her and pleaded innocence. No witness was examined from the side of the accused.

5. Heard both sides.

6. The following points arose for consideration :

- i. Whether the accused wrongfully restrained PW1 and thereby committed an offence punishable under Section 341 of IPC ?
- ii. Whether the accused voluntarily caused hurt to PW1 and thereby committed an offence punishable under Section 323 of IPC ?
- iii. Whether the accused uttered obscene words against PW1 and thereby committed an offence punishable under Section 294(b) of IPC ?
- iv. What shall be the Sentence or Order ?

7. **Point nos.(i) to (iii)** : For the sake of convenience and to avoid repetition, these points are considered together. The prosecution levelled against accused is that she voluntarily caused hurt to the defacto complainant and after uttering abusive words assaulted her, thereby resulting in the final report indicting the accused for the offence punishable u/s. 341, 294(b), 323 of IPC.

8. The primary witness to the case being the injured was examined as PW1. She deposed that the incident occurred on 16.01.2021 at 08.15 p.m. in front of the MDICU in Vandanam Medical College Hospital. On the day of the alleged incident, there happened to be a conflict between PW2 and the accused herein. When PW1 intervened the accused hurled abusive words at her, grabbed her by her uniform, and wrongfully restrained her. She further deposed that the accused

slapped her on the left cheek, causing her to fall down, and subsequently stamped on her abdomen, resulting in dizziness and severe pain. She asserted that PW2 and PW3 were present at the scene and that they immediately took her to the casualty, where she was admitted and kept under observation. She confirmed that Exhibit P1 was recorded on the next day at around 05.00 p.m. and also averred that a written complaint was filed with the police aidpost. PW1 initially identified the accused and asserted that the area in front of the MDICU was adequately illuminated rendering the identification of the accused possible. Later after the completion of examination of the accused u/s 313(1)(b) CrPC, when PW1 to PW3 was recalled as per the order in CMP 405/25 dated 19/02/2025, PW1 retracted from her entire version and stated that the name of the accused was disclosed to the police not on the basis of her own personal identification or knowledge but solely on the basis of information provided to her by other persons. She even narrated an entirely different account of events wherein it was testified that the injuries sustained by her were caused in a hustle, when approximately 30 people attempted to forcibly enter the ICU. She even corrected her earlier statement and submitted that PW2 and PW3 were not present at the scene and had, in fact, arrived only after the entire incident had already concluded. It was further categorically deposed that in another case pending before this Court instituted at the behest of the accused in the present proceedings, PW1 herself is arrayed as an accused.

9. PW2 was a witness to the alleged incident and deposed in conformity with the initial evidence of PW1 and submitted that the accused was a bystander of a patient admitted in the MDICU and stated that the primary conflict on the day in question had commenced between himself and the accused and had thereafter escalated into the assaults alleged to have been committed against PW1. PW2 also retracted from his entire testimony when recalled as per order in CMP 405/20. He stated that he did not have clear or definite knowledge about the specific events that transpired on the night of the incident, attributing the lack of clarity to the fact that the incident occurred at nighttime. He admitted that his initial deposition

before the Court had been substantially based upon the testimony given by PW1. He too admitted that another case pending before this Court, in which he had been arrayed as an accused, instituted at the instance of the current accused had been amicably settled between the parties.

10. PW3 was yet another eye witness to the incident as well as an attester to Exhibit P2. Similar to PW1 and PW2, PW3 too initially deposed that he had personally witnessed the entire incident but subsequently retracted from the statement and testified that he had not personally witnessed any of the events. He also admitted regarding the pendency of another litigation between the parties.

11. PW4 was the official who had recorded Ext P1. Exhibit P1(a) was also marked through him. As per his version, the delay in lodging Exhibit P1 was not specifically stated. Also, it was testified by him that as per Exhibit P1(a), PW1 was alleged to have pretended pain. The medical officer who examined PW1 was examined as PW5. Exhibit P3 was marked through her. As per her observations, a contusion was observed on the left side of the face and no tenderness was observed on the abdomen, ear, neck or eyelid of PW1.

12. The Investigating Officer in the case was examined as PW6. Exhibit P4 to P6 was marked through her. She contended that on the day of the alleged incident, the brother of the accused was admitted in ICU in a serious condition. She also admitted that she had not enquired about any complaint registered with the aid post at the hospital. PW7 was the police official who initially registered Exhibit P7. He deposed that the intimation regarding the commission of the offence was received at the police station on 17.01.2021, whereafter PW4 was assigned with the duty of recording the statement of PW1. Subsequently, the case was transferred to Vanitha Police Station, Alappuzha, as both accused and PW1 were found to be women.

13. The case of the prosecution primarily relies on the testimony of the injured PW1 and the sole witnesses to the incident being PW2 and PW3. All these witnesses, despite initially deposing in support of the prosecution version, later

retracted from their initial testimony. PW1 being the aggrieved, not only retracted from her earlier version, but even disowned the identification of the accused as her assailant, stating that the name of the accused was furnished to the police not on the basis of her personal knowledge but based on the information given by third parties. She also suggested an entirely different account of how she sustained injuries attributing it to a general commotion caused by a crowd who attempted to enter the ICU. The presence of PW2 and PW3 at the scene of occurrence was also specifically denied by her. Similarly PW2 submitted that his initial deposition was based on the version narrated to him by PW1, thus rendering his initial testimony to be mere hearsay evidence thereby incapable of lending any support to the prosecution case. PW3 also admitted that he had not personally witnessed the incident, despite his initial claim. Hence these testimonies alone without sufficient corroboration are wholly insufficient to establish the guilt of the accused beyond reasonable doubt.

14. With regard to the medical evidence, while the same does lend partial corroboration to the prosecution version insofar as contusion on the left side of the face of PW1 were observed, no tenderness was detected on the abdominal area. More significantly, the medical evidence, by its very nature, establishes only the fact of injury and does not associate it to have been caused by any person. In the absence of identification of the accused as the perpetrator, the medical findings alone, are incapable of fastening criminal liability upon the accused for the injuries sustained by PW1.

15. Furthermore, the admitted pendency of a criminal case registered by the accused herein against PW1 and PW2 before this Court, creates a reasonable possibility that the present case may have been set up as a counter-blast to that proceeding, and accordingly casts shadow of doubt on the credibility of the prosecution case. It is well settled that a retracted statement does not lose all evidentiary value and may be relied upon to the extent it is corroborated by other acceptable evidence on record. However, in the peculiar facts and circumstances of the present case, the retractions in question regarding the identity of the accused

and the occurrence of the entire events pertain to material factors, thereby striking at the very root of the prosecution case. Such evidence not supported by any independent corroboration, renders the prosecution version unreliable and insufficient to sustain a finding of guilt against the accused beyond reasonable doubt.

16. In the light of the evidentiary shortcomings and the settled legal position it is concluded that the prosecution has miserably failed to prove its case beyond reasonable doubt. The accused is therefore entitled to the benefit of doubt and is acquitted of all the charges alleged against him. Consequently, point nos. (i) to (iii) are found against the prosecution.

17. **Point no. (iv)** : In view of the findings in point nos. (i) to (iii), it can be seen that the prosecution has failed to prove the charges levelled against the accused beyond reasonable doubt. Since, there is an element of doubt, the accused is entitled to the benefit of doubt. It follows that the accused is not guilty.

18. In the result accused is found not guilty of the offence punishable u/s. 341, 294(b), 323 of IPC and she is acquitted u/s.255(1) of Cr.P.C. The accused is set at liberty and the bail bond executed by her stands cancelled. Material object shall be disposed off after the appeal period is over, as per rules.

(Dictated to the Confidential Assistant, typed by her, corrected and pronounced by me in the open court, on this, the 6th day of June, 2026).

Judicial Magistrate of First Class
Ambalapuzha

APPENDIX

Witnesses for the Prosecution :

PW1 : Bindu

PW2 : Unnikrishnan Nair

PW3 : Christy

PW4 : Bndu T Panicker

PW5 : Dr. Arun Paul

PW6 : M S Sheri

PW7 : Sahji S Nair

Exhibits for the Prosecution :

P1 : First information statement marked through PW1 on 14.06.2022

P1(a) : Body note marked through PW4 on 13.10.2022

P2 : Scene mahazar marked through PW3 on 24.08.2022.

P3 : Wound certificate marked through PW5 on 27.01.2023

P4 : F.I.R. (Vanitha Police Station) marked through PW6 on
16.02.23

P5 : Bail bond marked through PW6 on 16.02.2023

P6 : Address report marked through PW6 on 16.02.2023

P7 : FIR marked through PW7 on 01.03.2023

Material objects marked : Nil

Witnesses/Exhibits for Defence : NIL

Court Witnesses/Exhibits : NIL

Judicial Magistrate of First Class
Ambalapuzha

JUDGMENT
IN
C. C. No.175/2021

Dated : 06.06.2026