

IN THE COURT OF JUDICIAL MAGISTRATE OF THE FIRST CLASS-I,
CHERTHALA

Present:-Smt.Sherin K George, Judicial Magistrate of the First Class-I
Dated this, the 26th day of March, 2026

C. C. No.114/2016

Complainant : State-represented by Sub Inspector of
Police, Kuthiathode police station in crime
No.1325/2015.
[By APP, Cherthala-I]

Accused : A1. Murali
A2. Midhun
[By Adv. Sri. John Jude Issac]

Offences : under sections 447, 323 and 354 of IPC
Plea : Not guilty
Finding : Not guilty
Sentence/order : Both accused are acquitted under section
248(1) of Cr.P.C.

DESCRIPTION OF ACCUSED

Sl. No.	Name	Father's/ Husband's name	Occupation	Residence	Age
1	Murali	Chellappan	...	Veleparambu House, Ezhupunna South P O., Kodamthuruthu Panchayat Ward No.III.	45/ 2015
2	Midhun	Murali	...	Veleparambu House, Ezhupunna South P O., Kodamthuruthu Panchayat Ward No.III.	27/ 2015

DATE OF:-

Occurrence	Complaint	Appearance	Released on bail	Commencement of trial	Close of trial	Sentence or order
22/11/2015	28/12/2015	30/04/2016 (A1) 13/01/2023 (A2)	30/04/2016 (A1) 13/01/2023 (A2)	05/12/2016 (A1) 13/01/2023 (A2)	26/03/2026	26/03/2026
Service of copy of judgment or finding			Explanation for delay.			
....					

This case having been finally heard and this day the court delivered the following:

J U D G M E N T

1. The accused stands facing trial for the offences punishable under Sections 447, 323 and 354A IPC, charge-sheeted by the Sub-Inspector of Police in Crime No.1325/2015 of Kuthiathode Police Station.

2. Prosecution Case in Brief:-On 22-11-2015 at about 9:30 PM, due to enmity towards the husband of PW1, the accused trespassed into the compound of house No. III/89, Puthussery Veli Colony, Kodanthuruth Panchayat. The accused knocked at the door, and when PW1 and PW2 came out, he slapped PW2 on the cheek, pulled her by the nightdress, dragged her outside, and struck her on the chest. When PW1 tried to intervene, she was slapped and kicked on the stomach. Both victims complained of pain and were taken to hospital. The accused thereby committed offences punishable under Sections 447, 323 and 354A IPC.

3. The final report was filed before this court and the case was taken on file as CC No.114/2016. Cognizance was taken for the offences punishable under Sections 447, 323 and 354A IPC. Both accused were released on bail. After hearing, charge was framed, read over and explained to the accused persons under Section 240(2) Cr.P.C., to which they pleaded not guilty and claimed to be tried.

4. From the side of prosecution, PW1 to PW7 were examined and Exts. P1 to P8 were marked. Since there were incriminating circumstances, the accused were examined under Section 313(1)(b) Cr.P.C. They denied all incriminating circumstances and maintained innocence. Exbts.D1 to D5 were marked from the side of defence.

5. Heard both sides. Perused the records.

6. Points for Consideration

1. Whether the accused had criminally trespassed into the compound of PW1 and PW2 on 22-11-2015 at about 9:30 PM?
2. Whether the accused voluntarily caused hurt to PW1 and PW2 by slapping, dragging, and kicking them as alleged?
3. Whether the accused used criminal force against PW2 with intent to outrage her modesty by pulling her nightdress and dragging her outside?
4. If found guilty, order as to sentence?

7. **Points 1 to 3**:-For the sake of convenience and in order to avoid repetition, these points are considered together. The prosecution case started when PW1 went to the Police Station and gave Ext. P1 statement to PW6. On the basis of Ext. P1, Ext. P6 FIR was registered. Ext. P5 scene mahazar was prepared, and after investigation, final report was filed.

8. The accused is alleged to have committed the offences punishable under Sections 447, 323, and 354A IPC. In order to bring home an offence under Section 447 IPC, the prosecution is required to establish that the accused entered into or upon the property in the possession of PW1 and PW2 with the intention of committing an offence, or with the object of intimidating, insulting, or annoying them. The essence of the offence lies not merely in physical entry, but in the unlawful intent accompanying such entry. In the present case, PW1 and PW2 have deposed that the accused came to their house at about 9:30 PM and knocked at the door. According to them, the accused thereafter engaged in acts of assault. However, beyond their testimony, there is no independent witness who has supported the allegation of trespass. CW3, who was cited as an occurrence witness, turned hostile to the prosecution. CW4, another occurrence witness, is no more and hence could not be examined. CW5, the scene mahazar witness, also turned hostile. Thus, the prosecution has been deprived of corroboration from independent sources. The scene mahazar (Ext. P5) only establishes the place of occurrence but does not by itself prove unlawful entry. The delay

in lodging Ext. P1 statement further weakens the chain of proof. Therefore, while PW1 and PW2 have alleged that the accused came to their house and knocked at the door, the prosecution has failed to adduce convincing evidence to show that the accused entered upon the property in their possession unlawfully with the requisite intent to commit an offence or to intimidate, insult, or annoy them. In the absence of corroboration and in view of hostile witnesses, the allegation of criminal trespass under Section 447 IPC remains unproved beyond reasonable doubt.

9. In order to appreciate the charge under Section 323 IPC, the evidence of PW1 and PW2 must be scrutinized carefully. Both witnesses are the principal occurrence witnesses, but their depositions reveal material contradictions and omissions which weaken the prosecution case. PW1 deposed that her mother (PW2) was slapped on the cheek, pulled by her nightdress, dragged outside, and struck on the chest. She further stated that when she intervened, she herself was slapped and kicked in the stomach. PW1 also claimed that both she and her mother sustained injuries and were taken to hospital. However, her S.161 statement (Ext. D2–D5) did not record these detailed allegations. In her statement, she had mentioned only that Murali came searching for her father, without specifying Mithun's presence at the door. She also stated that neighbors took them to hospital in an autorickshaw, whereas in court she said her father took them. Of course, these omissions are material and cast doubt on the reliability of her testimony. PW2, on the

other hand, consistently stated that both Murali and Mithun were present at the door, that she was slapped, dragged outside, and struck on the chest, and that her daughter was assaulted when she tried to intervene. PW2 said her husband and neighbors together took them to hospital. Yet, her deposition was silent on the specific injuries sustained by PW1, beyond a general assertion of pain. Thus, while PW1 emphasized her own injuries, PW2 did not corroborate them in detail. The contradictions between PW1 and PW2 as to the presence of accused at the door and PW1's police statement mentioned only Murali, while PW2 consistently said both Murali and Mithun were present is fatal to the defence case. Likewise PW1 gave differing versions with respect to as to who took them to hospital. It is also noted that with respect to the extent of injuries, PW1 claimed both she and her mother were injured, but PW2's deposition was silent on PW1's injuries beyond general pain. The contents of Ext.P2 and P3 wound certificate records only complaints of myalgia without external injuries. PW3 admitted that myalgia can be pretended. Thus, Ext.P2 and P3 will not aid the court to reach a conclusion. In light of these omissions and contradictions between PW1 and PW2, coupled with the absence of independent occurrence witnesses (CW3 hostile, CW4 deceased, CW5 hostile), it is to be held that the prosecution has failed to establish beyond reasonable doubt that the accused voluntarily caused hurt as alleged.

10. In order to prove an offence punishable under Section 354 IPC against the accused, the prosecution must establish that there was an assault or use of criminal force against PW2 with the intention or

knowledge that her modesty would be outraged. It is well settled that intention is not the sole criterion; the offence can be committed if a person assaults or uses criminal force to any woman knowing that by such act the modesty of the woman is likely to be affected. Thus, both the act and the culpable mental state are essential ingredients. In the present case, PW2 deposed that she was slapped on the cheek, pulled by her nightdress, and dragged outside. PW1 also stated that her mother was dragged by the nightdress. However, neither PW1 nor PW2 specifically deposed that the act was done with intent to outrage modesty. Their depositions are silent on the aspect of sexual intent or knowledge. The allegation of pulling the nightdress, though suggestive of unwelcome physical contact, has not been elaborated in terms of intent or effect on modesty. Moreover, contradictions between PW1 and PW2 weaken the prosecution case. PW1 said her father took them to hospital, while PW2 said her husband and neighbors together took them. PW1 emphasized her own injuries, but PW2 was silent on them. These inconsistencies cast doubt on the reliability of their testimony. The defence further relied on Ext. D1 judgment, showing PW1's husband was convicted in another case on the same date, to argue motive for false implication. It is relevant to note that the defence has produced Ext.D1, the certified copy of judgment of this Court in another case, wherein Maniyan, the husband of PW1 in the present case, was convicted under Section 323 IPC. The facts of Ext. D1 reveal that on 22-11-2015 at about 7:30 PM, Maniyan assaulted the defacto complainant in that case by catching hold of her hair, wrongfully

restraining her, pushing her to the ground and thereby causing bodily pain, coupled with allegations of sexual harassment. The significance of Ext.D1 lies in the fact that PW1 in the present case was the wife of the accused in that earlier case, and the conviction of her husband establishes the existence of prior enmity between the families. The defence argues that this background animosity provides motive for PW1 and PW2 to falsely implicate the present accused, while the prosecution contends that the same enmity explains the motive for the accused to commit the present assault.

11. In light of the absence of clear deposition regarding intent to outrage modesty, contradictions between PW1 and PW2, hostile witnesses, and weak medical corroboration, the prosecution has failed to prove beyond reasonable doubt that the accused used criminal force against PW2 with intent or knowledge to outrage her modesty. Accordingly, the charge under Section 354 IPC cannot be sustained.

12. Considering the evidence on record by yardstick of probabilities, its intrinsic worth and animus of witness, the prosecution has failed to adduce any evidence to link the accused persons with the offence alleged so as to establish the guilt of the accused persons. Hence point Nos.1 to 3 are found against the prosecution.

13. **Point No.4:-**

In the view of point Nos.1 to 3, this point does not arise for consideration. Both accused are found not guilty for the offences punishable U/s.447, 323 and 354 of IPC and hence, they are liable to be

acquitted for the said offences.

In the result:-

Both accused are acquitted u/s. 248(1) of Cr.P.C. for the offences punishable U/s.447, 323 and 354 of IPC. Bail bond executed by the accused persons stand cancelled and the accused are set at liberty.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court on this the 26th day of March, 2026.

Sherin K George,
Judicial Magistrate of the First Class-I,
Cherthala.

APPENDIX

Witnesses for Prosecution:

PW1 : Baby
PW2 : Anupama
PW3 : Arun
PW4 : Antony
PW5 : Dr. Anu P Babu
PW6 : A L Abhilash, Sub Inspector of Police,
Kuthiathode Police Station

PW7 : K M Prakashan, Addl. Sub Inspector of Police,
Kuthiathode Police Station

Exhibits for Prosecution :

P1 : First Information Statement marked through PW1
P2 : Wound certificate of PW1 marked through PW5
P3 : Wound certificate of PW2 marked through PW5
P4 : First Information Report marked through PW6
P5 : Scene mahazar marked through PW7
P6 : Bail bond marked through PW7
P7 : Report regarding adding of section marked through PW7
P8 : Address report marked through PW7

Defence witness : Nil

Defence exhibits :

D1 : Certified copy of judgment in C.C.No.175/2016
marked through PW1

D2 : Relevant portion of 161 statement of PW2 marked through PW2

D3 : Relevant portion of 161 statement of PW2 marked through PW2

D4 : Relevant portion of 161 statement of PW2 marked through PW2

D5 : Relevant portion of 161 statement of PW2 marked through PW2

Sherin K George,
Judicial Magistrate of the First Class-I,
Cherthala.