

**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 23 rd day of April 2026**

**CC No. 1420/2017**

**Complainant** : State – represented by the Sub  
Inspector of Police, Cherthala Police  
Station in Crime No.475/2016.  
(By Assistant Public Prosecutor)

**Accused** :A1. Maneesh, Aged 23/16,  
S/o.Maniyappan Nair ,  
Karunattu Veedu,  
Pallippuram P O, Ward-VI,  
Pallippuram Panchayath.  
A2. Vimal, aged 29/2016,  
S/o. Krishnan Kutty Panicker ,  
Kocheri madam,  
Ward-2, Pallippuram P O,  
Pallippuram Panchayath.  
A3. Naveen , Aged- 22/2016, S/o. Baiju,  
Chaniveliyil Veedu , Pallippuram P O,  
Ward 3, Pallippuram P O.  
A4. Vaisakh, Aged-20/16, S/o. Babu,  
aged 20/2016, Moolamkuzhiveliveedu,  
Pallippuram P O , Ward -2,  
Pallippuram Panchayath.

(By Adv K B Harshakumar Accused no. 1 to 3)

(By Adv P Rajesh Accused no.4)

**Offence** : U/s. 353 and 34 of IPC

**Plea** : Not guilty

**Finding** : Not guilty

**Sentence / Order** : Accused are acquitted U/s.248(1) Cr.P.C.

**DESCRIPTION OF THE ACCUSED**

| Sl. No. | Name     | Father's/<br>Husband's name | Occupation | Residence   | Age     |
|---------|----------|-----------------------------|------------|---|---------|
| 1       | Maneesh  | Maniyappan Nair             | ---        | Karunattu Veedu,<br>Pallippuram P O, Ward-<br>VI,<br>Pallippuram<br>Panchayath.   | 23/2016 |
| 2.      | Vimal    | Krishnapanicker             | ---        | Kocheri madam,<br>Ward-2, Pallippuram P<br>O, Pallippuram<br>Panchayath.          | 29/2016 |
| 3.      | Naveen   | Baiju                       | ---        | Chaniveliyil Veedu ,<br>Pallippuram P O, Ward<br>3, Pallippuram P O.              | 22/2016 |
| 4.      | Vaishakh | Babu                        | ----       | Moolamkuzhiveliveedu,<br>Pallippuram P O ,<br>Ward -2, Pallippuram<br>Panchayath. | 20/2016 |

**DATE OF**

| Occurrence     | Complaint  | Apprehension of<br>appearance | Release on bail | Commencement<br>of trial |
|----------------|------------|-------------------------------|-----------------|--------------------------|
| 18/02/2016     | 01/06/2016 | 07/11/2023                    | 07/11/2023      | 02/09/2022               |
| 18/02/2016     | 01/06/2016 | 07/11/2023                    | 07/11/2023      | 02/09/2022               |
| 18/02/2016     | 01/06/2016 | 07/11/2023                    | 07/11/2023      | 02/09/2022               |
| 18/02/2016     | 01/06/2016 | 15/03/2018                    | 15/03/2018      | 02/09/2022               |
| Close of trial |            | Sentence or Order             |                 | Explanation for delay    |

|            |            |       |
|------------|------------|-------|
|            |            |       |
| 20/04/2026 | 23/04/2026 | ----- |

This case finally heard on 18/4/26 and today, the court passed the following:-

### **J U D G M E N T**

1. This is a prosecution alleging commission of offence punishable under Section 353 read with Section 34 of IPC.

2. The prosecution case, in brief, is that on 18.02.2016 at about 6.00 p.m., while PW1 to PW4, who are police officials, were on patrol duty in connection with law and order issues following the death of one Shibu, they received information that one Mahesh, an accused in another crime, was present in his house. On reaching the said place, Mahesh allegedly ran away and when the police officials attempted to chase him, the accused persons, who are his brother and friends, restrained the police officials and thereby obstructed them from discharging their official duties.

3. After investigation, final report was laid before this Court. On appearance of the accused, copies were furnished and charge was framed. The accused pleaded not guilty and claimed to be tried.

4. To prove the case, prosecution examined PW1 to PW4 and marked Ext.P1 and Ext.P2. No independent witnesses were examined. After

closure of prosecution evidence, the accused were questioned under Section 313 Cr.P.C. They denied all incriminating circumstances and maintained innocence. No defence evidence was adduced.

5. Upon hearing both sides and on perusal of the records, the following point arises for consideration:

1. Whether the accused, in furtherance of their common intention, voluntarily obstructed the police officials while discharging official duty and thereby committed the offence under Section 353 IPC?
2. what shall be the order as to sentence?

6. **Point no1**: The prosecution alleges that on 18.02.2016 at about 6.00 p.m., while PW1 to PW4, who are police officials, were on patrol duty in connection with law and order issues following the death of one Shibu, they received reliable information that one Mahesh, an accused in another crime, was present in his residence. Acting upon the said information, PW1 along with PW2 to PW4 proceeded to the house of the said Mahesh, whereupon seeing the police party, Mahesh allegedly fled from the scene. It is the further case of the prosecution that when PW1 to PW4 attempted to chase and apprehend the said Mahesh, the accused persons, who are his brother and friends, restrained and obstructed the police officials by standing in their way and thereby prevented them from discharging their official duties. In order to substantiate the said

allegation, the prosecution examined PW1 to PW4, who are all official witnesses, and marked Ext.P1 FIR and Ext.P2 report. No independent witnesses have been examined by the prosecution. The evidence of PW1 to PW4 is relied upon to prove that the accused, in furtherance of their common intention, voluntarily obstructed the police officials in the discharge of their official duties and thereby committed the offence punishable under Section 353 read with Section 34 IPC.

7. The learned counsel for the accused vehemently contended that the entire prosecution case is false and fabricated and has been foisted against the accused as a counterblast to the alleged incident involving the police officials and the family members of Mahesh. It is argued that there is absolutely no independent evidence to corroborate the version of the prosecution and all the witnesses examined are interested official witnesses, whose testimonies suffer from serious contradictions and omissions. The learned counsel further submitted that the essential ingredients of the offence under Section 353 IPC are not made out, inasmuch as there is no evidence to show any use of criminal force or assault against the police officials and the mere allegation that the accused stood in front of the police party does not constitute the offence alleged. It is also pointed out that the prosecution has failed to produce any document to establish that the police officials were discharging lawful duty at the relevant

time, as no arrest warrant, search memo, or any document relating to the alleged case against Mahesh has been produced. The learned counsel also highlighted the contradictions in the evidence of PW1 to PW3 regarding the manner of occurrence and transportation of the accused, as well as the admission of PW2 that he deposed by referring to written notes, which seriously affects the credibility of the prosecution case. It is further argued that the failure to prepare scene mahazar and the non-examination of independent witnesses, despite their availability, are fatal to the prosecution. On these grounds, the learned counsel prayed that the accused are entitled to the benefit of doubt and are liable to be acquitted.

8. The learned Assistant Public Prosecutor, on the other hand, strongly supported the prosecution case and contended that the evidence of PW1 to PW4, who are official witnesses, is consistent and sufficient to establish the guilt of the accused. It is submitted that there is no legal bar in relying upon the testimony of official witnesses and merely because independent witnesses have not been examined, the prosecution case cannot be discarded, especially when the occurrence had taken place in the course of official duty. The learned APP further argued that the evidence of PW1 to PW4 clearly shows that the accused, in furtherance of their common intention, obstructed the police officials when they attempted to apprehend Mahesh, and such obstruction itself

is sufficient to attract the offence under Section 353 IPC. It is also contended that minor contradictions and omissions pointed out by the defence are not material in nature and do not go to the root of the prosecution case. The learned APP further submitted that the absence of scene mahazar or other procedural irregularities, if any, cannot be a ground to discard otherwise credible evidence. It is argued that the official witnesses had no motive to falsely implicate the accused and their evidence inspires confidence. On these grounds, the learned Assistant Public Prosecutor prayed that the accused may be found guilty and convicted for the offence alleged.

9. Now I shall examine the oral evidence of PW1 to PW4 . PW1, who was working as Sub Inspector of Police at the relevant time, deposed in his examination in chief that on 18.02.2016, while he along with other police officials was on patrol duty in connection with law and order issues following the death of one Shibu, they received information that one Mahesh, an accused in another crime, was present in his house and accordingly they proceeded to the said place and on seeing the police party, Mahesh ran away and when PW1 attempted to chase him, the accused persons obstructed him and thereby prevented the discharge of official duty, and thereafter the accused were arrested at the spot and taken to the police station. In cross examination, PW1 stated that he does not remember several details regarding the occurrence

including the persons who accompanied him, the manner in which the accused were transported and other surrounding circumstances, and further stated that the accused stood in front of him when he attempted to move forward.

10. PW2, who was working as Civil Police Officer, deposed in his chief examination that he was part of the police party along with PW1 and others, that they received information regarding the presence of Mahesh and went to his house, that Mahesh ran away on seeing them and when they attempted to apprehend him, the accused persons restrained them and obstructed their official duty, and thereafter the accused were arrested and taken to the police station. In cross examination, PW2 stated that he was referring to written notes while giving evidence and further stated that the accused were taken to the station in another jeep and that he did not accompany them, and he expressed inability to recollect certain details relating to the occurrence.

11. PW3, another Civil Police Officer, deposed in his chief examination that he was on patrol duty along with PW1, PW2 and others, that on receiving information regarding Mahesh, they went to his house and on seeing the police party, Mahesh attempted to flee and when they tried to chase him, the accused persons obstructed them and prevented them from proceeding further, and thereafter the accused were arrested and taken to the police station.

In cross examination, PW3 stated that Mahesh ran towards a particular direction and that all of them returned in the same jeep and further stated that he had not mentioned certain aspects before the investigating officer.

12. PW4, who was the Circle Inspector and the investigating officer, deposed in his chief examination that he received information regarding the presence of Mahesh and proceeded to his house along with police party and that on seeing them, Mahesh ran away and when they attempted to chase him, the accused persons obstructed them and thereby interfered with the discharge of official duty and thereafter the accused were arrested and a case was registered. In cross examination, PW4 stated that no scene mahazar was prepared and that the witnesses in the case are police officials and he also answered questions regarding the manner in which the case was registered and investigated.

13. Now let me analyse the oral evidence on record to find out whether the sufficient ingredients of the offence alleged are proved or not. In order to attract the offence under Section 353 IPC, the prosecution has to establish that the accused voluntarily used criminal force or assaulted a public servant while such public servant was acting in the discharge of his official duty. On a careful evaluation of the evidence of PW1 to PW4, it is seen that

though all the witnesses have generally stated that the accused obstructed them while attempting to apprehend Mahesh, the specific nature of such obstruction is not clearly brought out. PW1, in his cross examination, has stated that the accused only stood in front of him, which by itself does not indicate the use of criminal force. Further, PW4 has also admitted that the records do not specifically describe the manner in which obstruction was caused except stating that the accused stood in front of the police officials. It is taken note with respect to the material inconsistencies in the evidence of PW2 and PW3 regarding the manner in which the accused were taken to the police station, as PW2 stated that the accused were taken in another jeep whereas PW3 stated that all of them returned in the same jeep. Apart from that there are also omissions in the statements of witnesses regarding the act of chasing Mahesh and the manner in which they were allegedly obstructed. It is also to be noted that no independent witnesses have been examined though the occurrence is alleged to have taken place in a residential locality and locals were present. Further, no scene mahazar has been prepared and no document has been produced to establish the lawful discharge of official duty at the relevant time. All these aspects create doubt regarding the prosecution version and the evidence on record does not satisfactorily establish the essential ingredients of the offence alleged.

14. Another significant aspect is that the prosecution has not produced any document to establish that the police officials were discharging official duty in a lawful manner at the relevant time. Another crucial aspect as argued by the learned council for accused is that ,there is no arrest warrant, no search memo, and no record relating to the case in which Mahesh was allegedly an accused. This creates doubt regarding the legality of the alleged official act itself. The defence suggestion that the present case was registered as a counterblast to an alleged incident involving assault on Mahesh's father has not been effectively rebutted. The admissions of PW1 regarding discussions with political leaders and unusual grant of station bail further probabilise the defence version.

15. On a cumulative evaluation of the evidence, it is clear that there are material contradictions and omissions regarding the manner of occurrence, the nature of obstruction, and subsequent events. The prosecution has failed to establish the essential ingredients of Section 353 IPC, particularly the use of criminal force.

16. In criminal law, the burden lies on the prosecution to prove the case beyond reasonable doubt. In the present case, the inconsistencies in the evidence of official witnesses, absence of independent corroboration, and lack

of supporting documents create reasonable doubt.Hence, the accused are entitled to the benefit of doubt.

17. Point No.2:-In view of my finding on point Nos.1, this point does not arise for consideration.In the result, the accused are found not guilty of the offence punishable under Section 353 read with Section 34 IPC and they are acquitted under Section 248(1) Cr.P.C.

The bail bonds, if any, shall stand cancelled.

Dictated, typed and corrected by me and pronounced by me in open court on this the 23 rd day of April 2026.

Sd/-

Sherin K George,

Judicial Magistrate of the First Class-I, Cherthala.

#### APPENDIX

#### **List of the Prosecution/ Defence/ Court Witnesses**

|     |                                       |
|-----|---------------------------------------|
| PW1 | George kutty(Sub Inspector of Police) |
| PW2 | Ajayaghosh(Civil Police Officer)      |
| PW3 | Rejeesh (Civil Police Officer)        |
| PW4 | Navas (Circle Inspector of Police)    |

**Exhibits for Prosecution**

| <b>Sl No.</b> | <b>Exhibit Number</b> | <b>Description</b>                          |
|---------------|-----------------------|---|
| 1             | P1                    | First Information report marked through Pw4 |
| 2             | P2                    | Address report marked through PW4           |

**Witnesses for Defence Nil**

**Exhibits for Defence Nil**

**Court Exhibits Nil**

**Material Objects Nil**

Sd/-

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

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Judicial Magistrate of the First Class-I,  
Cherthala.