

IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE-II
CHERTHALA.

Present: Smt. Aminakutty P. M, Judicial First Class Magistrate-II
Dated this the 11th day of March, 2026

C.C. No. 1403 of 2018

Complainant : State of Kerala represented by the Police
Sub Inspector, Aroor Police station
in crime No. 812/2018
(By Assistant Public Prosecutor-II Cherthala)

Accused : A1. Sajan Vargheses, aged 32/18,
S/o Varghese,
Vellakkazhathu Veedu,
Ward-13,
Ezhupunna Panchayath.
(By Adv. Sri. Kiran Bright)

Offence : U/ss. 447, 294(b), 427 of IPC

Plea : Not guilty

Finding : Not found guilty

Sentence or order : **Accused are acquitted U/s.255(1)of Cr.PC**

Description of accused

Sl. No.	Name of police station & crime No.	Name of accused	Father's Name	Occupation	Residence	Age
1.	Aroor Cr. No.812/18	Sajan Varghese	Varghese	--	Vellakkazhathu Veedu, Ward-13, Ezhupunna Panchayath	32/ 18

Date of

Occurrence	Complaint	Appearance of accused	Released on bail	Commencement of trial
08.04.2016	21.07.2018	18.07.2022	18.07.2022	18.07.2022
Close of trial		Sentence or order		Explanation for delay
06.03.2026		11.03.2026		-

This case coming on for hearing on this day and the court on the same day passed the following:

J U D G M E N T

This is a case charged by the Sub Inspector of Police, Aroor Police Station in Crime No.812 of 2018, alleging the offences punishable U/Ss. 447, 294(b), 427 of Indian Penal Code, 1860 (hereinafter in short as IPC).

2. Prosecution case in brief is as follows:- The allegation of the complainant against the accused is that, on 26.01.2014, the accused uttered abusive words to CW1 and criminally encroached into his house; thereafter, on 08.04.2016 at about 20.30 hours, he committed mischief by breaking the window glasses of the Ape autorickshaw kept in the shed of the defacto complainant; subsequently, on 11.04.2016 at about 23.30 hours, he obstructed and further damaged the said autorickshaw by pelting stones, thereby causing a loss of ₹5,000/-; and again, on 01.02.2018 at about 10.00 a.m., the accused criminally trespassed into the house of the complainant and uttered abusive words to his wife, and by these acts, the accused is alleged to have committed

offences punishable under Sections 447, 294(b), 427 of the Indian Penal Code.

3. On appearance of accused, copies of all relevant documents relied on by the prosecution were furnished to him U/s.207 Cr. P.C and he was released on bail. The accused was defended by counsel appointed by him. After hearing both sides, charge was framed for the offences punishable U/ss. 447, 294(b), 427 of IPC and read over and explained to the accused to which he pleaded not guilty.

4. In order to prove the prosecution case, PW1 to PW6 were examined and Exts.P1 to P5 were marked. After the closure of prosecution evidence, the accused was examined U/S.313(1)(b) of Cr.PC. He denied all the incriminating circumstances appeared in evidence against him. Thereafter the accused was called upon to enter upon his defence, but no evidence was adduced by the accused.

5. Now the points to be decided in this case are:

1. Whether the accused, on 8.4.2014 at 20.30 hours , 11.04.2014 at 11.30 a.m. and on 1.2.2018 at 10.00 am, criminally trespassed into the premises of the house of CW1 situated at Ezupunna

Panchayathu, Ward No. 11, and thereby committed the offence as alleged?.

2. Whether the accused, at the aforesaid place, date, and time, uttered abusive words towards CW1 and his wife, thereby committing the offence as alleged?.

3. Whether the accused committed mischief by breaking the window glasses of the supply autorickshaw belonging to CW1, which was kept in the shed situated within the premises of his house, thereby causing a loss of ₹5,000 to CW1, and thus committed the offence as alleged?.

4. If so what shall be the order ?.

5. Heard both sides.

6. Point Nos 1 to 3. For brevity and for the sake of convenience these points are considered together. PW1 deposed that he came with his bike and parked it near the temple. During the time he went to the temple, the accused pulled and broke the plug wire of the vehicle and stole the helmet, for which a complaint was lodged at the Aroor Police Station. On 20-6-2014, after parking the auto used for supplying goods at the side, he went inside the house. When he returned, the accused uttered several abusive and unnecessary words

at him. Later, when he went to place the vehicle in another compound, the accused trespassed into his house and spoke abusive and unnecessary words to his wife and family members. A complaint was lodged with the police regarding this incident. On 8-6-2014 at about 8:30 p.m., the accused entered inside the premises and was seen breaking the glass of the auto bearing registration number KL4 Q 20 76. At that time, he was upstairs in the house; hearing the sound, he looked and saw Sajan running away. Again, on 11-4-2014 at about 11:30 p.m., the accused entered inside and damaged the headlight of the same auto, by throwing stones. Hearing the sound, when he opened the door, he saw the accused running away in the light. On 1-2-2018, while he was at home, the accused forced open the gate and entered inside, uttering abusive and unnecessary words. His wife did not respond. When he came, the accused went away. Although a complaint was lodged with the police, no action was taken. The complaint filed before the court is marked as Ext P 1. During cross-examination, PW1 clarified that the accused ran away from the spot upon seeing the nearby people gathering, and not on seeing him. He denied the statement in his Complaint, which was marked as Ext D1. He also deposed that the police did not seize the vehicle, and although the vehicle was later repaired, no bill was produced.

7. PW2 , the wife of PW1 deposed that the incident pertaining to this case occurred on 20-6-2014 at about 4:00 p.m. At that time, there was the goods auto parked in front of their house. She saw the accused speaking with her husband. When she came out of the house, the accused used abusive language. Later, when her husband went to place the vehicle in another compound, the accused entered their house, went into the kitchen, and at that time her son Sriraj was present. The accused used abusive words and threatened to kill. A complaint was lodged with the police regarding this incident. On 8-4-2016 at about 8:00 p.m., the accused entered by opening the gate of the house and damaged parts of the auto. Her husband, who was upstairs, came running down. She was in the kitchen and looked through the window. She saw and recognized the accused running away. On 11-4-2016 at about 11:30 p.m., upon hearing a sound, she woke up and saw the accused breaking the glass of the auto. She also saw him running away, and damage was caused. Thereafter, on 1-2-2018 at about 10:30 a.m., the accused forced open the gate. When she opened the door, he spoke unnecessary words. A complaint was lodged with the police, but since no action was taken, this case was filed. PW2, during cross-examination, deposed that on 11.04.2016 at about

10:30 p.m., their door was kept locked and, upon hearing the sound, they came outside and found the accused proceeding away from the place.

8. PW3 deposed that the incident connected with the case occurred when his father had parked his bike near the temple and went elsewhere. At that time, the accused stole the plug wire and helmet of the bike. The exact date was not known to him, and no complaint was lodged with the police regarding that incident. Subsequently, on 20-6-2014, when the goods supply auto was parked near their house, the accused spoke rudely and used abusive language. His father usually parked the vehicle about 20 meters away in another compound. At that time, the accused entered their house, threatened him and his mother, and used abusive words. A complaint was lodged with the police regarding this incident. On 8-4-2016 at about 8:30 p.m., the accused entered inside the house and damaged parts of the vehicle by throwing stones. Hearing the sound, he came out and saw him running away. Again, on 11-4-2016 at about 11:30 p.m., during rainfall, the accused broke the headlight of the auto by striking it, and then ran away. A complaint was subsequently lodged at the Aroor Police Station. On 1-2-2018 at about 10:00 a.m., while his mother, father, and he were at home, the accused forced open the gate and entered. He spoke rudely to his mother and threatened that he would kill his father. His

mother, frightened, closed the door and cried loudly. Hearing this, the accused ran away. During cross examination, PW3 deposed that the incident occurred on 08.04.2016 and that he gave his statement after three days. He further stated that he gave statement to the police incident thaafter the incident occurred on 11.04.2016. He did not state anything about the incident alleged to have occurred on 26.02.2014.

9. PW4 deposed that on 08.04.2016 at about 8:30 p.m., he was at the house of his relative at Erumalur. He saw the accused breaking the window glass of an autorickshaw which was parked in the courtyard of that house. According to him, he witnessed the accused pelting stone at the vehicle, after which the accused ran away. During cross-examination, PW4 deposed that PW1 in this case is his uncle. He further stated that he was residing about 5 to 6 kilometres away from the house of PW1, at Aroor Putthanangadi. He admitted that he was unaware of the neighbours of PW1 and also not aware of any nearby institutions. He stated that he was inside the house at the relevant time and, upon hearing a sound, came outside and saw the accused running away after looking back. He further deposed that it was the first time he had seen the accused. He was not certain about the exact date on which he gave his statement, but later stated that it was after about 1½ to 2 years.

10. PW5 attested the scene Mahzar prepared by the police. PW6 deposed that on 16-6-2018, he was serving as the Sub-Inspector at Aroor Police Station. In accordance with the order received from the Court, he conducted investigation in this case. Based on the complaint filed by PW1, Ext P 3 FIR was registered. He took over the investigation of the case and, in the presence of witnesses, visited the scene of occurrence and prepared Ext P 2 scene mahazar. The place of occurrence was identified as the house bearing number 237, situated at Ezhupunna Panchayat, Ward No. 11, on the Chenamann Road . Thereafter, since it was revealed during his investigation that no offence under Secs 452 and 354 IPC was committed, he filed Ext P 4 report to delete those sections. There after , the accused was arrested and later released on executing Ext P 5 Bail bond . Then he filed report showing the name and address of the accused. The vehicle involved in the incident was seized as per the seizure mahazar. Thereafter further investigation was conducted, and a charge sheet was filed.

11. The prosecution case is that on 26-02-2014, while PW1 had parked his supply autorickshaw bearing registration number KL-4Q-2076 in front of his house, the accused uttered abusive words towards him. Due to the hostile attitude of the accused, PW1 moved the vehicle to a nearby property. At

that time, the accused entered the premises of PW1's house and threatened his wife and younger son. On 08-04-2016 at about 8:30 p.m., the accused criminally trespassed into PW1's house and broke the glass of the supply autorickshaw kept in the shed. PW1 saw the accused escaping from the scene. On 11-04-2016 at about 11:30 p.m., the accused came in front of PW1's house and broke the headlight of the supply auto rickshaw. On that occasion also, PW1 saw the accused escaping from the scene. On 01-02-2018 at about 10:00 a.m., while PW1 was at home along with his wife and younger child, the accused entered the premises, uttered abusive words, and threatened to kill his wife. Hearing her cries, nearby people came, and the accused escaped. Due to the acts of the accused, PW1 sustained a loss of ₹5,000. The accused has been continuously threatening PW1 and his family. He is addicted to alcohol and has been habitually using drugs.

12. During cross-examination, PW1 denied the statement given in the complaint, which is marked as Exhibit D1. From the allegations in the complaint and from the depositions of the witnesses, no ingredients are established to attract the offence under Section 452 of the Indian Penal Code, since nothing has been produced to prove that the house was owned by the defacto complainant (PW1) or that he was residing in that house. Furthermore,

there is no cogent evidence to prove that any loss was sustained by PW1, as no assessment of the alleged loss and no supporting details have been produced before the Court. The allegation remains only that the accused broke the window glasses of the autorickshaw . Moreover, there is no specific allegation regarding the abusive words allegedly uttered by the accused, and it is also not stated whether the same were heard by the public so as to cause annoyance to them and thereby to attract the offence under Section 294(b) of the IPC

13. PW1, along with the witnesses PW2 and 3 examined, are found to be interested witnesses. Their testimonies do not satisfactorily establish the allegations. Furthermore, PW1 has not maintained a consistent case throughout the proceedings. In order to attract the offence as alleged, the prosecution is required to prove the case beyond reasonable doubt. However, in the present matter, such proof is lacking. Hence, I am of the considered opinion that the accused is entitled to be acquitted. These points are found against the prosecution.

14. **Point No.4:** - In view of my findings on point Nos.1 to 3, the accused is found not guilty of the offences alleged against him and he is entitled to get acquitted.

In the result, accused is found not guilty for the offences punishable U/ss. 447, 294(b), 427 of IPC and he is acquitted under section 255(1) of the Code of Criminal Procedure. He is set at liberty and the bail bond executed by the accused is cancelled.

Dictated to the Confidential Assistant transcribed and typed by her, corrected and pronounced by me in open Court this the 11th day of March, 2026.

Sd/-
Aminakutty. P.M.
Judicial First Class Magistrate-II,
Cherthala.

A P P E N D I X

Witnesses examined for prosecution:

PW1 - Krishnakumar
PW2 - Renjini
PW3 - Sreeraj
PW4 - Athul Krishna
PW5 - Vinod P S
PW6 - K N Manoj (SI)

Exhibits marked for the prosecution :

P1 - Complaint marked through PW1
P1(a) - Portion of complaint marked through PW1
P2 - Scene mahazar marked through PW5

- P3 - FIR marked through PW6
P4 - Section alteration report marked through PW6
P5 - Bail bond marked through PW6

Witnesses examined for the defence : Nil

Exhibits marked for the defence :

D1 - Portion of complaint

MO's marked : Nil

MO's unmarked : Nil

Sd/-
Aminakutty. P.M.
Judicial First Class Magistrate-II,
Cherthala.

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Judicial First Class Magistrate-II,
Cherthala.