

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

Present: Sri. JAPHINRAJ. J.B, Judicial First Class Magistrate – I, Mavelikara

Dated this the 19th day of March, 2026

CC. No. 424/2019

Complainant : 1 Girija, aged 43/19, W/o. Vijayan,
Kuzhiparambil House, Kallumala PO,
Umbarnadu Muri, Thekkekara village,
Mavelikara Taluk.

2. Anushka, D/o Vijayan, - do-
(Rep. by Adv. A Sreepriya)

Accused : Vijayan, aged 63/19 S/o. Kunjiraman,
Kuzhiparambil, Kallumala, Umbarnadu Muri.
(Rep. by Adv. Amrutha Kumar &
Adv. K C Soman Pillai)

Offences : U/s. 31 of PWDV Act.

Plea : Not guilty.

Finding : Not guilty.

Sentence/Order : Accused is acquitted under section 255(1) of
Criminal Procedure Code for the offences
punishable u/s. 31 of PWDV Act.

DESCRIPTION OF THE ACCUSED

Sl. No.	Name	Father's Name	Occupation	Residence	Age
1	Vijayan	Kunjiraman		Kuzhiparambil House, Kallumala PO, Umbarnadu Muri, Thekkekara village, Mavelikara Taluk	67

DATE OF:-

Offence	Complaint	Appearance	Release on bail	Commencement of trial	Close of Trial	Sentence or order
22.02.19	07.06.2019	23.03.22	23.03.22	29.12.23	17.03.26	19.03.26

This case coming on this day for consideration, the court delivered the following:-

J U D G M E N T

1. The case was taken to file on the basis of private complaint filed by the complainant against accused alleging offences punishable under Section 31 of PWDV Act.

2. **Prosecution case in brief is as follows:** The complainant is the wife of the accused. In CMP No. 2317/2020 arising out of MC No. 72/2020, the Honourable Court had, on 06.12.2018, issued a protection order and a residence order in favour of the complainant. The accused, in deliberate violation of the said orders, continued to subject the complainant to physical and mental harassment. On 22.02.2019, during her absence from home, the accused forcibly broke open the cupboard and removed the original title deed No. 3297/1993, her certificates, other official documents, the children's certificates, and gold ornaments. A complaint was lodged at Kurathikad Police Station, but the lost documents have not been recovered. The respondent thereafter continued acts of physical cruelty, compelling the complainant and her children to take refuge at her parental home in Kattanam. On 16.05.2019, when she returned home, the accused attacked her in the kitchen while she was preparing tea. He attempted to stab her with a knife, and in the process inflicted a deep injury on her left hand. Though an autorickshaw was arranged to take her to hospital, the accused and his brother obstructed it. Eventually, her sister and brother-in-law took her to the Government Hospital, Mavelikkara, where she was admitted from 16.05.2019 to 20.05.2019. The accused has persistently prevented the complainant and her children from living peacefully, subjecting them to continuous physical and mental harassment. On 27.05.2019, he circulated defamatory videos against her through Facebook and WhatsApp, which were viewed by neighbours and relatives, causing humiliation and distress to the complainant and her

children. She even contemplated suicide due to the unbearable disgrace. The accused continues to defame her through social media and has openly declared that she will not be permitted to reside in the matrimonial home. Thus, the accused has repeatedly violated the protection and residence orders of the Honourable Court, defied the law, and subjected the complainant and her children to cruelty. Thus, the accused is alleged to have committed the aforementioned offences.

3. After taking cognizance of the offence, the case was taken on file as CC 424/19. Upon the appearance of the accused, he was granted bail. Copies of all relevant prosecution records were furnished to him in compliance with Section 207 of the Cr.P.C. He was represented by counsels of their own choice. The particulars of the offence under Section 31 of PWDV Act, were read over and explained to him, to which he pleaded not guilty.

4. To prove the complainant's case, PW1 was examined, and Exts. P1 to P3 were marked. Upon closing the complainant's evidence, the accused was questioned under Section 313(1)(b) of the Cr.P.C. The accused denied all the incriminating circumstances brought out in evidence against him. From the side of the accused, Exts. D1 to D5 were marked and DW1 and DW2 examined. The learned counsel appearing for the accused were heard.

5. Though an opportunity was granted, no arguments were made from the side of either parties.

6. **The following points arise for determination in this case:**

- i. Did the accused, being the husband of the complainant, with knowledge of the subsistence of the protection and residence orders issued by the Honourable Judicial First Class Magistrate Court-I, Mavelikkara, in CMP*

No. 2317/2020 arising out of MC No. 72/2020, violate the said orders by subjecting the complainant to physical and mental harassment, including causing bodily pain and taking away her documents and valuables, thereby committing the offence punishable under Section 31 of the Protection of Women from Domestic Violence Act, 2005?

ii. What shall be the sentence or order?

7. **Point No 1** : The complainant was examined as PW1. PW1 deposed that in the year 2018, Ext. P3 order had been issued in her favour by this Court. She stated that despite the subsistence of that order, her husband continued to subject her to both mental and physical harassment. She explained that on one occasion, during her absence from home, the accused removed from the cupboard the original title deed standing in her name, her Aadhaar card, the children's Aadhaar cards, their certificates, and two small gold bangles. Although she demanded their return, the accused did not comply. Consequently, she lodged a complaint at Kurathikad Police Station, but the documents have not been recovered till date.

8. PW1 further deposed that one day while she was preparing tea in the kitchen, the accused came from behind and harassed her. In the course of the scuffle, he took a knife and inflicted an injury on her left hand. When her daughter cried aloud, she attempted to go to the hospital in an autorickshaw, but the accused obstructed it. Later, her sister and brother-in-law took her to the Government Hospital, Mavelikkara, where she was admitted for five days. She thereafter lodged a complaint before the DySP, Chengannur. PW1 also stated that on 27.05.2019, the accused circulated defamatory material against her through WhatsApp and Facebook, including a video, which was seen by neighbours and relatives. This, according to her, caused severe humiliation

and mental distress to her younger child, who had to be admitted to hospital and could not attend school in June. She even contemplated suicide due to the disgrace. As a result, she and her children shifted residence to Ernakulam, where she took up small employment. She added that due to health issues she is now unable to even pay rent.

9. The accused is alleged to have committed the offence under Section 31 of PWDV Act by breach of Ext. P3 order. Section 31 of PWDV Act reads as follows: “A breach of protection order, or of an interim protection order, by the respondent shall be an offence under this Act and shall be punishable with imprisonment of either description for a term which may extend to one year, or with fine which may extend to twenty thousand rupees, or with both.” Ext. P3 is the protection order dated 06.12.2018 in favour of the petitioner,. It reads as follows:

1. Respondent is hereby restrained from committing any act of physical or mental torture against the petitioners herein, until further orders.
2. Respondent is hereby restrained from evicting the petitioner from 'House No.416 situated at Thekkekara panchayat Ward-1', until further orders.

10. It is evident that Ext. P3 order was passed ex parte. To constitute a violation, the order must have been communicated to the accused. There is no evidence of such communication. It is true that the accused did not specifically cross-examine PW1 on the absence of communication; nevertheless, the burden lies on the complainant to prove that the order was duly communicated.

11. The first allegation against the accused is that, during the complainant's absence from home, he removed several documents belonging to her and her

child. However, the cross-examination of PW1 reveals that she has no direct knowledge of the accused removing the documents. This is evident from her testimony, which is as follows: “ 2019 ഫെബ്രുവരി 22 ആം തീയതി താങ്കൾ ഇല്ലാതെ സമയത്ത് രേഖകൾ പ്രതി എടുത്തതായി താങ്കളുടെ ഹർജിയിൽ പറഞ്ഞിട്ടുണ്ട് ഈ സംഭവങ്ങൾ താങ്കൾ കണ്ടില്ല? ഞാൻ കണ്ടില്ല പക്ഷേ അലമാരയിൽ കണ്ടില്ല വീട്ടിൽ മറ്റാരും കയറിയിട്ടില്ല.A” Even the police investigation into the allegation did not yield any result. Therefore, merely on the basis of suspicion, the accused cannot be found guilty of removing the documents.

12. The next incriminating evidence against the accused concerns the allegation of causing hurt. The defence case is that it was, in fact, the accused who sustained a grave injury when his wife cut him with a knife. When confronted with this suggestion, PW1 deposed that she had no knowledge of any injury suffered by the accused. She has not claimed that she inflicted injuries in self-defence in connection with the incident where she herself suffered hurt. According to PW1, she sustained serious injuries requiring stitches. The discharge card was marked as Ext. P2 subject to proof; however, it was not proved by examining its author, and hence Ext. P2 has no evidentiary value. The sole evidence supporting the allegation of physical assault is the testimony of PW1. Her evidence, however, is devoid of material details. Even the date of the incident, the occasion, and subsequent events are absent. Though she claims to have suffered serious injury, there is no proof to substantiate the same. On the other hand, DW1 and DW2 were examined to prove that the accused sustained grievous injury on the same occasion, and that he gave a history of being attacked by his wife with a knife. The complainant has offered no explanation for the injuries suffered by the accused. In such circumstances, credible evidence is required to support the

allegations in the complaint. The testimony of PW1 is not of sterling quality to rely upon solely for finding guilt against the accused.

13. Apart from the above, the complainant also alleges that the accused published defamatory material against her on social media. However, neither the materials nor the contents of the alleged publications were produced before this Court. In the absence of such material, a bare allegation that the publication caused harassment to the complainant cannot enable the Court to reach an independent conclusion as to whether the same was of such character.

14. From the above discussion it can be concluded that the complainant is not successful in proving the guilt of the accused beyond a shadow of reasonable doubt. Hence, the accused are entitled to the benefit of doubt.

These points are found against the complainant.

15. **Point No. 2** :- In view of the findings under the above point, it is held that the accused is not guilty for the offence alleged against him under section 31 of PWDV Act. This point is found against the prosecution.

16. **In the results**, the accused is found not guilty of the offences U/s. 31 of PWDV Act. He is acquitted U/S. 255(1) Cr.P.C. His bail bonds stand cancelled and he is set at liberty.

(Dictated to the Confidential Assistant directly, corrected and pronounced by me, in open court, on this the 19th day of March, 2026)

Sd/-

Judicial Magistrate of the First Class-I

APPENDIX

Witnesses for the prosecution

Rank of Witnesses	Name of witnesses	Date of Examination
PW1	Girija	15.11.2024

Exhibits for the prosecution

Exhibit Numbers	Name of document	Date of document	Proved through
P1	Certified copy of receipt	22.02.19	PW1
P2	Certified copy of Discharge card	20.05.19	PW1
P3	Certified copy of order in CMP 8308/18 in MC 131/18	06.12.18	PW1

Witness for the defence:

DW1: Dr. Jithesh (Medical Superintendent)

DW2: Syam Sundar U (Authorised person for Medical Superintendent)

Exhibits for Defence:

D1 : Certified copy of relevant page of Casualty OP Register marked through DW1

D2 : Certified copy of Wound Certificate marked through DW1

D3 : OP ticket from Govt. Hospital, Mavelikara marked through DW1

D4 : Authorisation Letter marked through DW2

D5 : Certified copy of Nominal register of out patients marked through DW2

Material Objects:- Nil

Sd/-

**Judicial Magistrate of the First Class-I
Mavelikara**