

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE-I,
CHENGANNUR**

Present:- Smt.Anupama.S.Pillai Judicial First Class Magistrate - I

Dated this, the 21st day of March 2026.

C.C.1517/2011

Complainant : State of Kerala represented by Sub Inspector,
of Police, Chengannur P.S. in Crime
No.74/2009.

[By APP, Chengannur]

Accused : Harikumar, Aged 30/09, S/o Gopinathan Pillai,
Shyam Nilayam, Pallana Muri, Kidangoor
Village (OA1).

[By Adv.K G Vinod Kumar]

Offence : U/Ss.143, 147, 148, 323, 324, 427 r/w 149 of IPC.

Plea : Not guilty

Finding : Not guilty

Sentence or order : The accused is found not guilty of the offences punishable U/Ss. 143, 147, 148, 324, 323, 427 read with 149 of IPC, and he is acquitted u/s.271(1) of BNSS. His bail bond stand cancelled. He is set at liberty.

DESCRIPTION OF THE ACCUSED

No	Name	Father's name	Caste	Calling	Residence	Taluk	Age
1	Harikumar	Gopinathan Pillai			Shyam Nilayam, Pallana Muri, Kidangoor Village		30/19

DATE OF				
Occurrence	Complaint	Apprehension	Released on bail	Commencement of trial
21.01.2009	17.03.2009	16.09.2025	16.09.2025	23.09.2025
Commencement of evidence	Close of trial	Sentence or order	Explanation for delay	Period of detention undergone during investigation, inquiry or trial for the purpose of Section 428 CrPC.
27.11.2025	18.03.2026	21.03.2026	No delay	Nil

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

JUDGMENT

1. The Case stands charge sheeted by the Sub Inspector of Police, Chengannur Police Station in Crime No. 74/2009 of Chengannur Police Station against accused nos. 1 to 5 alleging the commission of the offences punishable under Sections 143, 147, 148, 324,323,427 read with 149 of IPC.
2. **The prosecution case in brief as follows:-** The accused persons, due to their hostility towards CW-1, in prosecution of their common object to cause hurt to CW1, formed an unlawful assembly of themselves with the knowledge of each of them that they belong to the assembly, armed themselves with the dangerous weapons, like iron rods, on 21.01.2009 at 08.00 PM, in the night, on the Muzakuzha-Kidangannur public road near Elimukku Junction, the accused no. 1 and 2 dragged and pulled out CW1 from the autorikshaw vehicle. A1 using an iron rod, a dangerous weapon, struck at the left elbow side of CW1, inflicting a cut injury. A2 using another iron rod held in his hand, struck at the right leg of CW1 below the knee inflicting cut injury. The accused nos. 3, 4 and 5 kicked

CW1 on his chest ,back with their legs and fistted him with their elbows. In the incident, the accused caused wrongful monetary loss of ₹ 6,600/- towards the loss of the watch worn by CW1 in his hand and ₹ 5,400/- kept by CW1 in his pocket, committed mischief of the items. The accused acted as accomplice to each other in the crime. Thus, the accused persons alleged to have committed the offences punishable U/Ss. 143, 147, 148, 324, 323 ,427 read with 149 of IPC.

3. The crime was registered by CW-6 . The investigation was conducted by CW-7. The final report was filed by CW-8, the Sub Inspector of Chengannur Police Station u/s. 173(2) CrPC. After taking cognizance of the offences, this Court originally took the case on file as CC 859/09. The accused herein was the original first accused. The remaining accused faced the trial. A-1 was absconding. Despite repeated coercive steps, the presence of A-1 could not be secured within a reasonable time. After splitting up the case against A-1, the trial against accused nos 2 to 5 were proceeded. Vide the judgment of this Court dated 31.01.2011, A-2 to A-5 were acquitted under Section 248(1) of Cr.PC. Case against A-1 was refiled as CC 110/2011.
4. Despite repeated coercive steps, the presence of the accused could not be secured within a reasonable time. The case against the accused, who was the original first accused, was reported to the Hon'ble CJM for LP sanction. The Hon'ble CJM Alappuzha accorded LP sanction. On 31.03.2011, the case was refiled as LP No. 57/2011. Thereafter non-bailable warrants were issued periodically against the accused . During the pending execution of the warrant, the accused surrendered on 16.09.2025. He was enlarged on bail. Copies of relevant prosecution records were served on him under Section 230 of BNS. The case was re-filed as CC. On 23.09.2025, the charges U/Ss. 143, 147, 148, 324,323,427 read with 149 of IPC were read over and explained to the accused. He pleaded not guilty and claimed to be tried. The case was then proceeded with the prosecution evidence.

5. All together 8 witnesses have been cited by the prosecution, out of which PW1 and PW-2 were examined. Despite repeated coercive steps, the prosecution has not been able to procure the presence of CW2. Hence, this Court dispensed with the examination of CW2. The learned APP has given up the examination of the remaining witnesses. Ext.P1 was marked.
6. Since no incriminating material circumstances found against the accused, his examination u/s.351(1)(b) of BNSS was dispensed with.
7. Heard both sides.
8. The following points that arise for consideration:

POINTS

- (i) *Has the prosecution proved that on 21.01.2009 at 08.00 PM, in the night, on the Mulakkuzha -Kidangannur public road near Elimukku Junction, the accused persons acted in concert, formed an unlawful assembly and the accused acted as a member of the unlawful assembly with a common object to cause hurt to CW1 and thereby committed the offence punishable u/s.143 of IPC?*
- (ii) *Has the prosecution proved that on 21.01.2009 at 08.00 PM,, in the night, on the Mulakkuzha -Kidangannur public road near Elimukku Junction, the accused persons acted in concert, formed an unlawful assembly, exerted violence by being a member of the unlawful assembly and thereby committed the offence punishable u/s.147 IPC?*
- (iii) *Has the prosecution proved that on 21.01.2009 at 08.00 PM,, in the night, on the Mulakkuzha -Kidangannur public road near Elimukku*

Junction,,the accused persons acted in concert, formed an unlawful assembly, armed themselves with iron rods for using it as weapon of offence and thereby committed the offence punishable u/s.148 IPC?

- (iv) *Has the prosecution proved that on 21.01.2009 at 08.00 PM, on the Mulakkuzha -Kidangannur public road near Elimukku Junction,, the accused persons acted in concert, A1 using an iron rod, a dangerous weapon, struck at the left elbow side of CW1, inflicting a cut injury, A2 using another iron rod held in his hand, struck at the right leg of CW1 below the knee inflicting cut injury and thereby committed the offences punishable u/s.324 r/w 149 of IPC?*
- (v) *Has the prosecution proved that on 21.01.2009 at 08.00 PM, on the Mulakkuzha-Kidangannur public road near Elimukku Junction,, the accused persons acted in concert, A-3 to A-5 , kicked CW1 on his chest ,back with their legs and fisted him with their elbows, causing pain and thereby committed the offence punishable u/s 323 r/w 149 IPC?*
- (vi) *Has the prosecution proved that on 21.01.2009 at 08.00 PM, on the Mulakkuzha-Kidangannur public road near Elimukku Junction,, the accused persons acted in concert, caused wrongful monetary loss of ₹ 6,600 towards the loss of the watch worn by CW1 in his hand and ₹ 5,400 kept by CW1 in his pocket, committed mischief of the items and thereby committed the offence punishable u/s. 427 r/w 149 IPC?*
- (vii) *What is the order as to sentence?*

9. **Point Nos.1 to 6:-** Since the appreciation of evidence and appraisal of facts involved in all these points are similar they are considered together for the sake of

brevity and to avoid the monotony of repetition.

10. The prosecution case is that, accused persons, due to their hostility towards CW-1, in prosecution of their common object to cause hurt to CW1, formed an unlawful assembly of themselves with the knowledge of each of them that they belong to the assembly, armed themselves with the dangerous weapons, like iron rods, on 21.01.2009 at 08.00 PM, in the night, on the Mulakuzha-Kidangannur public road near Elimukku Junction, the accused no. 1 and 2 dragged and pulled out CW1 from the autorikshaw vehicle. A1 using an iron rod, a dangerous weapon, struck at the left elbow side of CW1, inflicting a cut injury. A2 using another iron rod held in his hand, struck at the right leg of CW1 below the knee inflicting cut injury. The accused nos. 3, 4 and 5 kicked CW1 on his chest, back with their legs and fisted him with their elbows. In the incident, the accused caused wrongful monetary loss of ₹ 6,600/- towards the loss of the watch worn by CW1 in his hand and ₹ 5,400/- kept by CW1 in his pocket, committed mischief of the items. The accused acted as accomplice to each other in the crime.

11. To prove the prosecution case, the prosecution had examined PW1, Gopalan, the injured in the incident. Though he would admit the giving of Ext.P1 FI statement and the occurrence of the incident due to which he sustained injury and loss, he would depose that there were many assailants and he did not know who had assaulted him, that the incident occurred in the night. He denied the presence of the accused in the scene. The witness thus turned hostile to the prosecution.

12. PW2 Ramachandran is the occurrence witness testified by the prosecution. The witness denied that he knows PW1 Gopalan. The witness denied of having seen any incident as alleged by the prosecution. When the attention of the witness was drawn to his previous statement as to the witnessing of the incident, he had denied the same. The witness thus completely turned hostile to the prosecution.

13. Thus, the prosecution miserably failed to prove the alleged accusations against the accused persons beyond reasonable doubt.

14. **Point No. 7-** For the findings and reasons stated in the preceding points, the accused is not found guilty of the offences punishable U/Ss. 143, 147, 148, 324, 323, 427 read with 149 of IPC .All the points are found against the prosecution.

In the result,

The accused is found not guilty of the offences punishable U/Ss. 143, 147, 148, 324, 323, 427 read with 149 of IPC, and he is acquitted u/s.271(1) of BNSS.

His bail bond stand cancelled. He is set at liberty.

(Typed by me, corrected and pronounced by me in open court, on this the 21st day of March, 2026)

Sd/-
Judicial First Class Magistrate-I
Chengannur

Appendix

List of Prosecution/Defence/Court Witness
(Rule 134 Criminal Rules of Practice, Kerala)

A. Prosecution Witnesses :

Rank	Name	Whether Eye witness, Police witness, Expert witness, Medical witness, Other witness, Eye witness
PW1	Gopalan	Eye witness
PW2	Ramachandran	Eye witness

B. Defence Witness: Nil

C. Court Witness: Nil

List of Prosecution/Defence/Court Exhibits

A. Prosecution Exhibits :

SL.No	Exhibit Number	Description
1	Ext P1/PW1	First Information Statement

B. Defence Exhibits : Nil

C. Court Exhibits : Nil

D. Material Objects : Nil

Sd/-
Judicial First Class Magistrate-I
Chengannur