

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

Present: Sri. Kannan L, Judicial First Class Magistrate - I, Kochi

Dated, this 17<sup>th</sup> day of November, 2025

**CMP 1205/2025 in CC 284/2024**

Petitioner/  
Accused : 1. Antony Frederic Baiju, S/o Peter, Valiyaparambil  
House, Kannamali P.O., Chellanam  
2. Sreya Baiju, aged 19/24 years, D/o Antony Frederic  
Baiju, Valiyaparambil House, Kannamali P.O.,  
Chellanam  
(By Adv. K.P Gopi)

Respondent/  
Complainant : State of Kerala represented by the Police Inspector of  
Police in Cr.No. 434/2024 of Kannamaly Police Station

Offences : U/s 341 and 506(i) r/w 34 of IPC

Order : Dismissed

**ORDER**

This is an application for discharge filed By accused nos. 1 and 2 in this case.

2. The allegations of the prosecution, as seen from the final report, in brief are as follows. Regarding a family property, the first accused and CW3 had been litigating before the Munsiff Court, Kochi, and ultimately CW3 obtained a favourable verdict. On the strength of that order, when CW3 was making arrangements to construct a compound wall on the property, on 06.02.2024 at about 9.30 a.m., the first accused wrongfully restrained CW2, the son of CW3, while he was stacking bricks. The second accused threatened CW2 with death. Thus, they committed the offences punishable under Sections 341 and 506 of the IPC.

3. The averments in the application are as follows. Initially, the Sub-

Inspector of Police, Kannamaly Police Station, had filed a final report dated 08.04.2024 for offences punishable under Sections 341 and 506 read with Section 34 of the IPC. Subsequently, based on the order of the Kochi City Police Commissioner, further investigation was conducted, and another final report was filed.

4. The alleged date of incident is 06.02.2024, whereas the information was lodged only on 18.02.2024. The inordinate delay in filing the complaint has not been explained. Initially, the crime was registered for offences punishable under Sections 447, 354, 354B, 323, 341, 506, and 34 of the IPC. After investigation, all offences except those under Sections 341, 506, and 34 were dropped. The wife of the first accused was also removed from the array of accused. Since the main offences have been dropped, the subsidiary offences cannot stand independently. The dropping of offences and removal of accused from the array indicate that the allegations are wholly unreliable. Furthermore, a fabricated medical certificate, which was anti-dated, was allegedly obtained from Prashanti Clinic, Cherthala. The informant also provided an additional statement retracting her previous allegations in the First Information Statement. Even if the averments in the final report are taken at face value, the alleged offences do not stand, as there are no necessary ingredients of the offences. There is no evidence of any pre-arranged plan or prior meeting of minds; hence, Section 34 of the IPC cannot be invoked. The petitioners have been falsely implicated, and there is no material evidence against them. Therefore,

they may be discharged.

5. Heard both sides. An argument note was also filed on behalf of Petitioners.

6. The only point that arise for consideration is,

*Whether the accused are entitled to get a discharge.*

7. The Point - CW2(Shone) in his statement accompanying the supplementary final report on 02.05.2006, had deposed as follows: The first accused is the brother of the informant's father. The informant's father had obtained a favorable verdict regarding the property from the Municipal Court, Kochi. The first petitioner to prevent the constructions pursuant to the favourable verdict, on 05.02.2024, had willfully parked his car in the parkway to prevent construction materials from being brought in for erecting a compound wall. As a result, CW2 and his family were compelled to carry the bricks from the opposite side. On 06.02.2024, his had called Thankachan and other masons to carry the bricks to the construction site. At that time, accused Nos. 1 and 2 arrived and threatened the masons with false cases. Later, at around 9:30 a.m., CW2, his father, and the masons transported the bricks in a trolley. While stacking the bricks, accused Nos. 1 and 2 arrived again and stated that they would not permit the construction of the compound wall. CW2 was wrongfully restrained by the first accused, and the second accused threatened him. During the incident, the dress worn by CW2's mother, the

informant, suffered damage, with some stitches being torn.

8. In his earlier statement produced along with the initial final report, (wherein he was CW3 )stated that the first petitioner had destroyed the bricks and attempted to throw them at his feet. Further, he was manhandled by the second petitioner and her mother. The nightgown worn by his mother was torn by the first petitioner, and sand was thrown into her eyes. CW3 was also threatened with death. Specifically, he was threatened that while en route to his college, he would be hit by a vehicle. His father was also threatened with being killed by hired assassins. Additionally, he was threatened that he would be falsely implicated in POCSO and drug-related cases.

9. It is seen that the statements given by CW3 on both occasions appear to have some inconsistencies. However, such inconsistencies are not a matter to be considered at the stage of discharge. Further, the statement lodged by the witness must be read conjointly.

10. His version also derives support from the FIS and also the statements of his father. There is a specific case for CW2 that he was restrained by the first petitioner and was threatened with death and false cases. So the offences punishable under Sections 341 and 506 are prima facie attracted. Admittedly there is a delay in lodging FIS. However the delay in information and its impact on the prosecution case can only be ascertained after a trial.

11. On the basis of the above discussion, I am of the view that there are

sufficient grounds to proceed against petitioners. Hence points are found against them. The application stands dismissed.

(Pronounced by me in the open court on this the 17<sup>th</sup> day of November, 2025).

Sd/-

**Judicial Magistrate of the First Class – I, Kochi**