

STATE OF KERALA**IN THE COURT OF ASSISTANT SESSIONS, KOYILANDY****Present: Sri. Manoj. M.N, Assistant Sessions Judge, Koyilandy,****Tuesday, the 7th day of April, 2026****SESSIONS CASE No. 256/2024****(C.P. No. 02/2024 of JFCM, Perambra.)****(Crime No.628/2023 of Balussery Police Station)**

Complainant : State of Kerala, Represented by the
Sub Inspector of Police, Balussery Police
Station
(By Thomas P.M., Public Prosecutor)

Accused : Musthafa.T
Aged 55/23, S/o Abdurahiman, Chembayi
House, Panangad, Vattoli Bazar (PO),
(By Adv. Sri. P.K. Manoharan)

Offences : U/s. 341,323, 325, and 308 IPC.

Plea of the accused : Not guilty

Finding of the court : Not guilty

Sentence or order : Accused is found not guilty of the
offences punishable under Sections
341, 323, 325 and 308 of the IPC and
Acquitted u/s 232 of the Cr.PC

DESCRIPTION OF THE ACCUSED

Sl. No.	Name	Father's name	Occu pation	Caste	Age	Residence
1.	Musthafa.T	Abdurahiman	-	-	55/23	Chembayi House, Panangad, Vattoli Bazar (PO)

Date of

Occurrence	Final Report	Apprehension	Release on bail	Commitment for trial	Commencement of trial	Close of trial	Sentence or order
17.07.2023	07.10.2023	23.09.2023	23.09.2023	21.10.2024	09.01.2025	05.3.2026	07.4.2026

This case committed by Smt. Wini Muttikal Jose, Judicial 1st Class Magistrate, Perambra, in C.P. No. 2/2024 dated 12.02.2024 to the Sessions Court, Kozhikode and made over to this court for trial and disposal.

This Sessions case having been finally heard on 7.04.2026 in the presence of the Public Prosecutor and the defence counsel, and having stood over for consideration to this day, the court on 07.04.2026 delivered the following :-

JUDGMENT

This is a case charge-sheeted by the Sub-Inspector of Police, Balussery Police Station, in Crime No. 628/2023 of that police station, indicting the accused to face prosecution for the offences punishable under Sections 341, 323, 325 and 308 of the Indian Penal Code.

2. The substance of the prosecution case against the accused can be summarised as follows: On 17.07.2023 at 14:00 hours, in front of the shop named “Vivo Mobile City” near Balussery bus stand, the accused wrongfully restrained PW4 (CW1) and voluntarily caused hurt to him by beating him on the face with his hands and pushing him. As a result, when he fell down, his head hit on the concrete floor and he sustained grievous injury (left frontoparietal subdural haemorrhage and left frontal haematoma with mass effect) to his head. The accused committed the above

activities with the knowledge that it might even result in causing the death of PW4 (CW1). Thus, it is alleged that the accused committed offences punishable under Sections 341, 323, 325 and 308 of the Indian Penal Code.

3. After completing the investigation, the Investigating Officer laid a final report before the Judicial First Class Magistrate Court-II, Perambra. In the final report, the prosecution cited a total of seven witnesses to support its case and also produced certain documents and material objects for that purpose. After completing the procedural formalities, the case was taken on file as C.P. No. 2/2024 on the file of the Judicial First Class Magistrate Court-II, Perambra. The accused is on bail and is represented by counsel engaged by him. After furnishing copies of all relevant records relied on by the prosecution, to the accused, as per the order dated 12.01.2024, the above case was committed to the Hon'ble Sessions Court, Kozhikode as contemplated under Section 209(a) of the Code of Criminal Procedure (corresponding to Section 232 of the Bharatiya Nagarik Suraksha Sanhita, 2023). The Hon'ble Sessions Court, Kozhikode, made over the above case to this Court for trial and disposal.

4. The learned Additional Public Prosecutor opened the case by describing the charges against the accused and stating the evidence proposed to prove the guilt of the accused. After hearing both sides, charges for the offences punishable under Sections 341, 323, 325 and 308 of the Indian Penal Code were framed against the accused. The charge was read over and explained to the accused, to which he pleaded not guilty and claimed to be tried.

5. PW1 to PW7 were examined, and Exts. P1 to P14 were marked on the side of the prosecution. MO1 was also identified and marked on the side of the prosecution. Since no incriminating evidence was brought out against the accused, his examination under Section 313(1)(b) of the Code of Criminal Procedure, 1973 (corresponding to Section 353 of the Bharatiya Nagarik Suraksha Sanhita, 2023) was dispensed with.

6. Both sides were heard under Section 232 of the Code of Criminal Procedure (corresponding to Section 255 of the Bharatiya Nagarik Suraksha Sanhita, 2023).

7. The points formulated for consideration are as follows:

- 1) Whether the accused is entitled to be acquitted under Section 232 of the Code of Criminal Procedure (corresponding to Section 255 of the Bharatiya Nagarik Suraksha Sanhita, 2023)?
- 2) Sentence or order, if any?

8. **Point No. 1:** PW4 is the victim in the above case. His evidence shows that the incident occurred on 17.07.2023 at about 2.00 p.m. As per his evidence, one person pushed him down due to hostility towards the de facto complainant, allegedly because he had sung a song. He deposed that, in the above incident, he sustained injury to his head and suffered pain all over his body. He further deposed that he was taken to Balussery Government Hospital for treatment and was thereafter shifted to MMC Hospital, Modakkallur. He stated that he is not aware of who committed the above acts

against him. When he gave evidence, the accused was present in the dock, and he deposed that he saw the accused for the first time then. He also deposed that he is aware that the police registered a case in respect of the above incident. According to his evidence, the matter has been settled between the parties, and he has no further complaint or grievance in relation to the above matter. Even though the learned Public Prosecutor, declared the above witness as a witness hostile to the prosecution case and with the permission of this Court, examined the above witness by putting questions contemplated under Section 157 of the BSA, nothing was brought before this Court in support of the prosecution case.

9. PW5, Linz Jose, who is the son of PW4, is the de facto complainant in this case, as he set the criminal law in motion by giving Exhibit P2, the First Information Statement. He identified the MO1 pen drive. Although he deposed that PW4 was pushed down by somebody, he stated before the Court that he is not aware of who did so. Accordingly, the above witness was also declared as a witness hostile to the prosecution case by the learned Public Prosecutor, and with the permission of this Court, the Public Prosecutor examined him by putting questions contemplated under Section 157 of the BSA. However, nothing was brought before this Court in support of the prosecution case through him.

10. PW1 Jithuraj, PW2 Anuroop and PW3 Vinod are the witnesses examined before this Court on the side of the prosecution as eye-witnesses to the incident alleged in this case. All these witnesses turned hostile to the prosecution case and deposed

before the Court that they had not seen the incident. The learned Public Prosecutor, with the permission of this Court, examined the above witnesses by putting questions contemplated under Section 157 of the BSA. However, nothing was brought before this Court in support of the prosecution case.

11. The evidence adduced by PW6, Leneesh, shows that, while he was working as a Senior Civil Police Officer at Balussery Police Station on 21.07.2023, as part of the investigation in the above case, he prepared Exhibit P3 scene mahazar. He deposed that the pen drive produced before him by PW5 was seized by him while preparing Exhibit P4, and he identified MO1 as the said pen drive. As per his evidence, Exhibit P5 is the property list prepared for the production of the above pen drive before this Court. Exhibit P6 is Form No. 15 prepared by him for the production of the pen drive before this Court. He further deposed that he conducted the investigation by recording the statements of prosecution witnesses cited as CW5 to CW9.

12. The evidence adduced by PW7 shows that he was the Sub-Inspector of Police, Balussery Police Station, during the relevant time and that he conducted the investigation in the above case. As per his evidence, Exhibit P8 is a report filed by him to incorporate Sections 325 and 308 of the Indian Penal Code in the present case and to delete Section 324 of the Indian Penal Code. He deposed that the accused in this case had obtained pre-arrest bail from the Hon'ble Sessions Court and, accordingly, he arrested the accused and released him on bail. Exhibit P9, marked through him,

is the arrest memo prepared for that purpose. He further deposed that Exhibit P10 is the wound certificate collected from the doctor who examined the victim, and Exhibit P11 is the treatment certificate of the victim. Exhibit P12, marked through him, is the report showing the name and full address of the accused. Exhibit P13, marked through him, is the sketch of the place of occurrence in this case. Exhibit P14, marked through him, is the FIR registered in the above case. He deposed that he completed the investigation and thereafter filed the final report.

13. A thorough analysis of the evidence discussed above shows that there is no incriminating evidence establishing the involvement of the accused in the offences charged against him in this case. It is evident that the matter has been settled between the parties, and the injured witness, as well as the eye-witnesses, have not supported the prosecution case in any manner. Considering all that has been stated above, I am of the view that this is a fit case in which the accused is liable to be acquitted under Section 232 of the Code of Criminal Procedure (corresponding to Section 255 of the Bharatiya Nagarik Suraksha Sanhita, 2023). Accordingly, **Point No. 1** is answered against the prosecution.

14. **Point No. 2:** In the light of the above discussion, the accused is only to be acquitted under Section 232 of the Code of Criminal Procedure (corresponding to Section 255 of the Bharatiya Nagarik Suraksha Sanhita, 2023).

In the result:

1. The accused is found not guilty of the offences punishable under Sections 341, 323, 325 and 308 of the Indian Penal Code, and he is acquitted under Section 232 of the Code of Criminal Procedure, 1973 (corresponding to Section 255 of the Bharatiya Nagarik Suraksha Sanhita, 2023) of those offences.
2. The bail bond executed by the accused stands cancelled, and he is set at liberty forthwith
3. MO1 pen drive shall be destroyed as per rules after the expiry of the period for appeal or revision. If any appeal or revision is filed, the same shall be dealt with in accordance with the directions of the Hon'ble Appellate or Revisional Court, as the case may be.

(Dictated and typed using Adalath Ai , corrected by me and pronounced in open court on this the 7th day of April, 2026.)

ASSISTANT SESSIONS JUDGE

APPENDIX

Witnesses examined for prosecution:-

PW1	: 09.01.2025	: Jithu Raj. K.R
PW2	: 09.01.2025	: Anuroop M.K
PW3	: 09.01.2025	: Vinod. M
PW4	: 24.06.2025	: Jose. P.J
PW5	: 24.06.2025	: Linz Jose
PW6	: 04.11.2025	Lineesh. C.K
PW7	: 05.02.2026	: Saji Augustine, S. I. of Police

Exhibits marked for prosecution:-

P1	: 21.07.2023	: Portion of 161 statement of Jithuraj
P2	: 20.07.2023	: FIS
P3	: 21.07.2023	: Scene Mahazar
P4	: 12.08.2023	: Seizure Mahazar
P5	: 12.08.2023	: Form No.15
P6	: 12.08.2023	: Form No. 15 certificate
P7	: 12.08.2023	: Certificate u/s 65 4(C) of Indian Evidence Act
P8	: 13.09.2023	: Report adding section
P9	: 23.09.2023	: Arrest Memo
P10	: 17.07.2023	: Accident cum wound certificate
P11	: 02.08.2023	: Treatment Certificate
P12	: 23.09.2023	: Report adding full address of
P13	: 11.10.2023	: Sketch
P14	: 20.07.2016	: FIR

Witness examined for defence :Nil**Exhibits examined for defence: Nil****Court Exhibits:- Nil****Exhibits marked for accused: Nil****Material Objects :**

MO1 : : Pen Drive

ASSISTANT SESSIONS JUDGE

Fair/copy of Judgment in SC 256/2024
Dated 07.04.2026