

IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE KOYILANDY

Present: Sri. Ajikrishnan S, Judicial First Class Magistrate

Saturday, the 02nd day of May 2026

C C No. 406/2018

Complainant : State:- Rep. by Sub Inspector of Police,
Koyilandy Police Station,
in crime No. 442/2015.
[By Sri. Latheesh M,
Asst. Public Prosecutor Gr-I, Koyilandy]

Accused : Nidheesh, S/o Narayanan, aged 33/15, Veluthamannil,
Edakkulam, Arangadath.
[By Adv. P P Surendran]

Offence : U/SS. 323, 332, 392 r/w 34 IPC and
S. 3 (1) of the PDPP Act.

Plea : Not guilty

Finding : Not guilty

Sentence or order : The accused is acquitted under S. 248(1) CrPC.

DESCRIPTION OF THE ACCUSED

Sl. No.	Name	Father's name	Occupation	Residence	Age
1.	Nidheesh	Narayanan	Nil	Edakkulam	33/15

DATE OF:

Offence	Complaint	Apprehension of accused	Release on bail
04.05.2015	05.05.2016	14.06.2018	14.06.2018

Commencement of trial	Close of trial	Sentence/Order	Explanation of delay
18.11.2021	22.04.2026	02.05.2026	No delay

This case having been finally heard on 22.04.2026, the court on 02.05.2026 delivered the following:

J U D G M E N T

1. The accused is facing trial for the offences punishable under SS. 323, 332, 392 r/w 34 IPC and S. 3 (1) of the Prevention of Damage to Public Property Act, 1984 (the PDPP Act). The final report was filed by the Sub Inspector of Police, Koyilandy Police Station.
2. **The case of the prosecution**, in brief, is that at 11.15 pm on 04.05.2015, at Apoons Corner in Chengottukavu village, the accused, in furtherance of the common intention shared with others, voluntarily caused hurt to PW2 and PW3, who were working as a lineman and an overseer in KSEB, South Electrical Section, Koyilandy, when they came to install fuse there. The accused obstructed their official duty, caused loss of PW3's gold chain, and damaged the fuse and caused loss of Rs.1,157/- to the public. Hence, the accused is alleged to have committed the aforesaid offences.

General proceedings and charge

3. Upon taking cognizance of the offences, the case was taken on file as CC No. 813/2015. Since the accused was absconding, the case was transferred to the register of long pending cases as LP No. 12/2018. When the accused

surrendered before this court, his case was refiled as CC No. 406/2018. On appearance of the accused, copies of all relevant prosecution records were furnished to him. S. 207 of the Code of Criminal Procedure (CrPC) was complied with. After hearing, charge was framed, read over and explained to the accused for the offences punishable under SS.323, 332, 392 r/w 34 IPC and S. 3 (1) of the PDPP Act, and to which he pleaded not guilty.

Evidence in the case

4. From the side of the prosecution, PW1 to PW9 were examined and Exts. P1 to P11 were marked. MO1 was also marked. Thereafter, the accused was examined under S. 313 (1)(b) Cr.P.C. He denied all incriminating circumstances appearing against him. No defence evidence was adduced.
5. Heard both sides. Perused the records.
6. **The points arise for consideration** are:
 - i. Whether at 11.15 pm on 04.05.2015, at Apoos Corner in Chengottukavu village, the accused, in furtherance of the common intention shared with others, voluntarily caused hurt to PW2 and PW3 at and thereby committed the offence punishable under S. 323 r/w 34 IPC?
 - ii. Whether on the same date, time and place, the accused, in furtherance of the common intention shared with others, voluntarily caused hurt to PW2 and PW3, who were working as a lineman and an overseer in KSEB, South Electrical Section, Koyilandy, while they were discharging their official duty and thereby committed the offence punishable under S.

332 r/w 34 IPC?

- iii. Whether on the same date, time and place, the accused, in furtherance of the common intention shared with others, committed robbery of PW3's gold chain and thereby committed the offence punishable under S. 392 r/w 34 IPC?
- iv. Whether on the same date, time and place, the accused damaged the fuse and caused loss of Rs.1,157/- to the public and thereby committed the offence punishable under S. 3(1) of the PDPP Act?
- v. What shall be the order or sentence to be passed?

Arguments and Discussion

7. **Point Nos. (i) to (iv)**: Since these points are interconnected, they are considered together. The learned Assistant Public Prosecutor submitted that the evidence of PW2 and PW3 would prove the prosecution case. Their testimony is supported by the medical evidence adduced. No material inconsistencies were elicited during their cross-examination. Hence, the accused is liable to be convicted. *Per contra*, the learned counsel for the accused submitted that PW2 and PW3 have not convincingly identified the accused. They stated that several persons were present at the place of occurrence. The witnesses had no prior acquaintance with the accused. No serious injuries were sustained by PW2 and PW3. No independent witnesses were examined by the prosecution. Hence, the prosecution has failed to prove the alleged offences beyond reasonable doubt, and the accused is entitled to

be acquitted.

8. PW1 lodged Ext. P1 FIS. PW2 and PW3 are the occurrence witnesses. PW4 is an independent witness, who did not support the prosecution case; Ext. P2 contradiction was marked during her evidence. PW5 is a witness to Ext. P3 scene mahazar. PW6 is the Medical Officer who examined PW3 and issued Ext. P4 wound certificate. PW7 deposed regarding the production of documents before the Investigating Officer by the witnesses. PW8 registered Ext. P5 FIR based on Ext. P1 FIS and deposed about the investigation of the case. PW9 is the Assistant Engineer in KSEB, Koyilandy South Section, who issued Ext. P6 valuation report regarding the fuse damaged in the case.
9. PW1 deposed that he was working as an Assistant Engineer in KSEB, Koyilandy South Electrical Section, at the time of the incident. PW2 and PW3 were employees in his office. They submitted a petition to him regarding the obstruction of their duties, pursuant to which he lodged Ext. P1 petition. He did not witness the incident.
10. PW2 deposed that he was working as an Overseer in the South Electrical Section, KSEB, Koyilandy, at the time of the incident. The incident took place at 11.15 pm on 04.05.2015. He was on night duty on that day. Lineman Rajesh (PW3) was also with him. They went to install a fuse in a transformer at Apoons Corner. At that time, one person restrained him. He forcibly took the fuse from Rajesh, and threw it away. He also pushed him and assaulted Rajesh. He also broke PW3's gold chain, and a piece of it was lost. They informed that they were public servants. Their duty was obstructed due to the acts of the

accused. PW3 later took treatment at the hospital. He did not know the name of the accused. He could identify him.

11. PW3 deposed that he was working as a lineman in KSEB, Koyilandy South Electrical Section, at the time of the incident. He deposed in tune with the evidence given by PW2 in examination in chief. He stated that one person pushed him and pressed his neck. The gold chain worn by him was broken, and a piece of it was taken away by that person. His duty was obstructed. MO1 is the broken piece of the fuse.

12. PW4, who was cited as an eyewitness by the prosecution, did not support the prosecution case, and stated that she had not witnessed the incident.

13. PW6 is the Medical Officer who examined PW3 and issued Ext.P4 wound certificate. She deposed that, while working at the Taluk Headquarters Hospital, Koyilandy, she examined Rajesh, who came with alleged history of assault at about 11:00 p.m. on 04.05.2015 at Arangadath by a group of about ten persons, when he had gone there to install a fuse. It was stated that he was assaulted with hand and stone. On examination, the patient complained of pain in the right lower chest. No other external injuries were noted.

14. PW1, who lodged Ext. P1 FIS, had not witnessed the incident. He has only hearsay knowledge of it. PW2 and PW3 are the injured persons in this case. The evidence of PW2 and PW3 would show that several persons were present at the place of occurrence. PW2 and PW3 had no prior acquaintance with the accused herein. PW3 stated that there was no light at the place of occurrence.

In such circumstances, the prosecution has not explained how PW2 and PW3 were able to identify the accused. No test identification parade was conducted by the prosecution in this case. PW2 admittedly did not take any treatment from the hospital. He has not stated that he suffered any hurt or experienced any pain in the alleged incident. PW3, who took treatment, stated to PW6, the doctor, that he had been assaulted by a group of about ten persons. He did not mention the name of any of the accused to the doctor, nor did he state that he could identify the accused herein.

15. Furthermore, the evidence of PW2 and PW3 would not show that the accused herein committed any specific overt act against them. They have also not been able to confirm the presence of the accused at the place of occurrence. When there is a group of persons, there must be credible and convincing evidence regarding the role of each accused in the commission of the offences.

16. PW2 and PW3 also could not state the names of the accused. They have also not stated that they were able to identify the accused since they had ample opportunity and time to clearly imprint the face of the accused in their memory at the scene of the incident. Considering the facts and circumstances of the case, the mere assertion of the witnesses that they can identify the accused is not sufficient. The burden is on the prosecution to prove the identity of the accused and the offences alleged beyond reasonable doubt. The evidence of PW2 and PW3, given the time of the incident and the manner in which it happened, is insufficient to prove the identity of the accused.

17. Even though the prosecution has alleged that the accused committed the

offence punishable under Section 392 IPC, there is no material to show that the accused had the intention to commit theft or extortion, or that the alleged offence was committed while committing or in order to commit such offences. The evidence of PW2 and PW3 would not establish the same. Even though PW1 stated that PW2 and PW3 had submitted a petition to him, no such petition has been produced by the prosecution. The non-production of the said petition raises a doubt regarding the prosecution case and the veracity of the version contained in Exhibit P1. Therefore, the evidence on record is not convincing to prove that the accused voluntarily caused hurt to PW2 or PW3, obstructed their official duties, or committed the other offences alleged. The prosecution failed to prove the offences alleged against the accused beyond reasonable doubt. The accused is liable to be acquitted. **Points Nos. (i) to (iv) are found against the prosecution.**

18. **Point No. (v):** In view of the findings in points Nos. (i) to (iv), the accused is found not guilty of the offences punishable under SS. 323, 332, 392 r/w 34 IPC and S. 3 (1) of PDPP Act. He is liable to be acquitted of the said offences. The point is found accordingly.

19. **In the result:**

1. The accused is acquitted under S. 248(1) CrPC of the offences punishable under SS. 323, 332, 392 r/w 34 IPC and S. 3 (1) of PDPP Act. His bail bond is cancelled. He is set at liberty.
2. MO1 shall be destroyed, being valueless, subject to appeal, if any.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me)

and pronounced in the open court on this, the 02nd day of May 2026).

Judicial First Class Magistrate
Koyilandy

APPENDIX

List of Prosecution/Defence/Court Witnesses

Prosecution Witnesses

Rank	Name	Whether Eye witness, Expert witness, Medical witness, Other witness
PW1 (CW1)	Prasanth K P, Asst. Engineer, Electrical Section Koyilandy South	First informant
PW2 (CW3)	Vinod K	Injured
PW3 (CW2)	Rajesh	Injured
PW4 (CW6)	Savithri	Eyewitness
PW5 (CW4)	Prashobh	Other witness-scene mahazar
PW6 (CW11)	Dr. Nethra M	Medical witness
PW7 (CW13)	N K Prasad, CPO, Koyilandy PS	Other witness-seizure mahazar
PW8 (CW14)	Raghu KT, SCPO, Koyilandy PS.	Other witness- FIR.
PW9 (CW12)	K P Jayakumar, Asst. Engineer, Electrical Section, Koyilandy	Other witness

Prosecution Exhibits

Sl. No.	Exhibit Number	Description
1.	Ext.P1/ PW1	Petition by Asst. Engineer, Electrical section, KSEB, Koyilandy south, dated 05.05.2015.
2.	Ext.P2/ PW4	Contradiction in the statement of PW4/CW6.

3.	Ext.P3/ PW5	Scene mahazar, dated 06.05.2015.
4.	Ext.P4/ PW6	Wound certificate of Rajesh, dated 05.05.2015.
5.	Ext.P5/ PW8	FIR in Crime No. 442/2015 of Koyilandy Ps, dated 05.05.2015.
6.	Ext.P6/ PW9	Estimate for replacing damaged materials at Appus corner transformer under Electrical section, Koyilandy south.
7.	Ext.P7/ PW8	Property list, dated nil.
8.	Ext.P8/ PW8	Seizure mahazar, dated 07.05.2015.
9.	Ext.P9/ PW8	Report to delete accused, dated nil.
10.	Ext.P10/PW8	Arrest memo of Nidheesh, dared 06.05.2015.
11.	Ext.P11/PW8	Report to add name and full address of accused, dated 06.05.2015.

Defence Witnesses examined -Nil

Exhibits marked for defence -Nil

Court Witnesses and Exhibits -Nil

Material objects marked

Sl. No.	Material object	Description
1.	MO1	Piece of fuse.

Judicial First Class Magistrate
Koyilandy