

IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE, PAYYOLI.
Present:- Sri. Vignesh.R, Judicial First Class Magistrate, Payyoli.

Tuesday, the 21st day of April, 2026.

C.C.188/2016

Complainant	S.I of Police, Payyoli in Crime No.105/2016 (Rep. by Assistant Public Prosecutor Grade II, Sri. Manojan. N)
Accused persons	Babu @ Baburaj, Aged 49/2016, S/o Gopalan, Rarattummam House, Kalpathur Post, Anjampeedika. (Rep. By Adv. P A Jaleel)
Offences	Under Sections 353, 294(b) of Indian Penal Code and Sec.3(1) of Prevention of Damage to Public Property Act.
Plea	Not guilty.
Findings	Accused is found Guilty of the offences punishable u/S 353, 294(b) IPC and S. 3(1) of Prevention of Damage to Public Property Act.
Sentence/Order	The accused is sentenced to undergo simple imprisonment for a period of 3 months for the offence punishable u/S 353 IPC. For the offence punishable u/S 294(b) IPC, the accused is sentenced to undergo simple imprisonment for a period of 1 month. For the offence punishable u/S 3(1) PDPP Act, the accused is sentenced to undergo simple imprisonment for a period of 3 months and to pay a fine of Rs. 10,000/-, IDSI 3 months.

	All the substantive sentences imposed shall run concurrently and the period undergone in remand in this case shall be setoff against the substantive sentences imposed. MO1, and MO2 series shall be disposed of as per rules after the appeal period is over or if any appeal is pending , after the disposal of the appeal.
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Description of the Accused

Sl. No	Name	Father's Name	Occupation	Residence	Age
1.	Babu @ Baburaj	Gopalan	-	Rarattummal House, Kalpathur Post, Anjampeedika.	49/2016

Date of

Offence	Complaint/ Final Report	Apprehension or appearance	Release on bail	Commencement of trial	Close of trial	Sentence or order	Explanation of delay
10.02.2016	18.04.2016	02-05-2016	20.05.2016	13-07-2016	10-04-2026	21-04-2026	Intervening holidays on 11.04.2026, 12.04.2026, 14.04.2026, 15.04.2026 and 19.04.2026. Accused was absent on 16.04.2026.

JUDGMENT

SI of Police, Payyoli Police Station has chargesheeted the accused with having committed offences punishable u/s 353, 294(b) of Indian Penal Code (Hereinafter referred as IPC) and Sec.3(1) of Prevention of Damage to Public Property Act.(Hereinafter referred as PDPP Act).

2. **Prosecution case, in brief, is as follows:** At 14.45 hours on 10.02.2016, from the courtyard of the Payyoli police station functioning in the building bearing No.14/272 of Payyoli Grama Panchayath at Payyoli amsom desom, the accused showered obscene words against the police personnel, pelted granite stones at the window panes of the police station causing damage to the same and when PW1 and other police personnel tried to dissuade the accused, the accused spat on the police personnel, and obstructed them from discharging their official duty. It is the further case of the prosecution that when the accused was taken inside the police station by using reasonable force, the accused hit his head against the grills of the lock up and on the wall and created an alarming situation in the police station and also caused damage to the grills of the lock up by kicking and pulling the same. It is further alleged that the accused has caused damages to the tune of Rs. 27,135/- to the government by destroying the window panes and the lock up grills. Thus the accused is said to have committed the above said offences.
3. When the accused appeared before this court he was released on bail and after furnishing copies of prosecution records and after hearing both sides, charge u/s 353, 294(b) of I.P.C and Sec.3(1) of PDPP Act was framed, read over and explained to the accused. He pleaded not guilty to the charge.
4. Prosecution thereafter examined PWs 1 to 8 and marked Exts. P1 to P7, P7(a), P7(b), P8, P8 (a).
5. On the close of prosecution evidence, accused was examined u/s 313(1) (b) Cr.P.C. He denied all the incriminating circumstances brought out in evidence against him and submitted that he has not committed any offence.

6. Defence has not adduced any evidence.

7. Heard.

8. Points that arise for consideration are as follows:

1. Whether at 14.45 hours on 10.02.2016, the accused came to the Payyoli police station functioning in the building bearing No.14/272 of Payyoli Grama Panchayth, showered obscene words on the police personnel who was on duty at the police station as alleged?
2. Whether on the same date, time and place and during the course of the same transaction, the accused pelted stones against the police personnel, spat on them and also obstructed them from discharging their official duty as alleged?
3. Whether on the same date, time and place and during the course of the same transaction, accused pelted stone towards the window panes of the police station, broke the window panes and caused damage to the lockup grills by kicking and pulling the same causing damages to the tune of Rs.27,135/- to the government as alleged?
4. Whether the accused is guilty of any of the offences alleged against him?
5. If so, what is the proper order or sentence thereof ?

9. **Points No. 1 to 3:-** As the evidence to be appreciated on these two points are one and the same, these points are considered together for the purpose of brevity and to avoid repetition.

10. PW1 who registered Ext. P2 FIR has deposed that while he was working as Sub Inspector of Payyoli Police Station, on 10.02.2016 at 2.45 PM, he saw a person abusing the policemen in filthy language and shouting from outside the police station and that when he along with ASI Manoharan, CPO Ashraf stepped out of the police station, the said person showered obscene words and tried to pelt stone towards them and when the police party obstructed the said person from pelting stone, he pelted a stone towards the window of the police station. PW1 has deposed that when the police party tried to obstruct the assailant, he pushed Ashraf and again pelted stones. PW1 has testified that the said person was then taken inside the police station and when questioned about his name, he refused to disclose his name, but instead spat on the policemen. He has further testified that when the said person was made to stand near to the lock up, he caused damage to the lock up grills and hit his head against the grill causing the grill to detach from the wall; causing damages to the tune of Rs.40,000/-. PW1 has also deposed that the accused was then arrested as per Ext.P1 arrest memo. PW1 has identified the accused as the person who committed the aforesaid atrocities from the premises of the police station. He has also deposed that the window pane on the eastern side of the police station was broken.

11. PW2 is the then ASI attached to Payyoli Police Station. He has deposed that on 10.02.2016, at 14.45 hours while he was on GD charge duty, one person abused the police using obscene words from the courtyard of the police station and on hearing the same himself along with Rajesh, Sub Inspector and Mr.Ashraf, and two others went to the spot and when questioned about the act of the said person, he again abused them in filthy language and when the police party tried to catch hold of him, he pelted a stone at them which missed the target and hit against a window pane causing damages to the same. PW2

has further testified that thereafter the said person was taken near to the lock up and at that time he spat on them and hit his head against wall and grills of the lock up and caused damages to the police station. PW2 has further testified that thereafter the Sub Inspector arrested the accused, and registered a case against him. He has also testified that their official duty was obstructed and a loss to the tune of Rs.40,000/- was incurred. He has identified the accused standing in the dock as the person who committed the aforesaid acts. He further proved Ext.P4 attested copy of the relevant entry in the General Diary which shows that he was on GD charge duty on 10.02.2016 at the police station.

12. PW3 is the then CPO attached to Payyoli police station. He has deposed that on 14.02.2016, while he was on duty, at 10.00 AM he saw SHO Payyoli seizing the general diary produced by PW1 and that he has affixed his signature in Ext.P3 seizure mahazar prepared at the time of seizing the said document.

13. PW4 who was cited as an eye witness to the incident has deposed that he did not see the incident. He was treated hostile by the prosecution.

14. PW5 is an attestor to Ext.P5 scene mahazar. He has deposed that he saw the police party inspecting the scene of occurrence.

15. PW6 is the then Asst. engineer attached to the PWD building section. He has deposed that as per the requisition of Payyoli police, he inspected the Payyoli Police Station building to assess the damages caused to the building and that on his inspection, he could see that grill door was damaged and a window glass was broken and that the

damages assessed by him amounted to Rs.27,135/- as per the then rate prevailing in PWD and that he issued Ext.P6 damage valuation report.

16. PW7 is the then Sub Inspector attached to Payyoli Police Station. He has deposed that on 10.02.2016, he took up the investigation in the above case, inspected the scene of occurrence and prepared Ext. P5 scene mahazar and also seized the broken window panes, granite stone pieces. He has further deposed that thereafter he questioned PW6, PW12 and recorded their statement. He further identified MO1 broken window glass and MO2 series, granite stone pieces seized from the scene of occurrence as per Ext.P5 scene mahazar. He further deposed that he seized the station diary and duty note book as per Ext.P3 seizure mahazar, and that Ext. P7 is the station diary seized as per Ext. P3 and Ext.P7(a), P7(b) are the relevant entries in the station diary in respect of the incident. He further proved Ext.P6 valuation certificate issued by the then Asst.Engineer attached to PWD and deposed that as per Ext. P6, the damages assessed by the engineer amounts to Rs.27,135/-.

17. PW8 who was cited as an eye witness to the incident has testified that he has not seen the incident. He was treated hostile by the prosecution.

18. When the learned APP put questions by invoking Sec. 154 of Indian Evidence Act, PW8 has denied having stated to the police that he saw the accused abusing the police personnel in filthy language and that when himself and the police personnel on duty went near him, he saw the accused pelting stones towards the window panes of the police station and causing damage to the same. The relevant portion was marked as Ext. P8(a) and the same was subsequently proved through PW7 who is the investigating officer.

19. PWs 1 and 2 are the material witnesses to the incident. Both PWs 1 and 2 have given a consistent version with regard to the alleged incident. Both of them have deposed that on 10.02.2016 while they were on duty at Payyoli police station, at 2.45 PM, the accused came to the police station and created commotion from outside the police station and showered obscene words towards the police personnel. PWs 1 and 2 have further deposed that on hearing the commotion when they came out of the police station, they saw the accused abusing them using obscene words and that the accused tried to pelt stones at them, and when the police personnel tried to obstruct him, he pelted stone at the window panes of the police station causing damage to the same. PWs 1 and 2 have further deposed that they took the accused inside the police station using reasonable force and when enquired about his name, the accused spat on the policemen and when he was made to stand near the lock up, he caused damage to the lockup grills and hit his head against the lock up grills and the wall of the police station and caused the grills to detach from the wall.

20. PWs 1 and 2 were cross examined at length by the learned counsel for the accused, but nothing useful could be elicited so as to discredit their evidence.

21. Learned counsel for the accused would argue that none of the independent witnesses cited by the prosecution supported the prosecution case. Learned counsel would further argue that, infact it was the police personnel who assaulted the accused who was produced to the police station by the conductor of the KSRTC bus for having caused disturbance in the bus under the influence of alcohol while he was travelling from Mahe to Payyoli.

22. Defence case itself suggests the riotous behaviour of the accused from the KSRTC Bus soon before the alleged incident.

23. Defence case as revealed from the questions put forth in cross examination of PWs 1 and 2 is that the accused was brutally assaulted by the police personnel from the police station. But the defence has not adduced any cogent or reliable evidence to substantiate the said contentions. The accused has no case that he has lodged any private complaint against police personnel for the alleged physical assault suffered by him at the hands of the police personnel at Payyoli police station on 10.02.2016. Accused is also not having any case that he has made any complaints of ill treatment or physical assault suffered by him at the hands of the policemen when he was brought before the Hon'ble Magistrate concerned.

24. No motive is attributed against PWs 1 and 2 for foisting a false case against the accused herein.

25. Evidence of PW1 with regard to the incident is sufficiently corroborated by the evidence of PW2 on all material aspects of the case. Oral testimony of PW6 and Ext.P6 valuation certificate is also corroborative of the evidence of PWs 1 and 2 with regard to the damages caused to the window panes of the police station and the lock up grills.

26. Ext.P7 general diary, Exts. P7 (a) and P7(b) relevant entries in the general diary on 10.02.2016 would go to show that PW2 was on duty at the time of the incident and soon after the incident, at 15.00 hours on 10.02.2016 the instant crime was registered against the accused alleging offence u/s 353, 294 (b) of IPC, Sec.3 (1) of PDPP Act in respect of the

above incident.

27. Evidence on record would further show that PWs 1 and 2 were on their official duty as public servants attached to Payyoli police station and that due to the high handed actions of the accused, PWs 1 and 2 were obstructed from discharging their official duty as public servants.

28. I do not find any reason to disbelieve the versions given by the PWs 1 and 2 in respect of the alleged incident.

29. Oral testimony of PWs 1 and 2, PW 6 and Exts. P4, P6, P7, P7(a) and P7(b) would clearly show that on 10.02.2016 at 2.45 PM, the accused came to the premises of the Payyoli police station, showered obscene words on the police personnel on duty, used criminal force against them, pelted stones towards them and the police station, thereby causing damage to the window panes, and when taken inside the Police station, the accused caused damage to the lock up grills of the police station. Accordingly, these points are found in favour of the prosecution.

30. **Point No. 4 :** In view of my findings on point no. 1 to 3, accused is found guilty of the offences u/S 353, 294(b) of IPC and Sec.3(1) of PDPP Act and is convicted thereunder.

31. Considering the nature of the offence alleged against the accused, I am not inclined to invoke the benevolent provisions of the Probation of Offenders Act. Hence, he will be heard on question of sentence.

Judicial First Class Magistrate,
Payyoli.

32. **Point no. 5:** Heard about sentence. Accused submits that he has not committed any offence. The accused has nothing to say about sentence.

33. The accused has been in judicial custody from 11.02.2016 till 20.05.2016 during the crime stage. He has been facing trial for the past more than 9 years without fail. Under such circumstances, I am of the view that the following punishment would be just and proper.

In the result,

1. The accused is sentenced to undergo simple imprisonment for a period of 3 months for the offence punishable u/S 353 IPC.
2. For the offence punishable u/S 294(b) IPC, the accused is sentenced to undergo simple imprisonment for a period of 1 month.
3. For the offence punishable by u/S 3(1) PDPP Act, the accused is sentenced to undergo simple imprisonment for a period of 3 months and to pay a fine of Rs. 10,000/-, IDSI 3 months.
4. All the substantive sentences imposed shall run concurrently and the period undergone in remand in this case shall be setoff against the substantive sentences imposed.

5. MO1, and MO2 series shall be disposed of as per rules after the appeal period is over or if any appeal is pending, after the disposal of the appeal.

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

Judicial First Class Magistrate,
Payyoli.

APPENDIX:

Prosecution Witness

PW1 (CW1)	:	K K Aagesh, S/o Narayanan O K.
PW2 (CW2)	:	Manoharan P P, S/o Kuttikrishnan (ASI of Payyoli PS)
PW3 (CW8)	:	Santhoshan, S/o Balakrishnan. (CPO 8650, Payyoli PS)
PW4 (CW11)	:	Asokan, N K , S/o Narayanan.
PW5 (CW6)	:	Anas P M, S/o Aboobacker.
PW6 (CW12)	:	Jayanandan, S/o Chathukutty (Asst. Engineer, PWD building Section, Koyilandy)
PW7 (CW13)	:	Devadas A P, S/o Sankarankutty (S I of Police, Payyoli PS)
PW8 (CW9)	:	Purushothaman, S/o Sankaran.

Prosecution Exhibits.

Ext.P1	:	Arrest memo
Ext.P2	:	First Information Report.
Ext.P3	:	Seizure
Ext.P4	:	General Diary.
Ext.P5	:	Scene mahazar.
Ext.P6	:	Valuation certificate

Ext.P7	:	Station Diary
Ext.P7(a)	:	Relevant Entry in Ext. P7
Ext.P7(b)	:	.Relevant Entry in Ext. P7
Ext.P8	:	Statement of PW8 u/s. 161 of Cr.P.C.
Ext.P8(a)	:	Relevant portion marked in Ext.P8.
<u>Defence Witness</u>	:	Nil.
<u>Defence Exhibits</u>	:	Nil.
<u>Court Exhibits</u>	:	Nil.
<u>Material Objects</u>		
MO1	:	Glass pieces.
MO2 series	:	Granite stone pieces.

Judicial First Class Magistrate,
Payyoli.