

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE,
PAYYOLI.**

Present:- Sri. Vignesh.R, Judicial First Class Magistrate

Wednesday, the 06th day of May, 2026.

C.C. 228/2019

Complainant	S.I. of Police, Payyoli in Crime No.215/2019. (Rep. by Assistant Public Prosecutor Grade II, Sri. Manojan. N)
Accused Persons	1. Sabeesh K, Aged 44/2019, S/o Govindan, Kunnangoth House, Iringal Post. 2. Nanu M, Aged 60/2019, S/o Choyi, Madathil House, Keezhur Post. (Rep. By Adv. Sri. Manimangalath Sameer Babu)
Offences	Under Sections 506, 509 r/w 34 of the Indian Penal Code.(In short IPC).
Plea	Not guilty.
Finding	Not guilty.
Sentence/Order	The accused Nos. 1 and 2 are acquitted u/s 248(1) Cr.P.C. Bailbond executed by the accused Nos. 1 and 2 shall stand cancelled. Accused Nos. 1 and 2 are set at liberty.

<u>Description of the Accused</u>					
Sl. No.	Name	Father's/ Husband's Name	Occupation	Residence	Age
1.	Sabeesh K	Govindan	-	Kunnangoth House, Iringal Post.	44/2019
2.	Nanu M	Choyi	-	Madathil House, Keezhur Post.	60/2019

Date of

Offence	Complaint/ Final Report	Apprehension or appearance	Release on bail	Commencement of trial	Close of trial	Sentence or order	Explanation of delay
19.04.2019	01.07.2019	07-04-2021	07-04-2021	07-04-2021	29-04-2026	06.05.2026	On 04.05.2026 both accused were absent.

ORDER

SI of Police, Payyoli Police Station has chargesheeted accused persons 2 in numbers with having committed offences punishable u/s 506, 509 r/w 34 of IPC.

2. Allegation in the chargesheet is that at 11.30 hours on 19.04.2019, accused Nos. 1 and 2 in furtherance of their common intention abused PW1 in filthy language and insulted the modesty of PW1, threatened her with dire consequences and asked her to step out from the platform of the vehicle used for election campaigning, stationed in the property comprised in resurvey No.31/2019 which is in the possession of V.K.Abdurahiman, as part of election campaign of UDF party in connection with the parliament election at Vatakara. Thus the accused persons are said to have committed offences punishable u/s 506, 509 r/w 34 of IPC.

3. When the accused persons appeared before this court, they were released on bail and after furnishing copies of prosecution records and after hearing both sides charge u/s 506, 509 r/w 34 IPC were framed, read over and explained to the accused persons. They pleaded not guilty to the charge.

4. Prosecution thereafter examined PWs 1 to 7 and marked Exts. P1 to P4, P5 series, P6 series and P7.

5. On the close of prosecution evidence, accused persons were examined u/s 313(1) (b) Cr.P.C. They denied all the incriminating circumstances brought out in evidence against them and stated that they have not committed any offence and that they are innocent. It is stated that PW1 did not participate in any such campaign program in connection with the election and that no such campaign program was conducted. It is stated that accused No. 1 is an employee in beverages corporation and accused No.2 is a retired teacher and that they are workers of a political party and hold respected positions in the party. It is further stated that in connection with 2019 election, accused No.1 and others had approached PW1 seeking contribution and that PW1 abused them and told them that she would not contribute any amount to the fraudsters and thereafter accused No.1 and others told PW1 that they would file a complaint against PW1 who is indulged in money lending business and it is on account of that enmity that PW1 foisted the instant case against the accused persons.

6. As part of defence evidence one witness was examined as DW1. Exts. D1 and D2 were also marked.

7. Heard.

8. The points that arise for consideration are as follows:-

- 1) Whether at 11.30 hours on 19.04.2019, accused Nos. 1 and 2 in furtherance of their common intention, threatened PW1 with dire consequences and asked her to step out from the platform of the vehicle used for election campaign, stationed in the property comprised in resurvey No.31/2019 which is in the possession of V.K.Abdurahiman, as part of election campaign of UDF party in connection with the parliament election at Vatakara as alleged?
- 2) Whether on the same date, time and place and during the course of the same transaction, accused nos. 1 and 2 abused PW1 in filthy language and insulted the modesty of PW1 as alleged?
- 3) What if any is the offence committed by the accused persons and punishment thereof ?

9. **Point No. 1 and 2:-** For the purpose of brevity and to avoid repetition these points are considered together.

10. PW1 who gave Ext.P1 FIS has testified that at 11.30 hours on 19.04.2019, as per the direction of the leaders, she had gone to the property in possession of V.K.AbduRahiman to attend the program of UDF party in connection with lok sabha

election, and that while she was sitting in the stage arranged on the platform of a vehicle used for campaigning in connection with the election, accused No.1 came to the spot and asked her not to sit in the stage and also told her that she should leave from the stage at the earliest and threatened her by saying that "ഈ സ്റ്റേജിൽ ഇരിക്കാനുള്ള യോഗ്യത നിങ്ങൾക്ക് ഇല്ല , ഇനി മേലിൽ ഒന്നും ഒരു പരിപാടികളിലും സംബന്ധിക്കരുതെന്നും, സംബന്ധിച്ചാൽ കൊന്നു കളയും ". She further deposed that accused no. 2 has also abused her in filthy language and threatened her and also tried to push her from the stage. She has testified that the above incident was witnessed by C.K. Bushra and Ameen and she felt humiliated after the incident. She further admitted that there occurred some delay in lodging the complaint before the police. She has testified that she was mentally down and it took some days for her to recover from the same and that was the reason for the delay in lodging the complaint before the police.

11. PW2 has deposed that she saw the incident and that the incident took place on 19.04.2019 at about 11-11.30 AM. PW2 has testified that at the aforementioned time a march organized by a party reached at Avikkal and, one Mr Nanu and Satheesan abused PW1 who was seated in the side seat of the vehicle, in filthy language and pushed her down and threatened her that "നീ പുറത്തേക്കിറങ്ങു ബാക്കി പിന്നെ കാണിച്ചുതരാം " . PW2 has identified the accused persons from the dock.

12. PW3 is an attester to Ext.P2 scene mahazar. He has deposed that he saw the police party coming to the scene of occurrence and that he had affixed his signature in Ext.P2 scene mahazar prepared from the scene.

13. PW4 is the then Senior Civil Police Officer attached to Payyoli Police Station. She has deposed that on 26.04.2019 while she was on duty, as per the direction of the SHO, she recorded Ext.P5 FIS given by PW1 and on the basis of Ext.P1 FIS, she registered Ext. P3 FIR.

14. PW5 is the then Village officer attached to Payyoli Village Office. She has deposed that as per the requisition of Sub Inspector of Police, Payyoli Police station, on 01.07.2019 she issued Ext. P4 certificate which shows that the property comprised in resurvey no. 31/2019 (old survey no. 8/3A) of Payyoli Village, Meladi desom having an extent of 15.706 Ares is in the possession of Abdu Rahiman,S/o Moithu, Vadakke Kanhiroli. Payyoli.

15. PW6 is the then Asst Sub Inspector of Police attached to Payyoli police station. He has deposed that as per the direction of Sub inspector of police, on 27.04.2019 he took up the investigation in the above crime, inspected the scene of occurrence, and prepared Ext.P2 scene mahazar. PW6 has also deposed that thereafter he arrested the accused persons after preparing Ext.P5 series arrest memos and released them as per Ext. P6 series bail bonds. PW6 further proved Ext. P7 report to add the full address of

the accused. He further deposed that he questioned CWs 1 to 6 and recorded their statement and that the further investigation was conducted by Sub Inspector Manojan Sir. He has also testified that he can identify the accused persons on sight.

16. PW7 is the then Sub Inspector attached to Payyoli police station. He has testified that he took up the investigation in the above case, recorded the statement of CW6 on receiving the possession certificate issued by CW6 and thereafter after verifying and completing the investigation he laid charge sheet against the accused persons.

17. The person in possession of the property mentioned in Ext.P4 certificate was examined as DW1 as part of defence evidence. He has testified that he is a social worker and that he was a Panchayath member of Payyoli Panchayath during the period from 2010 to 2015. He has also testified that he was the party secretary during the period 2016-20 and Payyoli Municipality Councillor during the period 2020-25 and Chairman for 2 and 1/2 years. He has admitted that the person mentioned in Ext. P4 is himself and that he is the owner in possession of the property comprised in resurvey No. 31/2019 having an extent of 15.7 Ares. He has also testified that on 19.04.2019 he was the party secretary and also the Vice Chairman of UDF party, Payyoli Municipality election committee and that on the said date, no such programme in connection with parliament election was conducted from his property mentioned in Ext.P4 and as per his knowledge no such programme was conducted in

the nearby places also.

18. Prosecution mainly relied on the oral testimony of PWs 1 and 2 to prove the case.

19. Even at the outset, it is to be pointed out that there is a delay of 6 days in giving Ext. P1 FIS. PW1 in her cross-examination has also admitted that there was a delay of 6 days in giving Ext. P1 FIS. Even though PW1 has stated that she was mentally down after the alleged incident and therefore she was not in a position to lodge the complaint before the police, she has admitted in her cross-examination that she has not consulted any doctor for the mental distress suffered by her.

20. It is to be noted that PW1 has not given any proper explanation for the delay in lodging the complaint neither in Ext. P1 FIS nor before the Investigating Officer. Under such circumstances, in the absence of any proper explanation for the delay in lodging the FIR, the chances of creating a false story to suit the convenience of the prosecution cannot be ruled out.

21. It is also to be noted that PW1 in Ext. P1 FIS is not having a case that accused no.2 tried to push her down from the stage arranged on the platform of the vehicle. It is only in her examination in chief that she has come up with such a contention that accused no. 2 tried to push her down from the stage. At this juncture, it is also pertinent to note that in her cross examination at page 10, PW1 has deposed that she

almost fell from the stage as accused no.2 tried to push her down and 3-4 persons helped her when she was about to fall. That being so, it is highly doubtful as to why PW1 has failed to mention the said vital facts in Ext. P1 FIS.

22. PW1 in her cross examination at page 6 and 7 has also admitted that no documents are produced to show that she was a member of UDF Election Committee, that she was the State Secretary of INL(D) party and that she was an invitee to the programme alleged to be conducted on 19.04.2019.

23. Admittedly by PW1, there were 11 persons on the stage. But apart from PW2 and CW3, no other persons are seen cited as eye witnesses to the incident. It is not as if no other independent witness were available. Oral testimony of PWs1 and 2 would go to show that there were a number of persons at the scene of occurrence at the time of the alleged incident.

24. In this connection it is to be noted that PW2 who is cited as an eyewitness to the incident has deposed that PW1 was seated in the side seat of the vehicle used for campaigning purposes and PW1 was abused from a moving vehicle. PW2 in her cross examination at page 3 and 4 has also deposed that PW1 was seated in the front

seat of the jeep and apart from PW1 the driver of the jeep and an announcer were also present in the jeep. If that be so, the driver of the vehicle and the announcer might have witnessed the incident and they would be the best persons to testify about the incident. None of them are seen cited by the prosecution as witnesses to the incident. At this juncture, it is also significant to note that the case of PW1 is that she was abused by the accused persons from the stage arranged on the platform of the vehicle and the vehicle was stationed in the property of DW1. PW1 is not having a case that she was abused from a moving vehicle.

25. PW2 has further admitted that her house is situated at a distance of 7 kilometres from the place of occurrence and that she is not a member of any political party and did not attend any programme organized by any political party and that she was not an invitee to the programme alleged to be conducted on 19.04.2019. She has also admitted that PW1 has also not invited her for the programme. PW2 in her cross examination at page 4 has testified that PW1 was forcefully removed from the jeep by accused nos. 1 and 2. She further admitted that she does not remember as to the verbal exchange between PW1 and the accused persons and that she did not attempt to intervene in the dispute. PW2 has further deposed that the incident was witnessed by around 250 persons present at the spot. She further deposed that she accompanied PW1 to the hospital, but she does not remember the name of the hospital. In this connection, it is to be noted that PW1 is not having a case that she had consulted any

doctor after the alleged incident. No such medical documents are also seen produced by the prosecution.

26. Admittedly by PW2, PW1 is her close relative. In her cross-examination, when PW2 was questioned as to whether there was any specific reason for her to participate in the program, she has answered that her mother's brother's house is situated near to the scene of occurrence. However, she does not know the name of the house belonging to her mother's brother. PW2 has not given any valid explanation for her presence at the scene of occurrence at the time of the alleged incident.

27. PWs 1 and 2 have given entirely different versions with regard to the alleged incident and the scene of occurrence. In the light of the above discussion, I am of the view that the chances that PW2 is a planted witness cannot be brushed aside.

28. CW3 is another eyewitness cited by the prosecution. The presence of CW3 who is none other than the son of PW1 could not be procured despite repeated and coercive steps.

29. PW6 the investigating officer has also admitted in his cross examination at page 4 that PW1 has not given any explanation for the delay in giving Ext. P1 FIS and that no statement was given to the effect that the accused persons attempted to push PW1 by touching her body. PW6 admitted in his cross examination at page 6 that PW2 has not given any statement to the effect that PW1 was pulled out from the vehicle. PW6 has also admitted in his cross examination that as per his understanding the incident took place from the vehicle used for campaigning. But, it is to be noted that no such vehicle is seen seized by the police in connection with the crime.

30. It is also pertinent to note that PW7 who verified the investigation conducted by PW6 and laid the chargesheet against the accused persons has also admitted in his cross examination at page 2 that the place of incident is a vehicle, but as the vehicle could not be traced out, a landed property is shown as the place of occurrence. PW7 has also admitted that the vehicle will have a permit as the same is used for election campaigning; but he has not verified as to whether any such permit was given to the vehicle.

31. Oral testimony of PWs1 and 2 with regard to the alleged incident is wriggled with contradictions and embellishments. Analyzing the evidence in toto, it is highly doubtful as to whether the prosecution has placed the true facts before this Court.

There is absolutely nothing brought out in evidence so as to connect accused persons with the instant crime. Prosecution has therefore failed to establish the charges brought against the accused beyond reasonable doubt and these points are found against the prosecution.

32. **Point No. 3:-** In view of my findings on point Nos. 1 and 2, accused Nos. 1 and 2 are found not guilty of the offences punishable u/s 506, 509 r/w 34 of IPC.

In the result,

The accused Nos. 1 and 2 are acquitted u/s 248(1) Cr.P.C. Bailbond executed by the accused Nos. 1 and 2 shall stand cancelled. Accused Nos. 1 and 2 are set at liberty.

(Dictated to the Confidential Assistant, typed by her, corrected and pronounced by me in open court, this the 06th day of May, 2026.)

Judicial First Class Magistrate,
Payyoli.

APPENDIX:

Prosecution Witness

PW1 (CW1)	:	Kadheeja, D/o K Muhammed.
PW2 (CW2)	:	Bushra C K, D/o Ibrayi.
PW3 (CW5)	:	Jyothendran, S/o Nanu.
PW4 (CW7)	:	Shini K, D/o Unneri. (SCPO 7244, Payyoli PS)

PW5 (CW6) : Sreeprabha, D/o A Prabhakaran Adiyodi. (Village Officer, Payyoli Village)

PW6 (CW8) : Prakashan, S/o Balan.(ASI of Police, Payyoli PS)

PW7 (CW9) : Manoharan P P, S/o Kunhikrishnan. (SI of Police , Payyoli PS)

Prosecution Exhibits

Ext.P1 : First Information Statement.

Ext.P2 : Scene mahazar.

Ext.P3 : First Information Report.

Ext.P4 : Certificate of Village Officer.

Ext.P5 : Arrest memo of Accused No.1.

Ext.P5 (a) : Arrest memo of Accused No.2.

Ext.P6 : Bail Bond of Accused No.1.

Ext.P6 (a) : Bail bond of Accused No.2.

Ext.P7 : Report to add name and address of accused persons.

Defence Witness

DW1 : V K Abdurahiman, S/o Moidu.

Defence Exhibits

Ext. D1 : Final report in CC 992/2014.

Ext.D2 : Final report in CC 127/2015.

Court Exhibits : Nil.

Material Objects : Nil.

Judicial First Class Magistrate,
Payyoli.