

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE – II
KOLLAM**

PRESENT :- Sri. R.Rajesh, B.A.LL.B., MBL
Judicial I Class Magistrate – II, Kollam

Wednesday, the 27th day of September 2018
The 5th day of Aswinam 1940

CALENDARCASE. No. 967/2018

Complainant : State – represented by the Sub Inspector of Police,
Kollam East Police Station in Crime No. 528/2001
(By A.P.P.II, Kollam)

DESCRIPTION OF THE ACCUSED

SL. No.	Name	Father's Name	Residence	Occupation	Age
1	Saidu @ Vikru	Muhammad Haneefa	Enippallithodiyil House, Panthrandu Muri, Valathungal Cheri, Eravipuram Village, Kollam.	--	35/01

(Accused is in judicial custody)

Charge : Offence punishable u/s 3(2)(e) of PDPP Act.
Plea : Not guilty
Finding : Not guilty
Sentence or order : The accused is found not guilty of the
offence U/s. 3(2)(e) of PDPP Act and he is
acquitted u/s 248(1) Cr.P.C. ==

DATE OF:

Offence	Complaint	Apprehen- sion	Release on bail	Commence- ment of trial	Close of trial	Order	Expln for delay
18.06.2001	18.09.2001	01.....06.....2018.			18.09.2018	27.09.2018	--

This case came up for hearing and the court delivered the following today:-

J U D G M E N T

The accused 1 to 5 were originally charge-sheeted by the Kollam East police in Crime No. 528/2001 for the offence punishable u/s. 3(2)(e) of PDPP Act.

2. The prosecution case can be summarized as follows:- On 18.06.2001 at about 09:20 pm, at Pazhayattinkuzhi Junction near the new Rehma Auditorium, the accused belonged to a mob engaged in an agitation have pelted stones at the KSRTC bus bearing Reg. No. KL-15/3806 drove by the CW1. The said KSRTC Super Fast bus was moving from Vadakkancheri to Thiruvananthapuram and in the said occurrence its left window glass and corner glass were broken. Since the loss was caused to the property of the government, police have registered the case under PDPP Act.

3. It is revealed from the records that the case was originally taken on file as CC.1673/2001 and in that case, A1, A3 and A4 were acquitted u/s 248(1) Cr.P.C on 26.07.2006. Since A2 and A5 were absconding, the case against them was refiled as CC.1403/2006. Since the accused 1 and 5 were absconding for a long period, the case was transferred to the Long Pending Register as LP.186/2007. Subsequently, on 01.06.2018 the second accused was arrested and produced before this court and the case was refiled as CC.967/2018 (the present case). The accused was enlarged on bail after ensuring sufficient solvent sureties. Thereafter the proper legal assistance of this accused was ensured. Copies of all the relevant records were furnished to him. Heard. After hearing both sides, charge for the offence punishable u/s 3(2)(e) of PDPP Act 1955 was framed, read over and explained to the

accused, to which he pleaded not guilty. Thus the trial ensued. A5 is still in LP.186/2007.

4. On the side of the prosecution PW1 to PW4 were examined and Ext. P1 to P6 were marked. After closure of the prosecution evidence, the accused was examined u/s 313 Cr.P.C so as to provide an opportunity to the accused to explain about the incriminatory circumstances made to appear in evidence against him. No separate evidence was adduced from the defence side.

5. Heard both side.

6. The points that arose for consideration are :-

1. Has the prosecution succeeded in proving that the accused committed damage to the public property as alleged u/s 3(2)(e) of PDPP Act?
2. If found guilty, what should be the sentence ?

7. **Point No. 1:-** The driver of the KSRTC bus which sustained damage had given Ext. P1 F.I.S to police and the said fact was testified before the court by him when examined as PW1. The conductor of the bus has deposed about the same matter, when examined as PW2. From these witnesses it has become clear that the KSRTC Super Fast bus bearing Reg. No. KL-15/3806 conducting service from Vadakkancheri to Thiruvananthapuram had sustained damage due to the pelting of stones by the accused at Pazhayattinkuzhi Junction at about 9:20 pm on 18.06.2001. In the testimony, PW2 has made it clear that who could not identify the accused, whereas in cross-examination the PW1 has also deposed that he can not identify the accused.

8. PW3 had registered the Crime relevant and PW4 had conducted further investigation. PW3 has deposed that the prosecution version is that a

mob consisting about 50 persons have blocked the vehicles plying through the national highway and caused obstruction to the public road.

9. PW4 was the S.I of Eravipuram police station during the material period of occurrence and as part of the investigation who had prepared Ext. P3 scene mahazar and Ext. P4 vehicle mahazat. TheKSRTC bus was released to CW7 the depot inspector on executing Ext. P5 bond. The accused 1 to 5 were identified by the police and filed Ext. P2 address report. In cross-examination PW4 has also deposed that no one had given any evidence as to the involvement of the second accused before court. This Crime was registered in the year 2001 and despite giving specific directions, the prosecution has not made any earnest effort to produce the other material witnesses. The police have reported that CW7 has been laid up due to illness and the cW3 had shifted whose residence. It was further reported that CW4 can not be found and CW5 and CW6 have also shifted their residence in the long span of time. Finally after hearing APP, the prosecution evidence was closed. When examined u/s 313 Cr.P.C, the accused had pleaded innocent.

10. So on an appreciation of the available materials before this court, it can only be found that the prosecution has not been succeeded in establishing their case against the accused beyond reasonable doubt. So the second accused is found not guilty of the offence alleged against him. The case against A5 is still pending as LP.186/2007.

11. **Point No.2:-** In view of the findings on Point No.1, this point does not come up for consideration.

In the result, the second accused is found not guilty of the offence punishable u/s 3(2)(e) of PDPP Act and he is acquitted u/s 248(1) Cr.PC. The bail bond of the accused stands canceled and he is set at liberty.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court on this the 27th day of September 2018.

Sd/-

JUDICIAL I CLASS MAGISTRATE-II, KOLLAM.

A P P E N D I X

WITNESS EXAMINED FOR PROSECUTION-

PW1. Kannan.

PW2. Soman.

PW3. Aravindakshan.

PW4. Raveendran.

EXHIBITS MARKED FOR PROSECUTION:

P1. F.I.S dated 18.06.2001 marked through PW1 on 26.07.2018.

P2. F.I.R dated 18.06.2001 -do-

P3. Scene mahazar dated 19.06.2001 marked through PW4 on 18.09.2018.

P4. Vehicle Mahazar -do-

P5. Kychit -do-

P6. Report -do-

Material Objects : NIL

WITNESSES AND EXHIBITS FOR DEFENCE NIL.

Sd/-

JUDICIAL I CLASS MAGISTRATE-II, KOLLAM.

//True Copy//

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CC.967/2018
27.09.2018