

**IN THE COURT OF THE JUDICIAL MAGISTRATE OF THE FIRST
CLASS III, KOLLAM.**

Present :- Smt. Dhanya M S., Civil Judge (Junior Division)

Monday 27th day of April 2026 (07th day Vaisakha of 1947)

CALENDAR CASE No.126/2017

Complainant : State-represented by S I of Police, Kollam West
Police Station in crime No. 184/2017
(By Lekha Kumary, Assistant Public
Prosecutor Gr.I, Kollam)

Accused :1. Shinu, Aged 30/2017, S/o. Shajahan
Veliyil Padinjattathil Veed,
Mathethra Nagar 105, Kureepuzha,
Kollam West Village.

(Represented by Adv. B.N Haskar)

Offence : Under section 448, 323, 341, 294(b), 427 &
506(i) of the Indian Penal Code

Plea : Not guilty

Finding : guilty

Sentence or order : In the result, the Accused is sentenced to undergo simple imprisonment for Six months and to pay a fine of Rs. 1000/-(One thousand only) for the offence punishable u/S.323 of the IPC. In default of payment of the fine, the accused shall undergo further simple imprisonment for a period of one month. The accused shall be sentenced to a fine of Rs. 1000/-(One Thousand only) for the offence punishable under u/S.427 of the IPC. In default of payment of the fine, the accused shall undergo further simple imprisonment for a period of 5 days. And the accused is sentenced to a fine of Rs. 500/-(Five Hundred only) for the offence punishable under section 448 of the IPC. In default of payment of the fine, the accused shall undergo further simple imprisonment for a period of 5 days. If the fine amount is realized the same shall be handed over to PW1 by way of compensation u/S. 357 (1) of the Cr PC. No property was produced in this case.

Description of accused					Date of				
Sl. No	Name of the Police station and the Crime No. of the offence	Name	Father's Name	Occupation	Residence	Aged	Occurrence	Complaint	Apprehension
1	Kollam West Police Station in crime No.184/2017	Shinu	Shajahan		Veliyil Padinjattathil Veed, Mathethara Nagar 105,	30/2017	25.01.2017-26.01.2017	25.01.2017	13.02.2017

Under sections 448, 323, 341, 294(b), 427 & 506(i) of the Indian Penal Code				Kureepuzha, Kollam West Village.				
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Release on bail	Commitment	Commencement of trial	Commencement of evidence	Close of trial	Sentence or order	Service of copy of judgment or finding on accused	Explanation of delay	1 (Period of detention undergone during investigation in enquiry or trial for the purpose of section 428 Cr.P.C
13.02.2017		15.06.2017	12.07.2023	23.04.2026	In the result, the Accused is sentenced to undergo simple imprisonment for Six months and to pay a fine of Rs. 1000/- (One thousand only) for the offence punishable u/S.323 of the IPC. In default of payment of the fine, the accused shall undergo further simple imprisonment for a period of one month. The accused shall be sentenced to a fine of Rs. 1000/- (One Thousand only) for the offence punishable under u/S.427 of the IPC. In default of payment of the fine, the accused shall undergo further simple imprisonment for a period of 5 days. And the accused is sentenced to a fine of Rs. 500/- (Five Hundred only) for the offence punishable under section 448 of the IPC. In default of	-	-	-

					payment of the fine, the accused shall undergo further simple imprisonment for a period of 5 days. If the fine amount is realized the same shall be handed over to PW1 by way of compensation u/S. 357 (1) of the Cr PC. No property was produced in this case.			
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This case was finally heard on 23/04/2026, and the court on 27/04/2026 delivered the following:-

Judgment

1. This case arose on a final report filed by the sub-inspector of police, Kollam West Police Station, in crime no. 184/2017 against the accused alleging offences punishable under section 448, 323, 341, 294(b), 427 & 506(i) of the Indian Penal Code (herein after referred to as IPC).
2. **The prosecution's case is as follows:** On 25.01.2017 at about 1:40 PM, the accused, harbouring animosity towards the de facto complainant on account of her refusal to send her son with him for work, unlawfully trespassed into the car porch of the complainant's residence. At that time, the accused attempted to forcibly take CW2 along with him. When the defacto complainant resisted, the accused pulled her down, thereby causing injuries, and uttered obscene words directed against her. It is further alleged that the accused caused hurt to CW2 during the incident and criminally intimidated the defacto complainant by threatening to kill her two sons. In the course of the occurrence, the accused also threw a brick at the window, thereby damaging the glass and causing a loss of approximately Rs. 1,000 to the complainant. Thereby,

the accused is alleged to have committed under section 448, 323, 341, 294(b), 427 & 506(i) of IPC.

3. The first information statement was given before the CW7, Sub Inspector Kollam West Police Station on 25.01.2017. The First Information Report was registered by the CW8 on that date. Final Report was filed by the CW8 before this court and cognizance was taken by this court on 28.01.2017 for the offence punishable under sections 448, 323, 341, 294(b), 427 & 506(i) of IPC and the case was taken on the files of this court as CC 126/2017.
4. On issuance of summons, the accused appeared before the court. He was released on bail. Copies of all relevant prosecution records were furnished to him U/S 207 of the Code of Criminal Procedure, 1973 (hereinafter referred to as Cr.P.C). Upon perusal of the prosecution records and after hearing both parties, a charge was framed against the accused under sections 448, 323, 341, 294(b), 427 & 506(i) of the IPC. When the charge was read over and explained to the accused, he pleaded not guilty and claimed to be tried.
5. On the side of the prosecution, PW 1 to PW5 were examined and Ext. P1 to Ext. P11 were marked. CW4 is reported to be no more. The learned APP gave up the examination of CW2. After all the available prosecution witnesses were examined, the accused was examined under section 313(1)(b) of Cr.P.C to answer the incriminating evidence adduced against him. He denied the entire evidence and maintained the plea of innocence. No defence evidence was adduced.
6. Heard both sides and perused the records.
7. Points for consideration are:-
 1. Whether the accused, on 25.01.2017 at about 1:40 PM, unlawfully entered into the car porch of the residence of the de facto complainant with the intent to commit an offence, under section 448 of IPC?
 2. Whether the accused voluntarily caused injuries to the de facto complainant and CW2 during the said incident, thereby allegedly causing hurt under section 323 of IPC?

3. Whether the accused committed mischief by throwing a brick at the window glass of the complainant's house, thereby causing damage to the extent of Rs. 1,000. Thereby, alleged to have committed an offence under section 427 of the IPC?

4. Whether the accused, during the occurrence, uttered obscene words directed against the de facto complainant in or near a public place, thereby allegedly committing an offence under section 294(b) of the IPC?

5. Whether the accused wrongfully restrained CW2 by attempting to forcibly take him along, thereby allegedly causing wrongful restraint under section 341 of the IPC?

6. Whether the accused threatened the de facto complainant by stating that he would kill her two sons, thereby causing alarm to her, thereby alleged to have committed an offence under section 506 of IPC?

7. If the Accused is found guilty, what is the punishment?

8. **Point no. 1 to 6:-** The points numbered 1 to 6 are considered together for brevity and convenience.
9. PW1, the defacto complainant, deposed that on 25.01.2017 at about 1.00 p.m., one Ramees came to her house and enquired whether CW3 Haris, her third son, was present. Ramees informed her that Shinu, the accused, was waiting outside for Haris and intended to take him to the shop. PW1 testified that Haris is a person suffering from intellectual disability. On being asked the purpose, Ramees stated that Shinu wanted Haris to accompany him. PW1 categorically refused, stating she would not permit Haris to go with Shinu. Thereafter, Ramees left. About ten minutes later, Shinu came to the house alone. At that time, PW1 and Haris were standing in the car porch near the hall. PW1 stated that Shinu attempted to take Haris along with him forcibly. When she resisted, Shinu pulled her down, causing her to fall on the porch floor, striking her shoulder and back. She further deposed that Shinu slapped CW2 with his hand. On leaving, Shinu picked up a stone from the road and threw it at the

window of her house, breaking one part of it. PW1 added that Shinu uttered obscene words against her and threatened to kill her two sons. PW1 testified that the accused habitually took Haris to work, gave him food only after completion, and sent him back. Her elder son had already warned Shinu not to exploit Haris, and due to this vengeance, the accused committed the acts alleged. PW1 stated that she suffered pain and tenderness in her right shoulder and back from the fall. She gave her First Information Statement to the police, which was marked as Ext P1. She identified the stone and broken glass pieces connected with the incident, which were marked as MO1 to MO3. To prove Haris's mental condition, she produced his disability certificate, verified it with the original, and marked it as Ext P2. She also stated that at the time of the incident, her daughter, her second daughter-in-law, their child, and her father were present inside the house, though no neighbours were there. She identified the accused in the dock.

10. In cross-examination, PW1 admitted that the place of occurrence was near a mosque where people gathered for prayer. She acknowledged awareness of a case between her elder son and the accused but denied any special relationship with police officials. She stated that she first narrated the incident to the doctor. The defence pointed out contradictions between her police statement and deposition: while she mentioned 1.20 p.m. in her police statement, she stated 1.00 p.m. in court. PW1 explained that she was not aware of the exact time. She was questioned about omissions in her police statement, including the presence of her daughter and daughter-in-law, and the specific window pane broken. PW1 responded that she could not remember whether she had mentioned these details to the police. She confirmed that she had stated that Haris was taken by Shinu for illegal work. Regarding her injuries, she testified that another person verified them before the doctor. She denied that her complaint was about non-payment of wages, clarifying that her grievance was about Shinu taking Haris for work itself. She admitted that Haris was not taken to the hospital for injuries. Finally, when the defence suggested that the case was fabricated due to prior vengeance between her elder son Siddique and the accused, PW1 categorically denied the suggestion.

11. PW2, the Chief Medical Officer at District Hospital, Kollam, deposed that on 25.01.2017 at 2.55 p.m., he examined Saboora Begum (PW1), who was brought by her son Siddique. The history given was that she had been assaulted by a known person, Shinu, who struck her with his hands on the face and back, causing her to fall to the ground. On examination, PW2 noted that the patient complained of pain in the back and face. No visible external injuries or marks were found, but tenderness was elicited over the back on palpation. He issued a wound certificate, which was admitted in evidence and marked as Ext P3. In cross-examination, PW2 was asked whether contusion or abrasion could occur if a person was forcefully pulled down. He answered in the affirmative, thereby supporting the possibility of the injuries described by PW1 being consistent with her version of the incident.
12. PW3 was the Sub-Inspector of Police, Kollam West Police Station, during the relevant period. He deposed that on 25.01.2017 at about 9:15 p.m., upon receiving information that one Saboora Begum was admitted to the District Hospital with a history of assault, he informed the Station House Officer of Kollam West Police Station. Thereafter, at about 9:30 p.m., he reached the hospital, visited the said Saboora Begum, who was undergoing treatment in the female surgical ward, recorded her statement, and prepared the body note, which has been marked as Ext. P1(a).
13. During cross-examination, PW3 admitted that PW1 had stated the time of occurrence as 1:30 p.m., though a suggestion was put to him that PW1 had mentioned 1:00 p.m. He further acknowledged that there was a contradiction in PW1's statement, but clarified that it was expressed differently. With respect to the allegation of damage to the window, PW3 stated that PW1 had not specified which part of the window was broken, but only mentioned that the window had broken. He also confirmed that PW1 had not stated in her statement that she and her son were standing at the time of the incident. Likewise, PW1 had not mentioned the presence of her daughter, daughter-in-law, or husband in the house at the relevant time. Regarding Ext. P1(a), PW3 categorically stated that he was not asked about whether PW1 was examined by a particular doctor, and that no such detail was mentioned in the body note.

14. PW4, who was cited as CW3 in the charge sheet, was examined before the Court. He stated that he was present at the scene of the occurrence and witnessed the incident. However, during his deposition, he denied the statement allegedly given by him to the police, wherein it was recorded that Siddique was involved in the occurrence. In view of this denial, PW4 was treated as hostile by the prosecution. His earlier statement dated 25.11.2017 was confronted to him, and the same has been marked as Ext. P4.
15. PW5 is the Investigating Officer in the present case. The First Information Report was proved through him and marked as Ext. P5. The scene mahazar prepared by him was marked as Ext. P6. The 151A form was marked as Ext. P7. PW5 further identified the material objects MO1 to MO3. The report filed by the police, adding the relevant sections, was marked as Ext. P8. The name and address verification report was marked as Ext. P9. The report regarding the change in the ranking of witnesses was marked as Ext. P10. During cross-examination, Ext. P4, being the earlier statement of PW4, was shown to PW5 for contradiction. PW5 admitted the same, thereby proving that the contradiction stands established.
16. In cross-examination, PW5 was questioned regarding the absence of independent witnesses, particularly since the place of occurrence was near a mosque during prayer time. He explained that no such witnesses were examined, as no statements were taken from them. He was further asked whether the glass pieces recovered (as MO1 to MO3) were from inside or outside the house, to which he answered that they were recovered from outside. PW5 was also questioned with reference to Ext. P1 FIS statement of PW1, as to whether the time of occurrence was stated as 1.00 p.m. He clarified that the statement recorded the incident as having occurred at 1.30 p.m. When asked whether PW1 had stated that Shinu returned after 10 minutes, PW5 answered that the statement only mentioned that Shinu came back "after a while," and not specifically after 10 minutes. Similarly, when asked whether PW1 had given a statement that Ramis told him Shinu was standing outside, PW5 clarified that Shinu's name was not mentioned, but it was stated that someone (ikka) was standing in the courtyard. Also, asked PW5 whether, as stated by PW1, her daughter, daughter-in-law and husband were present at her house at the time of the occurrence,

PW5 deposed that in her statement that her daughter-in-law was present. Also, PW5 asked about the injuries stated by PW1. He stated that the pain occurred in the back and shoulder of PW1, and regarding the injury sustained by CW2, in this case, PW5 stated that it was only based on the information given by PW1 in this case.

17. Here, in this case, it could be seen that PW1, who is the sole eyewitness and occurrence witness, upon whose evidence the prosecution has relied to prove the alleged incident. On analysing the testimony of PW1 stated that the accused came to her house and tried to attempted to forcibly take Haris along with him. When she resisted, Shinu pulled her down, causing her to fall on the porch floor, striking her shoulder and back. To corroborate the pain sustained by CW1, the Ext P3 wound certificate was produced. PW1 has categorically deposed that the accused entered her car porch, attempted to take Haris, assaulted her, and damaged property. From her testimony, such an entry to her house, was clearly made with the intent to commit an offence and cause annoyance. Her testimony is direct and cogent, corroborated by the scene mahazar and identification of material objects. The ingredients of criminal trespass are satisfied, with the direct evidence of PW1 in this case.
18. Whereas, PW1 further stated that the accused slapped the CW2, her third son harris using his hands, whereas on the prosecution's version of the case, no corroborative evidence was produced to prove that the CW2 sustained pain and tenderness from the act of the accused. On perusal of Ext P2, it is seen that CW2 is a mentally disabled person, so that the prosecution adheres entirely on the testimony of PW1 only, in order to substantiate the pain and injury suffered by CW2, the statement of PW1 cannot be considered sufficient one.
19. On perusal of the case at hand, to elicit the element of uttering obscene words, no direct evidence is brought in the case of prosecution. The specific word or element is missing, and no specific word is stated by PW1 in support of those charge. So, there is no evidence to prove that the words used by the accused are obscene. Hence, the use of obscene words in public places is not proven.
20. PW1 has deposed that while leaving the premises, the accused picked up a stone from the road and hurled it at the window of her house, thereby breaking one part of it. She

identified the stone and broken glass pieces, which were marked as MO1 to MO3. The scene mahazar prepared by PW5 corroborates the recovery of these material objects. On the other hand, the learned counsel for the accused argued that PW1 did not state the specific portion of the window in her earlier statement. Certain omissions indeed exist in PW1's earlier police statement, particularly regarding the specific portion of the window pane that was broken. PW3 also confirmed that PW1 had not specified these details in her statement. However, such omissions are not material enough to discredit the core allegation. The testimony of PW1 before the Court is clear, cogent, and direct. She consistently maintained that the accused caused damage to her property by throwing a stone. The identification of the material objects and the corroboration through Ext. P6 scene mahazar lends credibility to her version. The act described squarely falls within the definition of "mischief" In **Harichand V State of Delhi, (1996) 9 SCC 112** the Hon'ble Supreme court held that *"so far as this contention is concerned it must be kept in view that while appreciating the evidence of witnesses in a criminal trial especially in a case of eye witnesses the maximum falsus in uno, falsus in omnibus cannot apply and the court has to make efforts to sift the grain from the chaff. It is of course true that when a witness is said to have exaggerated his evidence at the stage of trial and has tried to involve many more accused and if that part of the evidence is not found acceptable the remaining part of evidence has to be scrutinized with care and the court must try to see whether the acceptable part of the evidence gets corroborated from other evidence on record so that the acceptable part can be safely relied upon"*.

21. The defence argued that no independent witness supported the case of the prosecution. In **Jungir Singh Vs. State of Punjab (2000 SCC (Crl) 1245** Hon'ble Supreme Court held that *"Testimony of injured witness would not become unreliable merely because of it being not in consonance with that of a hostile eye witness."* The testimony of an injured witness has its own relevance and efficacy. The injured witness stands at higher pedestal than an ordinary eyewitness. In **Abdul Sayeed Vs. State of MP (2010) 10 SCC 259** it was held that *"Deposition of the injured witness*

should be relied upon unless there are strong grounds for rejection of his evidence on the basis of major contradictions and discrepancies.”

22. In this case, the injured witness is PW1, who clearly stated that the accused caused hurt upon her by pulling her down; the suggestion elevated by the defense that the case is based on earlier rivalry, that there are already cases pending between the accused and PW1's elder son cannot be considered as a vital ground to disbelieve her testimony. In **Kumaran Vs. State of Kerala (2021 ICO 1024)**, The Hon'ble Kerala High Court *held that “ regarding the suspicion thrown on the evidence of witness due to enmity, we are of the view that, mere enmity, even it is proved cannot be a ground to discard the evidence , if the such evidence is found to be reliable”*, hence the argument raised by the learned counsel for the accused regarding the existence of enmity between the Accused and Elder son of the PW1 cannot be consider as a vital ground to discredit the Evidence brought by PW1.

23. The defence argued at length about the discrepancies made by PW1 in her evidence. But the evaluation of their evidence shows that the discrepancy made by PW1 does not touch the core of the case. In **Rummy V. State of MP (1999) 8 SCC 649** the Hon'ble Supreme Court observed that *“When an eye witnesses is examined at length, it is quite possible for him to make some discrepancies. No true witness can possibly escape from making some discrepant details. Perhaps an untrue witness who is well tutored can successfully make his testimony totally non-discrepant.”* Hence, the said argument raised by the defence is only to be discarded. At the same time, in this case, regarding wrongful confinement, the prosecution alleged wrongful restraint of CW2 Haris. However, PW1's testimony only establishes that the accused attempted to take Haris along with him forcibly. There is no evidence that Haris was obstructed from proceeding in any particular direction or that his liberty of movement was curtailed. The essential ingredient of wrongful restraint is absent. Hence, the charge under Section 341 IPC fails.

24. As earlier discussed. With respect to the allegation of hurt to CW2 Haris, no corroborative medical or independent evidence has been produced. Ext. P2 establishes Haris's mental disability but does not prove injury. Hence, this charge

remains unproven. Regarding the charge under Section 294(b) IPC, PW1 did not specify the actual words uttered by the accused. Mere allegation without particulars cannot sustain a conviction. Similarly, the allegation of criminal intimidation under Section 506 IPC is weakened by omissions in PW1's earlier statement and lacks corroboration.

25. In this case the testimony of PW1 is trustworthy; 'the quantity of the witness is not important to prove the case of the prosecution; the quality is important'; Merely because of the reason that there is some exaggeration or embellishment in the depositions of the witness cannot be a reason to discard the entire evidence unless it is contradictory as to disprove the material aspects spoken of by the witness. The attempts of the court should always be to find out the grains of truth from such evidence by carefully scrutinizing the evidence as a whole. In **State of UP Vs Anil Singh (AIR 1988 SC 1998)** the Hon'ble Supreme Court observed as follows. *"it is also our experience that invariably the witnesses add embroidery to prosecution story, perhaps for the fear of being disbelieved. But that is no ground to throw the case overboard, if true, in the main. If there is a ring of truth in the main, the case should not be rejected. It is the duty of the court to cull out the nuggets of truth from the evidence unless there is reason to believe that the inconsistencies or falsehood are so glaring as utterly to destroy confidence in the witnesses. It is necessary to remember that a Judge does not preside over a criminal trial merely to see that no innocent man is punished. A Judge also presides to see that a guilty man does not escape. One is as important as the other Both are public duties which the Judge has to perform"* Where a witness to the occurrence has himself been injured in the incident the testimony of such witness is generally considered to be very reliable, as she is a witness that comes with a built-in guarantee of presence at the scene of the crime and is unlikely to spare the actual assailants in order to falsely implicate someone. Convincing evidence is required to discredit an injured witness.
26. The law is well settled that the testimony of an injured witness carries greater weight and cannot be discarded merely for want of independent corroboration, unless major

contradictions render it unsafe. In the present case, the discrepancies pointed out by the defence are peripheral and do not touch the substratum of the prosecution's case.

27.Points 1 to 3 are found in favour of the prosecution, and points 4 to 6 are found against the prosecution

28.Point no. 7: In the result, the accused is found guilty, and the accused is convicted u/S. 255(2) of Cr PC for the offence punishable u/S. 323 of the IPC, Section 448 of IPC, and Section 427 of IPC. Considering the manner in which the accused committed the offence, I am of the view that this is not a fit case to invoke the benevolent provisions of the Probation of Offenders Act in favour of the Accused.

29.In the result, the Accused is sentenced to undergo simple imprisonment for Six months and to pay a fine of Rs. 1000/-(One thousand only) for the offence punishable u/S.323 of the IPC. In default of payment of the fine, the accused shall undergo further simple imprisonment for a period of one month. The accused shall be sentenced to a fine of Rs. 1000/-(One Thousand only) for the offence punishable under u/S.427 of the IPC. In default of payment of the fine, the accused shall undergo further simple imprisonment for a period of 5 days. And the accused is sentenced to a fine of Rs. 500/-(Five Hundred only) for the offence punishable under section 448 of the IPC. In default of payment of the fine, the accused shall undergo further simple imprisonment for a period of 5 days. If the fine amount is realized the same shall be handed over to PW1 by way of compensation u/S. 357 (1) of the Cr PC. No property was produced in this case.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court on this the 27th day of April, 2026)

Civil Judge (Jr.Division), Kollam

APPENDIX**List of Prosecution / Defence / Court Witnesses****A. Prosecution Witnesses**

Rank	Name	Whether Eye Witness, Police Witness, Expert witness, Medical Witness, other witness
PW1	Sabura bheegam	Defacto Complainant
PW2	Dr.Nidhin	Medical Witness
PW3	S. Ashok Kumar	Police Witness
PW4	Ramees	Eye Witness
PW5	K.Vinod	Police Witness

B. Defence Witness

Rank	Name	Whether Eye Witness, Police Witness, Expert witness, Medical Witness, other witness
	Nil	

C.Court Witnesses

Rank	Name	Whether Eye Witness, Police Witness, Expert witness, Medical Witness, other witness
	Nil	

List of Prosecution / Defence / Court Exhibits**A. Prosecution Exhibits**

Sl.No	Exhibits No	Description of the Exhibits	Proved by/ Attested by
1	P1	First Information Statement	PW1-12.07.2023
2	P2	Copy Of Disability Certificate	PW1-12.07.2023
3	P3	Wound Certificate	PW2-12.09.2024

4	P1(a)	Body Mahazar Of Sabura bheegam CW1	PW3-13.12.2024
5	P4	Portion Of 161 Statement Of PW4	PW5-24.12.2025(Proved by I/O)
6	P5	First Information Report	PW5-24.12.2025
7	P6	Scene Mahazar	PW5-24.12.2025
8	P7	151A Form TR 18/2017	PW5-24.12.2025
9	P8	Report	PW5-24.12.2025
10	P9	Name And Address Report	PW5-24.12.2025
11	P10	Report Where The Ranks Of Witness Where Changed	PW5-24.12.2025

B. Defence Exhibits

Sl.No	Exhibit Number	Description
	Nil	

C. Court Exhibits

Sl.No	Exhibit Number	Description
	Nil	

D. Material Objects

Sl.No	Material object	Description
1	MO1	Brick
2	MO2	A Piece Of Glass
3	MO3	A Piece Of Glass

Sd/-

Civil Judge (Jr.Division), Kollam

//True Copy//

Civil Judge (Jr.Division), Kollam

