

IN THE COURT OF JUDICIAL MAGISTRATE OF FIRST CLASS-I, PUNALUR

Present: Balu Dinesh, Judicial First Class Magistrate-I, Punalur

On this the 1st day of June 2026/ 11th day of Jyaishta 1948

CC 328/2017

Complainant : State represented by the Sub Inspector of Police,
Yeroor Police Station in Crime No. 1760/2017
(By Ld. Assistant Public Prosecutor, Punalur-I)

Accused : A1 - Sajeev, Age 47/16, S/o Viswanbharan,
Thottirakathu Veedu, Muthalattu,
Alenchery, Yeroor Village. (*refiled*)

A2 - Renjith, Age 37/16, S/o Thulaseedharan,
Pulimoottil Veedu, Muthalattu,
Alenchery, Yeroor Village.

A3 - Manoj, Age 42/16, S/o Sivadasan,
Kavya Vilasam, Muthalattu,
Alenchery, Yeroor Village

A4 - Satheeshan, Age 38/16, S/o Krishnan,
Charuvila Puthen Veedu, Kinattumukku,
Manalil, Ayiranalloor Village.

(By Ld. Adv. K. Suresh Babu - A1)
(By Ld. Adv. G. Anilkumar - A2)
(By Ld. Adv. P C Georgekutty - A3)
(By Ld. Adv. T K Feroze Khan – A4)

Offence : Sections 109, 452, 294(b), 323, 324, 354 and 427
r/w 34 of Indian Penal Code.

Plea : Not Guilty (A2, A3, A4)

Finding : Accused No. 2, 3 and 4 are found not guilty.

Sentence or Order : Accused No. 2, 3 and 4 are acquitted u/s 248(1) CrPC. Case against Accused 1 is split up and re-filed as CC 1765/17

DESCRIPTION OF ACCUSED

Name	Age	Father's /Husband's Name	Occupation	Residence
Sajeev	47/16	Viswanbharan,		Thottirakathu Veedu, Muthalattu, Alenchery, Yeroor Village.
Renjith	37/16	Thulaseedharan		Pulimoottil Veedu, Muthalattu, Alenchery, Yeroor Village.
Manoj	42/16	Sivadasan		Kavya Vilasam, Muthalattu, Alenchery, Yeroor Village
Satheeshan	38/16	Krishnan		Charuvila Puthen Veedu, Kinattumukku, Manalil, Ayiranalloor Village.

DATES OF

Date of offence	Date of Complaint	Date of apprehension	Release on bail	Date of Commencement of trial	Date of commencement of evidence	Period of detention undergone during investigation, inquiry or trial for the purpose of Section 428 Cr.PC	Date of Close of trial	Date of Sentence or Order	Service of copy judgment or finding on accused	Explanation of delay
21.12.16	27.02.17	29.12.16 (A1, A2) 11.01.17-A3 25.01.17-A4	29.12.16 (A1, A2) 11.01.17-A3 25.01.17-A4	11.10.23	11.02.25	NA	25.05.26	01.06.26	01.06.26	NA

This case coming on for hearing in the presence of Assistant Public Prosecutor, Punalur and learned Advocate for the accused on 25th day of May 2026 and having stood for consideration till this day, the Court delivers the following:

JUDGMENT

1. This is a case instituted upon report of Station House Officer, Yeroor Police S-tation, on completion of investigation filed under Section 173(2) of Code of Criminal Procedure in Crime No. 1760/2016. The accused persons are alleged to

have committed offence under Sections 109, 452, 294(b), 323, 324, 354 and 427 r/w 34 of Indian Penal Code.

PROSECUTION CASE

2. The case of the prosecution in brief is that Accused 1 to Accused 3 had upon instigation of Accused 4 had in furtherance of common intention on 21.12.2016, at around 20.30 hours, at Alancheri Muri, trespassed into the house property of the informant (CW1/PW2) and uttered obscene words against her and thereafter trespassed into her house after having made preparation to commit hurt and had voluntarily caused hurt to her by slapping upon her face and by beating upon her chest and head with broom and wooden sticks and had torn her maxi and threatened to kill her children. Thereafter, the first accused person had, in furtherance of common intention, pushed the vehicle bearing number KL 25G 9636 belonging to the informant and caused damage of ₹ 10,000/- to the vehicle. On this ground, prosecution alleges that accused persons had committed offence punishable under Sections 109, 452, 294(b), 323, 324, 354, 427 r/w 34 of Indian Penal Code.
3. Investigation was carried out and upon the completion of investigation, a report under Section 173(2) of Cr. P. C was filed against the accused persons alleging the commission of aforesaid offence.

PROCEDURAL FORMALITIES

4. This Court took cognizance under Section 190 (1) (b) of Cr. P. C of the aforesaid offence alleged against the accused and issued summons against the

accused under Section 204 Cr. P. C. Accused No. 2 to 4 appeared in Court. They were released on bail. The copies of the relevant documents relied on by Prosecution were furnished to the accused and thereby the legal mandate under Section 207 Cr. P. C was complied.

5. After hearing both sides charge was framed for offence punishable under Sections 109, 452, 294(b), 323, 324, 354, 427 r/w 34 of Indian Penal Code and were read over and explained to the accused No. 2, 3 and 4 in their language. The accused persons pleaded not guilty and claimed to be tried. A1 was reported to be absconding, hence case against him was split up.

EVIDENCE BROUGHT ON RECORD

6. On the side of prosecution, CW2, CW1, CW4 and CW7 were examined as PW1 to PW4 and Exhibit P1 to Exhibit P10 were marked. CW3 expired and hence he could not be examined in Court. The prosecution did not bring CW5 and CW6 despite coercive steps and hence this court had no option but to proceed with the trial. The prosecution evidence was closed. The accused No, 2, 3 and 4 were questioned under Section 313(1) (b) Cr. P. C. they maintained his plea of innocence.
7. The accused persons did not adduce any evidence on their side.
8. Heard both sides and perused records of the case.
9. On the basis of rival contentions, the following points are raised for consideration:

1. Did Accused 1 to 3 upon instigation of Accused 4 trespass into the house property of PW2 and utter obscene words against her and thereafter trespass into the house of PW2 and in furtherance of common intention, voluntarily cause hurt to her by beating with broom and wooden sticks upon her head, face, and chest and tear her maxi and threaten to kill her children and cause damage to the vehicle bearing number KL 25G 9636 belonging to her and thereby did accused 2 to 4 commit offence punishable under Sections 109, 452, 294(b), 323, 324, 354, 427 r/w 34 of Indian Penal Code?
2. If accused 2 to 4 are found guilty and convicted, what shall be the order as to sentence?

POINT 1

10. PW2 is the aggrieved person in this case. According to PW2, on 21.12.2016, while she was in the kitchen of her house, she heard obscene words being uttered from the Courtyard of her house. Since PW2 was engaged in cleaning fish, she did not open the front door of her house. PW2 testified that the first accused had pushed open the door of kitchen and caught hold of her neck and slapped her. He also threatened to kill PW2 and her children. PW2 and her children somehow managed to push the first accused person out of her house. PW2 closed the door of the kitchen. Thereafter the first accused person trespassed into the house through the front side door and had beaten PW2 upon her head with broom and tapioca stick. PW2 asserted on oath that the first accused person had scratched upon her chest and torn her maxi. She pushed out the first accused person and closed the front door. The first accused person

pushed her scooter and caused damage to it. She could hear the second, third and fourth accused persons uttering obscene words against her. The fourth accused person is the former husband of PW2. The accused persons had threatened PW2 and hence she stopped residing in that house due to fear. Law was set in motion when PW2 preferred Exhibit P1 first information statement against the accused. The damaged scooter was seized by Investigating Officer and was returned to PW2 upon execution of Exhibit P2 bond. PW2 stated that she could identify the weapons that were used for attacking her.

11. PW1 is the daughter of PW2. She is also the eye witness in this case. The fourth accused person is the father of PW1. PW1 testified on oath that on 21.12.2016 at around 08.30 P.M., she had heard some persons uttering obscene words from the courtyard of the house. When PW2 opened the door, the first accused person had pushed the door and trespassed into the house. He had beaten PW2 with tapioca sticks and broom. He also threatened to kill PW2 and her children. PW1 and PW2 managed to push the first accused person out of the house. PW1 asserted that accused no. 2 to 4 were uttering obscene words against them when the first accused person was attacking PW2. The first accused person had also torn the maxi of PW2. PW1 further stated that the first accused person had destroyed the scooter of PW2. PW3 is also an eyewitness. PW3 testified that she had seen the first accused person trespassing into the house of PW2 and causing hurt to her.

12. PW4 is the Investigating Officer in this case. PW4 testified that on 23.12.2016, he had recorded Exhibit P1 first information statement of PW2. PW2 was admitted in Taluk Hospital, Punalur. PW4 noted the injuries upon the body of PW2. It is marked in evidence as Exhibit P1(a). PW4 registered Exhibit P3 FIR on the basis of Exhibit P1 First Information Statement. PW4 had prepared Exhibit P4 scene mahazar. He had seized the vehicle and the weapons that were used for attacking PW2. It was forwarded to this court. After preparing Exhibit P5 report, the vehicle was released to PW2 upon execution of Exhibit P2 bond. PW4 arrested the first accused person and prepared Exhibit P6 arrest memo. The custody memo was marked as Exhibit P7. PW4 arrested the second accused person. Exhibit P8 is the arrest memo and Exhibit P9 is the custody memo in this regard. PW4 submitted Exhibit P10 report adding the complete name and address of accused persons in this case. Thereafter PW4 completed the investigation and submitted police report against the accused.
13. Marshalling the evidence on record it is seen that the prosecution alleges that accused committed offence punishable under Section 109, 452, 294(b), 323, 324, 354 and 427 r/w 34 of Indian Penal Code. In order to sustain an allegation under Section 109 of Indian Penal Code, the prosecution ought to prove beyond reasonable doubt that the fourth accused person had instigated other accused persons to trespass into the house of PW2 to voluntarily caused hurt to her. The ingredients of Section 452 r/w 34 of Indian Penal Code are attracted if prosecution proves beyond reasonable doubt that the first accused person had in

furtherance of common intention trespassed into the house of PW2 in order to commit offence. If prosecution proves beyond reasonable doubt that the accused persons had uttered obscene words against PW1 and PW2, then the ingredients of Section 294(b) r/w 34 of IPC are attracted. The offence under Sections 323 and 324 r/w 34 of IPC are attracted if prosecution proves beyond reasonable doubt that the first accused person had beaten PW2 with hands and with broom and tapioca sticks. If prosecution proves beyond reasonable doubt that first accused person had touched the body of PW2 in order to outrage her modesty, then the ingredients of Section 354 of Indian Penal Code are attracted. If prosecution proves beyond reasonable doubt that first accused person had pushed down the vehicle of PW2 and caused damage to it, then the ingredients of Section 427 r/w 34 of Indian Penal Code are attracted against the accused.

14. PW1 to PW3 are the eye witnesses in this case. PW2, the injured witness, testified in Court that on 21.12.2016, the first accused person had trespassed into her house through kitchen door and had voluntarily caused hurt to her by beating her. PW2 managed to escape and she pushed first accused person out of her house. Thereafter first accused person trespassed into the house through the front door and had beaten her with wooden sticks. PW2 further testified that first accused person had torn her maxi. All other accused persons were uttering obscene words against her from the Courtyard of her house. The first accused person did not face trial in this case. The fourth accused person is the former husband of PW2. The second accused is the brother of PW2. First and third

accused persons are relatives of PW2. At the very outset, it is seen that incident happened on 21.12.2016. However, the first information statement was lodged only on 23.12.2016 at 16.15 hours. PW2 clarified during cross-examination that PW4 had come late to the hospital for recording her statement. However, PW2 stated during cross-examination that she had resorted to treatment in taluk hospital only on 22.12.2016. PW2 explained that her children were alone in house and hence she could not go to hospital on 21.12.2016 itself.

15. In *Ravinder Kumar v. State of Punjab* AIR 2001 SC 3570 it was held by Hon'ble Supreme Court that the "The attack on prosecution cases on the ground of delay in lodging FIR has almost bogged down as a stereotyped redundancy in criminal cases. It is a recurring feature in most of the criminal cases that there would be some delay in furnishing the first information to the police. It has to be remembered that law has not fixed any time for lodging the FIR. Hence a delayed FIR is not illegal. Of course a prompt and immediate lodging of the FIR is the ideal as that would give the prosecution a twin advantage. First is that it affords commencement of the investigation without any time lapse. Second is that it expels the opportunity for any possible concoction of a false version. Barring these two plus points for a promptly lodged FIR the demerits of the delayed FIR cannot operate as fatal to any prosecution case. It cannot be overlooked that even a promptly lodged FIR is not an unreserved guarantee for the genuineness of the version incorporated therein." Thus, the duty is upon the Court to find out the reason for delay in lodging first information statement.

16. The timeline of the case would show that PW2 alleges that she was attacked on 21.12.2016 at 08.30 P.M. The wound certificate would show that PW2 resorted to treatment on 22.12.2016 at 03.00 P.M. Though PW2 stated that she resorted to treatment at 10.00 A.M on 22.12.2016, the statement is not supported by the wound certificate. Thus there is a delay in resorting to treatment. PW2 stated to the doctor that it was the first accused person who had attacked her. She did not mention the names of other accused persons. Overt act is alleged only against the first accused person. All other accused persons are alleged to have uttered obscene words against her from the courtyard of her house. Admittedly, there is previous vengeance between the accused persons and PW2. The first information statement was given only on 23.12.2019. It would mean that PW2 had time for reflection before lodging first information statement. PW2 stated in cross-examination that she had informed about the incident to police on the date of incident itself and that police had seized the weapons and her maxi on the same day. However Exhibit P4 scene mahazar would show that the weapons were seized only on 24.12.2016. All these contradictions and the previous vengeance between PW2 and Accused 2 to 4 would make it highly unsafe to rely on the delayed statement given by PW2.
17. PW1 is the daughter of PW2. PW1 testified that only the first accused person had trespassed into her house to attack PW2. The first accused person did not face trial in this case. The statement of PW1 is conspicuous by its absence regarding the specific acts of third and fourth accused persons. PW3 is the eye

witness in this case. PW3 also failed to mention specifically against accused 2 to accused 4. Though PW2 stated that second accused person along with first accused person destroyed the vehicle kept in front of the house she did not mention the same in her 161 statement given to PW4. The contradiction is proved through the statement of PW4, the Investigating Officer. Thus, in toto it could be understood that PW1 and PW3, the eyewitnesses, did not mention anything incriminating against Accused 2 to Accused 4. Only PW2 had testified against Accused 2 to 4. The specific statement of PW2 is that when Accused 1 attacked her, Accused 2 to Accused 4 had supported him by uttering obscene words against her. However, PW2 did not depose the specific words that were used by Accused 2 to Accused 4. Moreover, the statement of PW2 would clearly show that the first accused person had trespassed into her house and that she had pushed him out of the house. She did not mention anywhere in her statement that she had seen accused no. 2 to no. 4. directly in front of her house. More specifically, PW2 was in her kitchen when she heard obscene words being uttered from the front yard of her house. These contradictions in the statement of PW2 and her previous vengeance with the accused persons would make it highly unsafe to enter into a conclusion as to the guilt of accused no. 2 to 4 on the basis of sole statement of PW2. The prosecution failed to prove beyond reasonable doubt that Accused 2 to 4 had committed offence charged against them. Point 1 is answered in favour of the accused.

POINT 2

18. In the light of the findings above it is concluded that the accused 2 to 4 are not guilty of committing offence under Sections 109, 452, 294(b), 323, 324, 354, 427 r/w 34 of Indian Penal Code. Point 2 lost its significance.
19. Consequently, the accused 2 to 4 are acquitted of the offence under 109, 452, 294(b), 323, 324, 354, 427 r/w 34 of Indian Penal Code. The acquittal is made under Section 248(1) CrPC. Case against Accused 1 is split up and refiled as CC 1765/17

Dictated to my CA, verified by me and typewritten into my personal laptop and pronounced by me in the open Court on this the 1st day of June 2026.

Sd/-
Judicial First Class Magistrate- I, Punalur

APPENDIX

List of Prosecution/Defence/Court Witness

A. Prosecution Witnesses:

Rank	Name	Whether Eye witness, Police witness, Expert witness, Medical witness, Other witness
PW1	Anusha (CW2)	Occurrence witness
PW2	Bindhu (CW1)	Occurrence witness/ Complainant
PW3	Kavitha (CW4)	Occurrence witness
PW4	L. Rema (CW7)	Police witness

B. Defence Witness:

Rank	Name	Whether Eye witness, Police witness, Expert witness, Medical witness, Other witness
	Nil	

C. Court Witness:

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.	Exhibit Number	Description
1	P1	FIS proved by PW2 on 29.07.25
2	P2	Third Party Bond proved by PW2 on 29.07.25
3	P3	FIR proved by PW4 on 25.02.26
4	P1(a)	Bodynote proved by PW4 on 25.02.26
5	P4	Scene Mahazar proved by PW4 on 25.02.26
6	P5	151 A Form proved by PW4 on 25.02.26
7	P6	Arrest Memo of A1 proved by PW4 on 25.02.26
8	P7	Custody Memo of A1 proved by PW4 on 25.02.26
9	P8	Arrest Memo of A1 proved by PW4 on 25.02.26
10	P9	Custody Memo of A1 proved by PW4 on 25.02.26
11	P10	Report proved by PW4 on 25.02.26

B. Defence Exhibits:

Sl. No.	Exhibit Number	Description
	Nil	

C. Court Exhibits:

Sl. No.	Exhibit Number	Description
	Nil	

D. Material Objects:

Sl. No.	Material Objects	Description
	Nil	

Sd/-

Judicial First Class Magistrate- I, Punalur

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