

**IN THE COURT OF THE JUDICIAL I CLASS MAGISTRATE -II,
(FOREST OFFENCES), PUNALUR.**

Present: Sri. EKALAVIAN L.V, Civil Judge (Junior Division)

Dated, the 10th day of June, 2026/ 27th day of Jyeshtham., 1948

CC No. 234/2013

Complainant : The State of Kerala represented by the Sub Inspector of Police,
Pathanapuram Police Station in Cr. No.460/2011
(By. Ld. Adv. Roy Titus, Assistant Public Prosecutor, Punalur)

Accused : A1- Nikhil Raj S/o. Rajappanachari, Chempakathara Puthen Veedu,
Vazhappara Colony, Pathirickal Muri, Pathanapuram Village.

A2- Mukesh Raj S/o. Muruka Raj, Mukesh Bhavan, Mulloor
Nirappu, Pathirickal Muri, Pathanapuram Village.
(By Ld. Adv. M. Sethu Mohan)

Offence : Punishable U/ss. 323, 324, 427 r/w 34 of Indian Penal Code, 1860

Plea : Not guilty

Finding : Not guilty

Order : Accused No.1 and 2 are found not guilty of the offences
punishable under sections 323, 324, 427 r/w 34 of IPC, 1860, and
they are acquitted u/s. 248(1) Cr. PC for the said offences.

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
17.4.2011	27.5.11	6.12.23 (A1 & A2)	6.12.23 (A1 & A2)	18.4.16	-		06.6.26	10.6.26

This case coming on this day for consideration, the court passed the following:-

JUDGMENT

This case is a calendar case based upon the final report filed by the Pathanapuram SHO in Police Station Crime No. 460/2011 against the accused persons alleging the commission of offences punishable u/ss.323, 324, 427 r/w 34 of Indian Penal Code, 1860.

2. The prosecution allegation is that, the accused no. 1 and no. 2 allegedly, in furtherance of their common intention to voluntarily cause hurt to the defacto complainant, at around 17.30 hours on 17.04.2011, approached the defacto complainant while he was standing on the Kalanjoor- Padam public road near Pathirikkal in Pathanapuram and owing to the prior hostility in connection with an previous altercation, struck on the back of the defacto complainant with a cricket bat, pushed him down into the nearby drainage and trampled upon his spectacles, thus causing him severe pain and a monetary loss of ₹ 1,400, thereby committing the offences punishable under Sections 323, 324, 427 read with Section 34 of Indian Penal Code, 1860(in short IPC).
3. Originally the case was taken into file as CC 285/2011 by JFMC-III, Punalur. Subsequently the case is transferred to this court and numbered as CC 234/2013. Upon issuance of summons, the accused is appeared and obtained bail. After being released on bail, they were furnished with all relevant prosecution records u/s. 207 Cr.P.C. Therafter, a charge u/ss. 323, 324, 427 r/w 34 of Indian Penal Code, 1860 of IPC was framed, read over and explained to them, to which he pleaded not guilty and claimed to be tried.
4. After the filing of a final report by Pathanapuram SHO, the Court took cognizance of the crime as C.C. 234/2013 and issued summons to the accused. On the appearance of the accused, charge was framed in writing on 18.04.2016 and read over the same to them in Malayalam, to which they pleaded not guilty and claimed to be tried. Whereupon, prosecution cited five witnesses, and the court issued processes to the said witnesses. Even after the passage of 10 years from the date of framing of charge, the prosecution could not produce any single witness, and on 22.12.2025 the court issued official memorandum to rural SP and show cause to the SHO concerned with a direction to expedite the production of witnesses to avoid causing unnecessary prejudice to the accused to whom also there is a fundamental right of fair trial as

enshrined under Article 21 of Constitution of India. However, the bring-up warrant and Code of Criminal Procedure, 1973 (in short Cr.P.C.) 82 steps to the witnesses, namely CW1 to CW4, was neither executed nor had been given any reasonable explanation for the non-execution of the same. It is quite deplorable to note that the SHO filed a vague report without even specifying the date, stating that the witnesses had been informed of the same, and they were told that they would appear on a date. In consequence of the utter disregard of the police agency to the directions issued by this Court and the lethargic attitude in executing the coercive steps initiated by this Court against the prosecution witnesses, leads this Court to close the prosecution evidence as there is no material witnesses warranting the further extension of trial, which would only put the accused to unnecessary prejudice. In consequence whereof, this Court hereby was compelled to close the prosecution evidence and take the case for judgment after dispensing with examination under Section 313(1)(b) of Code of Criminal Procedure, 1973 (in short CrPC), in the absence of any incriminating evidence against the accused.

5. Heard both sides
6. The following points arose for consideration: -
 - i. Did the accused in furtherance of their common intention voluntarily cause hurt using dangerous instrument by hitting the defacto complainant with a cricket bat and commit the offence punishable under Section 324 r/w 34 of IPC?
 - ii. Did the accused in furtherance of their common intention voluntarily cause hurt by slapping the defacto complainant on his cheeks and commit the offence punishable under Section 323 r/w 34 of IPC?
 - iii. Did the accused in furtherance of their common intention to cause wrongful loss to the defacto complainant, damage the eyewear worn by the defacto complainant and commit the offence punishable under Section.427 of IPC?
 - iv. Are the accused guilty of the prosecution charges or not guilty of the offences charged with them?
 - v. If so, what is the proper order or sentence?
7. **Points No. (i) and (iv):-** This Court proceeds to answer point number (i) to (iii) together, by going through the materials on record and it is evident that, the prosecution admittedly failed to gather material evidence in the form of oral evidence

of the defacto complainant, despite the court ordering repeated coercive steps ever since 18.04.2016, on which trial originally commenced. In view of the utter failure of the prosecution to procure the prosecution evidence and the consequent unavailability of material evidence to connect with the accused to the prosecution's charges, point number (i) to (iii) are answered against the prosecution and the point No.(iv) is answered as, accused is hereby found not guilty of the offences charged with.

8. **Point No. (v):-** In the result, Accused No.1 and 2 are found not guilty of the offences punishable under sections 323, 324, 427 r/w 34 of IPC and accordingly they are acquitted of the said charges under section 248(1) Cr.P.C. Their bail bonds stand cancelled and they are set at liberty.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me, in open court, on this the 10th day of June, 2026.

sd/-
Judicial Magistrate- of First Class -II
(Forest Offences), Punalur

APPENDIX

List of Prosecution/Defence/Court Witness

A. Prosecution Witnesses:

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

B. Defence Exhibits:

Sl. No.	Description	Exhibit Number

C. Court Exhibits:

Sl. No.	Description	Exhibit Number
	Nil	

D. Material Objects:

Sl. No.	Description	Material Objects
	Nil	

Judicial Magistrate- of First Class -II
(Forest Offences), Punalur

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