

**In the Court of Sessions Division, Kollam**

Present:

Sri. Santhosh Das, Asst. Sessions Judge, Karunagappally  
Friday 10<sup>th</sup> day of April, 2026/ 20<sup>th</sup> day of Chaithra, 1948.

**S.C No. 31/2022**

**(CP No.10/2021 of JFMC, Chavara)**

Complainant : State represented by the Sub Inspector of Police,  
Chavara Thekkumbhagom Police Station in  
Crime No. 1/2021.  
By Adv. Harilalji.C, Addl. Public Prosecutor

Accused :A1 Aravindh, aged 38/21, S/o.Vikraman,  
Paithodil veedu, Naduvathucherry muri,  
Thekkumbhagom village.

A2 Shabu, aged 26/21,  
S/o.Shanmughan, Shalu Nivas,  
Naduvathucherry muri,  
Thekkumbhagom village.

A3 Prasanth, aged 32/21, S/o.Pavithran,  
Prasanth Bhavanam, Naduvathucherry muri,  
Thekkumbhagom village.

A4 Deepu, aged 38/21, S/o.Appukuttan,  
Pirayattu veedu, Naduvathucherry muri,  
Thekkumbhagom village.  
By Adv. G.Gopakumar

Charge : Offence punishable u/s. 341, 294, 324, 326, 307,  
427 r/w 34 of IPC

Plea of accused : Not guilty

Finding of the court : Not guilty

Sentence or Order : Acquitted u/s.232 of CrPC

Dates of Trial and Hearing : 07.10.2024, 18.02.2025, 02.04.2025, 28.02.2026,  
16.03.2026, 06.04.2026

This case having been finally heard on 10.04.2026 and on the same day the court delivered the following:-

### **JUDGMENT**

1. This case has arisen on a final report filed by the Inspector of Police, Chavara, Thekkumbhagom police station in that police station crime No. 01/2021 against the accused persons herein above, alleging commission of the offences punishable u/s. 341, 294(b), 324, 326, 307, 427 r/w. 34 IPC.
2. Going by the prosecution allegations in brief, on 01/01/2021 at about 01:00 am, accused persons, sharing common intention, obstructed the motor bike in which CW1 & CW2 were proceeding, and A1 attacked CW2 with a chopper and inflicted serious injury on his hand and when his friends who are residing in the nearby area tried to save him, A1 & A2 assaulted one among them and in the meantime, A3 & A4 beat CW1 with a wooden stick. It is alleged that the 1<sup>st</sup> accused attacked CW2 with the chopper and inflicted cut injuries with such intention and knowledge, and under such circumstances, that if by that act he had caused the death of CW4, he along with other accused persons would have been guilty of murder in the light of the common intention. Thus, the accused are alleged to have committed the aforesaid offences.
3. The crime was registered on the FIS of the complainant (CW1), which statement was given by him to the police at Medicity Hospital, Kollam. In the investigation that followed A1 & A2 were arrested on 04/01/2021, and upon their production before the Magistrate, they were enlarged on bail in terms of the bail order of Principal Sessions Court in CrI. M.C. No.237/21 and CrI.M.C. No.242/21 dated 15.02.2021. Likewise, A3 and A4 were arrested and produced

before the court on 04.01.2021 and they were granted bail as per the order of the court of Principal Sessions Court in CrI.M.C. No.71/2021 dated 02.02.2021. from the Court.

4. Upon completing investigation, final report was filed, which was taken on file by Judicial Magistrate of the First Class, Chavara as CP No. 10/2021. After complying with S. 207 of CrPC the learned Magistrate committed the case to Hon'ble Court of Sessions, Kollam vide order dated 04.12.2021, and the case was numbered before that Hon'ble Court as SC No. 31/2022, and later the case was made over to this Court for disposal.
5. Upon issuance of summons, all accused entered appearance and they were permitted to continue on bail. Learned Prosecutor opened the prosecution case u/s 226 Cr.PC and informed the Court as to what evidence is proposed to be tendered for proving the allegations. After hearing both sides charge was framed for the offences punishable u/s.341, 294(b), 324, 326, 307, 427 r/w. 34 IPC, and when the charge was read over and explained, accused persons pleaded not guilty and claimed to be tried.
6. In the light of the denial of the charge, prosecution was directed to adduce evidence to prove the charge.
7. Prosecution cited CW1 to 18 in support of the charge, of which CW1 & 2 are the victims, and CW3, 4 & 5 are the occurrence witnesses, whereas CW6 had assisted CW1 & 2 for reaching the hospital. Summons was ordered for the presence of the prosecution witnesses, and after repeated opportunities, presence of CW1 to 6 & 18 were procured and they were got examined as PW1 to 7 respectively and Ext P1, P1(a) & P2 to P23 were got marked.

8. Finally, defence cited the delay in completing the prosecution evidence and pointed out that the accused are put to unnecessary hardships. Learned defence Counsel further invited attention to the evidence of PW1 & 2 and to the evidence of PW3 to 6 and pointed out that their evidence is not supporting the prosecution case. As regards Ext P1 FIS and P1(a) body note, learned Counsel contended that Ext. P1 & P1(a) by itself cannot be banked on by the prosecution to find guilt on the accused when the victims have not pointed fingers against the accused persons. Ratios were cited in support on those points. Therefore, the Counsel wanted the Court to acquit the accused under section 232 Cr.PC.
9. I have given thoughtful consideration to the objection raised by the learned defence counsel. As rightly submitted, the victims and the occurrence witnesses have deviated from the prosecution case in the box. Therefore, even if further time is spent for completing the prosecution evidence, in the light of the nature of evidence given by PW1 to 6, case of the prosecution will not be improved.
10. In the circumstances, prosecution evidence was closed, and examination of the accused persons u/s.313(1)(b) CrPC was dispensed with, and both sides were heard u/s.232 of Cr.PC.
11. Considering the contentions, the following points arise for consideration:-
  1. Has the prosecution proved that the accused persons have committed the alleged offences ?
  2. Are the accused entitled for the benefit of the provisions of S.232 of CrPC ?

3. Sentence or Order ?.

12. **Point No. 1** :-

1. Now, going by the prosecution allegations, accused persons sharing common intention waylaid PW1 & 2 and they were attacked with weapons and both sustained hurt. It is alleged that the 1<sup>st</sup> accused attempted the murder of PW2 with a chopper, and that PW1 was beaten up with a wooden stick.
2. In a case of this nature, the evidence of victims is very much vital, and the evidence of the occurrence witnesses are very much relevant. The evidence of the police witnesses, who recorded the FIS, prepared body note, registered FIR, and completed investigation are only formal in nature, and that by itself will not incriminate accused.
3. PW1 & 2 are the victims, and PW1 is the complainant who gave Ext. P1 FIS before the police. However, in the box PW1 though admitted having been attacked by a mob on the date and time, it was his claim that he was not in a position to identify the assailants. PW2, who reportedly sustained cut injuries with a chopper had given evidence in tune with that of PW1 and stated that he was also not in a position to identify the culprits. As regards PW3 to 5, they were examined as occurrence witnesses, but all denied having seen the alleged incident. As regards PW6, he agreed that he had taken PW1 & 2 to the hospital for treatment, but it is claimed by him that he had no occasion to see the alleged attack on PW1 & 2. PW7 is the officer who completed the investigation and laid the final report. Admittedly, he had not seen the alleged incident and he only recorded Ext.

P1 FIS and noted down Ext. P1 (a) body note of PW1 by calling at the hospital. Therefore his evidence cannot be banked upon by the prosecution to prove the occurrence.

4. Now, a reading of the deposition of PW1 would show that though he admitted having given Ext. P1 FIS before the police in the matter, he had not vouched the contents of the same in the box and it is claimed that he was not in a position to identify the culprits. Though permission was given to the learned Prosecutor to put questions to the witnesses, nothing has come out from the mouth of the victims as PW1 & 2 to impeach accused persons and it is also denied by PW1 & 2 that they are suppressing truth on account of settlement.
5. It is settled in **“Mohan v/s. State of Kerala” (2011(4) KLT 59)** that mere marking of FIS will not prove the existence of truth of the facts mentioned therein and the witness ought to have spoken in the box about the facts alleged. In the case in hand, apart from marking Ext. P1 FIS, there is no evidence from the mouth of PW1 or PW2 to show that the accused persons have committed any of the alleged offences on the date, time and spot. Now, when the alleged victims have not supported the prosecution case, and when the claimed occurrence witnesses have denied having seen the alleged incident, no amount of oral evidence from other witness will help the Court to reach a finding of guilt.
6. Suffice to say, it can only be said that the allegations are not proved. Therefore these points can only be answered against the prosecution, which I do.

**13. Point No. 2:-**

1. For the discussions on point No. 1 above, it is found that the prosecution evidence is not impeaching the accused persons by any means.
2. Therefore, this is a fit case in which the power of the Court u/s. 232 of CrPC can be exercised, for recording an order of acquittal.
3. This point is answered in favour of accused persons.

**14. Point No.3:-**

1. In view of the findings on point No. 1 & 2 above, accused persons are found not guilty for the alleged offences u/s. 341, 294(b), 324, 326, 307, 427 r/w. 34 IPC.
2. In the result, accused are acquitted u/s. 232 of CrPC. Their bail bonds stands cancelled, and they are set at liberty forthwith.

*(Dictated to the C.A., typed by her, corrected by me and pronounced in open Court on this the 10<sup>th</sup> day of April, 2026)*

Sd/-  
Santhosh Das  
Asst. Sessions Judge.

**APPENDIX**  
**Exhibits for the Prosecution**

- P1 : FIS dated 01.01.2021 proved by PW1  
P1(a) : Body note dated 01.01.2021 proved by PW7  
P2 : Third party kaicheet of Vishnu dated 15.02.2021 proved by PW2

- P3 : Third party kaicheet dated 15.02.2021 proved by PW6  
P4 : FIR dated 01.01.2021 proved by PW7  
P5 : Scene mahazer dated 02.01.2021 proved by PW7  
P6 : Scene mahazer dated 02.01.2021 proved by PW7  
P7 : Seizure mahazer dated 25.01.2021 proved by PW7  
P8 : Vehicle mahazer (Maruthi car) dated 02.01.2021 proved by PW7  
P9 : Arrest memo (A1) dated 04.01.2021 proved by PW7  
P10 : Arrest memo (A2) dated 04.01.2021 proved by PW7  
P11 : Arrest memo (A3) dated 04.01.2021 proved by PW7  
P12 : Arrest memo (A4) dated 04.01.2021 proved by PW7  
P13 : Inspection memo (A1) dated 04.01.2021 proved by PW7  
P14 : Inspection memo (A2) dated 04.01.2021 proved by PW7  
P15 : Inspection memo (A3) dated 04.01.2021 proved by PW7  
P16 : Inspection memo (A4) dated 04.01.2021 proved by PW7  
P17 : Recovery mahazer of Iron pipe and Vettukathi dated 04.01.2021  
P18 : Scene plan (road) dated 30.01.2021 proved by PW7  
P19 : Scene plan dated 30.01.2021 proved by PW7  
P20 : Scene plan of recovery mahazer dated 30.01.2021 proved by PW7  
P21 : Power supply certificate dated 08.02.2021 proved by PW7  
P22 : Wound certificate of CW1 dated 08.01.2021 proved by PW7  
P23 : Wound certificate of CW2 dated 08.01.2021 proved by PW7

**Exhibit for the Defence** : Nil

**Witnesses for the Prosecution** :

- |     |   |            |            |
|-----|---|------------|------------|
| PW1 | : | Abhijith.A | 18.02.2025 |
| PW2 | : | Vishnu S.G | 18.02.2025 |
| PW3 | : | Anandhu    | 18.02.2025 |
| PW4 | : | Kiran      | 18.02.2025 |

PW5 : Sreejith 18.02.2025  
 PW6 : Sumith 02.04.2025  
 PW7 : Rajeshkumar 28.02.2026

**Witness for Defence** : Nil

**Material Objects marked** : Nil

**Tabular form as Rule 132 of Cr. PC**

1. Serial No. : S.C No. 31/22  
 2. Name of Police Station.  
 Cr. No. of offence : The Sub Inspector of Police,  
 Chavara Thekkumbhagom Police  
 Station in Crime No. 01/2021.

**Description of Accused**

3. Name of accused : A1- Aravind A2-Shabu  
 A3-Prasanth A4-Deepu  
 4. Father's Name : A1-Vikraman A2- Shanmughan  
 A3- Pavithran A4-Appukuttan  
 5. Occupation : --  
 6. Residence : A1- Paithodil veedu,  
 Naduvathucherry muri,  
 Thekkumbhagom village.  
 A2- Shalu Nivas,  
 Naduvathucherry muri,  
 Thekkumbhagom village.  
 A3- Prasanth Bhavanam,  
 Naduvathucherry muri,  
 Thekkumbhagom village.  
 A4- Pirayattu veedu,  
 Naduvathucherry muri,  
 Thekkumbhagom village.  
 7. Age : A1- 38/21, A2- 26/21, A3-32/21,  
 A4-38/21

8.	Occurrence	:	01.01.2021	
9.	Complaint	:	01.01.2021	
10.	Apprehension	:	04.01.2021	
11.	Release on bail	:	A1- 15.02.2021	A2- 15.02.2021
			A3-02.02.2021	A4-02.02.2021
12.	Commitment	:	04.12.2021	
13.	Commencement of trial	:	07.10.2024	
14.	Close of trial	:	06.04.2026	
15.	Sentence or Order	:	10.04.2026	
16.	Service of copy of Judgment or finding on accused	:	Not given	
17.	Explanation of delay	:	No delay	

Sd/-

Assistant Sessions Judge.

//True Copy//

Typed by: Sini.G

Compared by:Sunilkumar.S

Assistant Sessions Judge.