

								purpose of Section 428 Cr.P.C
12.04. 23	27.07.2 3	10.05.2 4	10.05.2 4	10.02.2 6	24.04.2 6	04.05.2 6	14.05.2 6	-

This case having been finally heard on 14.05.2026 and the Court on the same day delivered the following:-

JUDGMENT

The accused is put on trial upon a final report filed by the Sub Inspector of Police, Chithara Police Station Crime No.392/2023 alleging commission of offence punishable under sections 94(b), 323, 324 and 427 r/w 34 of the Indian Penal Code.

2. ***Prosecution case in brief is as follows:-*** Due to previous enmity towards CW1, the accused, with the intention and knowledge of abusing and voluntarily causing hurt to CW1 and others, on 12.04.2021 at 09:45 hours, at Muthayil School Compound, questioned CW1, who was plucking mangoes from the tree, as to why he was plucking the mangoes and thereafter the 1st accused wrongfully restrained and pushed down CW1 on the Muthayil Junction Road. Subsequently at about 10:00 hours, at Muthayil in Mancode Village, while CW1 was proceeding on a motorcycle, the 1st accused kicked him with his right leg and caused him to fall from the motorcycle. Hearing the commotion, when CW2 reached the spot, the 2nd accused struck CW2 on the neck with a wooden plank and the 3rd accused assaulted CW1 and others and voluntarily caused hurt to them. Further, the 3rd accused bit CW3 on the hand and caused injuries. In the incident, CW2 lost of piece of gold chain and sustained a loss amounting to approximately Rs. 25,000/-.

Thus, the accused, in furtherance of their common intention and as members of an unlawful assembly, committed the aforesaid offences. Thus the accused persons have committed the offences punishable under sections 294(b), 323, 324 and 427 r/w 34 of the Indian Penal Code.

3. This case is originated from the Ext.P1 First Information Report given by PW1. On the basis of this, CW8 registered First Information Report and conducted investigation and laid charge sheet before the Court.
4. My predecessor in office took cognizance of the offences and issued process against the accused persons u/s.204 Cr.P.C. On appearance of the accused, they were enlarged on bail. The copies of all relevant prosecution records were furnished to them under section 207 of the Code of Criminal Procedure, 1973. After hearing both parties, charge u/ss. 294(b), 323, 324 and 427 r/w 34 of the Indian Penal Code were framed, read over and explained to them to which they pleaded not guilty and claimed to be tried.
5. On the side of the prosecution, PW1 and PW2 were examined and Ext.P1 was marked. In this case the presence of material witnesses is not procured even if coercive steps are ordered and thus there is no purpose in examining the remaining witnesses. Thus, the prosecution evidence stands closed. In the absence of any incriminating evidence against the accused, questioning him under section 313 of Cr.P.C was dispensed with.
6. Heard both sides.
7. Points that arose for consideration are:-

- 1) *Have the accused persons, on 12.04.2021 at 09:45 hours, in furtherance of common intention, uttered obscene words towards PW1 and thus committed the offence punishable under section 294(b) r/w 34 of the Indian Penal Code?*
- 2) *Have the accused persons, on the same day at the same time, in furtherance of common intention, voluntarily caused hurt to PW1 and thus committed the offence punishable under section 323 r/w 34 of the Indian Penal Code?*
- 3) *Have the accused person, on the same day at the same time, in furtherance of common intention, voluntarily caused hurt to PW1 with dangerous weapon and thus committed the offence punishable under section 324 r/w 34 of the Indian Penal Code?*
- 4) *Have the accused persons, on the same day at the same time, in furtherance of common intention, and criminally intimidated PW1 and PW2 and thus committed the offence punishable under section 506(i) r/w 34 of the Indian Penal Code?*
- 5) *Have the accused persons, on the same time at the same day, in furtherance of their common intention, a piece of gold chain and sustained a loss amounting to approximately Rs. 25,000/- and thus committed the offence punishable under section 427 r/w 34 of the Indian Penal Code?*
- 6) *If the accused is found guilty, what is the order as to sentence?*

8. **Points No. 1 to 5:-** For the sake of convenience and to avoid repetition, and for brevity, these points are considered together. In the present case, the police have submitted a report stating that the whereabouts of CW2 and CW3, who are cited as material witnesses. They have further expressed their inability to secure the presence of the said witnesses before this Court. It is evident that CW2 and CW3

are crucial witnesses whose evidence is essential for proving the prosecution case, and in their absence, the substratum of the prosecution case is seriously affected.

8. Despite granting sufficient opportunities and adopting coercive steps, the prosecution has failed to procure the attendance of these material witnesses. In such circumstances, no useful purpose would be served by adjourning the matter further or by proceeding with the examination of the remaining witnesses, whose evidence would not advance the prosecution case in any meaningful manner. The evidence of PW1 in no way helped the prosecution to prove the allegations against the accused.
9. Accordingly, this Court is constrained to close the prosecution evidence. In the absence of substantive and reliable evidence to establish the allegations against the accused, the prosecution has failed to prove its case beyond reasonable doubt. Hence, the prosecution case stands failed.
10. **Point No. 6:-** In view of the finding in Point No.1 to 5, the accused are found not guilty of the offence punishable under sections 294(b), 323, 324 and 427 r/w 34 of the Indian Penal Code and they are acquitted under section 271(1) of the BNSS. 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 14th day of May, 2026.

Sd/-

Judicial First-Class Magistrate, Kadakkal.

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

Rank	Name	Whether Eye Witness, Police Witness, Expert witness, Medical Witness, other witness
PW1	Vishnu (CW1)	Complainant/Occurrence Witness
PW2	Vimal Raj(CW2)	Complainant/Occurrence 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	Exhibit Number	Description
1.	P1	FIS proved by PW1 on 24.04.2026

B. Defence Exhibits

Sl.No.	Exhibit Number	Description
	NIL	

C. Court Exhibits

Sl.No.	Exhibit Number	Description
	NIL	

D. Material Objects

Sl.No.	Exhibit Number	Description
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	NIL	
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Sd/-
Judicial First-Class Magistrate, Kadakkal.

//True Copy//

Judicial First-Class Magistrate, Kadakkal.