

TABULAR FORM.

1. Serial Number : Sessions Case No.442 of 2009
2. Name of the Police Station and Crime No. of the offence : Kuthuparamba Police Station,
: Crime No.40/2005.
[404/CR/KNR/05 of CBCID Kannur]

DESCRIPTION OF THE ACCUSED

3. Name and Rank		4.Father's/ Name	5. Occupation	6. Residence	7. Age
Kootteri Govindan Nambiar	A1	Kunjambu Nambiar	--	Madhavi Sadan, Kannavam, Thodeekkalam.	56/05
G.James	A2	Ummachan	Driver	Korapparambu House, Kuthuparamba Desam, Naravoor Desom.	28/05
P.Prabheesh	A3	Prabhakaran	Conductor	Prabhina Nivas, Manantheri amsom, desom.	29/05
Elancheri Murali @ Muraleedharan (split up)	A4	Kumaran	--	Pareri House, Kuthuparamba amsom, Palapparamba.	29/05
Uchummal Maroli Suhas	A5	Mukundan	JCB Driver	Maroli House, Kuthuparamba amsom, Palapparamba.	27/05
Eekkilisseri Sunilkumar	A6	Kumaran	--	Puthan Purayil House, Kuthuparamba amsom, Palapparamba.	24/05
Keloth Roopesh	A7	Karunan	--	Sree Nilayam, Kuthuparamba amsom, Aambilad desom, Palapparamba.	26/05
Kallummal Jayesh	A8	Krishnan	—	Kallummal House, Kuthuparamba amsom, Aambilad.	24/05

Parappa Ratheesh @ Ratheesan	A9	Chathukkutty	–	Aiswarya Bhavanam, Kuthuparamba amsom, Ambilad desom, Palayi.	24/05
Kalliyar Ratheesh Kumar	A10	Raghavan	–	Kalliyar Veedu, Kuthuparamba amsom, Ambilad desom, Palaparambu.	26/05
K.Suresh Kumar @ Mani	A11	Mani	Driver	Kuthuparamba amsom, Ambilad desom, Chundakkadu Paramba, Palaparambu.	27/05
Thuluva Rajeevan	A12	Thuluva Ravi	Driver	Raj Nivas, Palaparambu, Kuthuparamba amsom, PO Nirmalagiri.	28/05
Thaikkandy Vineesh	A13	Sreedharan	–	Thaikkandy House, Kuthuparamba amsom, Ambilad desom, Palayi, PO Nirmalagiri.	27/05
Shinob @ Shenoj	A14	Bhaskaran	Driver	Uchummal, Haima Nivas, Palayi, Kuthuparamba amsom.	30/07

DATE OF

8.	Occurrence	:	27.01.2005
9.	Complaint	:	28.01.2005
10.	Apprehension of the accused	:	A1 to A6 - 30.01.2005 A7 to A9 - 23.08.2005 A10 - 24.08.2005 A11 to A14 - Anticipatory bail
11.	Release on bail	:	A1 - 16.03.2005 A2 - 08.03.2005 A3 - 03.03.2005

			A5 & A6 - 07.03.2005 A7 to A10 - 09.09.2005 A11 to A13 - 21.10.2005 A14 - 04.12.2007
12.	Commitment	:	10.07.2009
13.	Commencement of trial	:	01.04.2019
13A.	Commencement of evidence	:	05.07.2025
14.	Close of trial	:	20.04.2026
15.	Sentence/Order	:	27.04.2026
16.	Service of copy of judgment or finding on Accused	:	27.04.2026
17.	Explanation for delay	:	B Diary extract attached.
18.	Period of detention undergone during investigation, inquiry or trial for the purpose of Section 428 Cr.P.C.	:	A1 - From 30.01.2005 to 16.03.2005 A2 - From 30.01.2005 to 08.03.2005 A3 - From 30.01.2005 to 03.03.2005 A5 & A6 - From 30.01.2005 to 07.03.2005 A7 to A9 - anticipatory bail A10 - From 24.08.2005 to 09.09.2005 A11 to A14 - anticipatory bail

Additional Sessions Court-IV,
Thalassery, Dated:27.04.2026.

sd/-
ADDITIONAL SESSIONS JUDGE- IV

IN THE COURT OF SESSIONS, THALASSERY

Present:- Sri. Vimal. J, Additional Sessions Judge-IV.
Monday, the 27th day of April, 2026/ 8th Vaisakha, 1948.

SESSIONS CASE No.442/2009

[Sri.C.D.Joy, Judicial First Class Magistrate-I, Kuthuparamba.
in C.P. No.10 of 2009 –Cr. No.40/2005 of
Kuthuparamba Police Station]

Complainant : State : (SHO, Kuthuparamba Police Station)
Prosecution Conducted by Smt. Reshma. A,
Addl.Public Prosecutor, Thalassery.

Accused:

A1	:	Kootteri Govindan Nambiar, S/o.Kunjambu Nambiar, aged 56/05, Madhavi Sadan, Kannavam, Thodeekkalam.
A2	:	G.James, S/o.Ummachan, aged 28/05, Korapparambu House, Kuthuparamba Desam, Naravoor Desom.
A3	:	P.Prabheesh, S/o.Prabhakaran, aged 29/05, Prabhina Nivas, Manantheri amsom, desom.
A4	:	Elancheri Murali @ Muraleedharan, S/o.Kumaran, aged 29/05, Pareri House, Kuthuparamba amsom, Palapparamba.
A5	:	Uchummal Maroli Suhas, S/o.Mukundan, aged 27/05, Maroli House, Kuthuparamba amsom, Palapparamba.
A6	:	Eekkilisseri Sunilkumar, S/o.Kumaran, aged 24/05, Puthan Purayil House, Kuthuparamba amsom, Palapparamba.
A7	:	Keloth Roopesh, S/o.Karunan, aged 26/05, Sree Nilayam, Kuthuparamba amsom, Aambilad desom, Palapparamba.
A8	:	Kallummal Jayesh, S/o.Krishnan, aged 24/05, Kallummal House, Kuthuparamba amsom, Aambilad.
A9	:	Parappa Ratheesh @ Ratheesan, S/o.Chathukkutty, aged 24/05, Aiswarya Bhavanam, Kuthuparamba amsom, Aambilad desom, Palayi.

A10	:	Kalliyar Ratheesh Kumar, S/o.Raghavan, aged 26/05, Kalliyar Veedu, Kuthuparamba amsom, Ambilad desom, Palaparambu.
A11	:	K.Suresh Kumar @ Mani, S/o.Mani, aged 27/05, Kuthuparamba amsom, Ambilad desom, Chundakkadu Paramba, Palaparambu.
A12	:	Thuluvan Rajeevan, S/o.Thuluvan Ravi, aged 28/05, Raj Nivas, Palaparambu, Kuthuparamba amsom, PO Nirmalagiri.
A13	:	Thaikkandy Vineesh, S/o.Sreedharan, aged 27/05, Thaikkandy House, Kuthuparamba amsom, Ambilad desom, Palayi, PO Nirmalagiri.
A14	:	Shinob @ Shenoj, S/o.Bhaskaran, aged 30/07, Uchummal, Haima Nivas, Palayi, Kuthuparamba amsom.

Accused defended by : Adv.C.K.Sreedharan & Adv P.Premarajan
Charge : U/ss.143, 147, 148, 448, 452, 427 & 436 r/w Sec.149 of IPC, and Sec.396 and 302 of IPC
Plea of the accused : Not guilty.
Finding of the Judge : Not guilty.

Sentence/Order	:	<ol style="list-style-type: none"> 1. <i>The accused are found not guilty for the offences punishable under Section 143, 147, 148, 448, 452, 427, and 436 read with Section 149 of IPC, and Sections 396 and 302 of IPC and are acquitted of the said offence under Section 235(1) of Cr.P.C.</i> 2. <i>The bail bond of the accused stand cancelled.</i> 3. <i>The case against Elancheri Murali @ Muraleedharan (A4) is pending as LPC No.8/2019 in Additional District Court-II, Thalassery.</i> 4. <i>The CMO of this court shall preserve all records, documents, and material objects, since the same will be essential for the trial against the absconding accused Elancheri Murali @ Muraleedharan (A4).</i> 5. <i>The District Legal Services Authority shall, award compensation to PW14 Vineetha.C.K, daughter of the victim Balan Nambiar under the Victim Compensation Scheme in terms of Section 357A of the Code of Criminal Procedure. Send a copy of the order to DLSA.</i>
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J U D G M E N T

The accused persons are chargesheeted by the Dy.S.P Crime Branch in Crime No.40/2005 of Kuthuparamba Police Station [404/CR/KNR/05 of CBCID Kannur] for offences punishable under Sections 143, 147, 148, 448, 452, 427, and 436 read with Section 149 of the Indian Penal Code, and Sections 396 and 302 of the Indian Penal Code.

2. The prosecution case is that on 27.01.2005, at about 23:30 hours, at Koottikunnu, the accused formed themselves into an unlawful assembly and in prosecution of the common object of such assembly, criminally trespassed into House No. 198/2/1, by name 'Tapasya', and committed rioting while being armed with deadly weapons. The accused caused damage to the household articles therein using hammer, iron rods and wooden sticks which caused a loss of Rs.26,254/-. It is further alleged that the accused committed dacoity of 15 sovereigns of gold ornaments and cash amounting to Rs.25,000/-. Further, it is alleged that A3 attacked the deceased, Balan Nambiar, with a iron pipe, and A2 attacked him with an iron rod on his head, thereby causing his death. Thus, the accused are alleged to have committed the aforesaid offences.

3. After the incident the assailants fled from the scene of occurrence in a Tata Sumo car. The injured, Balan Nambiar, was not conveyed to hospital forthwith. He was taken to the hospital the next day on 28.01.2005 at about 06:00 hours, to Christuraj Hospital, Kuthuparamba. In view of the serious nature of the injuries sustained by the victim, Balan Nambiar, the doctor advised that he be shifted to a hospital where a neurosurgeon was available. Accordingly, he was shifted to the Thalassery Co-operative Hospital. Ext.P15 is the wound certificate issued by PW11, Dr. Prajish, RMO, Thalassery Co-operative Hospital. The injured Balan Nambiar was examined there at about 10:15 hours on 28.01.2005. Thereupon, he was shifted to AKG Memorial Hospital, Kannur, for specialised treatment, where he was admitted

at about 12:35 hours on the same day. Dr.Premkumar (PW15), the neurosurgeon at AKG Memorial Hospital, treated the patient. At the time of admission, the patient was unconscious and CT scan of the brain revealed multiple clots within the skull. Therefore, an emergency neurosurgical procedure was performed for evacuation of the clot. However, during the post-operative period, the patient developed pneumonia, which resulted in deterioration of his health condition, due to aggravation of his renal complications and diabetes. He also underwent tracheostomy on 04.02.2005 due to the lung infection. Despite these interventions, the condition of the patient continued to deteriorate, and he was declared dead on 05.02.2005 at about 18:45 hours. Dr.Premkumar issued Ext.P21 treatment certificate.

4. The investigation of the case commenced with the recording of the first information statement of PW14 Vineetha on 28.01.2005 at about 16:00 hours at AKG Hospital by Sri.Padmanabhan, Assistant Sub-Inspector, Kuthuparamba Police Station. As per Ext.P18 FI Statement, Sri.Pradeep Kumar (PW22), Circle Inspector of Police, Kuthuparamba Police Station, registered Ext.P30 FIR on the same day at 18:15 hours. PW22 commenced investigation of the case on the same day. He proceeded to the scene of occurrence and prepared Ext.P2 scene mahazar. As per Ext.P2 scene mahazar, PW22 recovered MO5 wooden stick and MO6 iron pipe from the spot. MO7 damaged telephone, MO8 computer case, MO10 broken marble pieces, MO11 damaged wooden furniture, MO12 steel mug, MO13 glass pieces of a dining table, MO14 and MO15 shattered window glass pieces, MO16 lock of a cabinet, MO17 damaged water pipe, MO18 ashes of burnt materials, and MO20 lock and damaged parts of a television were also recovered as per Ext.P2 from the scene of occurrence. These material objects were produced before the court as per Ext.P31 property list dated 29.01.2005. PW22 arrested A1 to A6 on 31.01.2005, as per Exhibits P32 to P43 arrest and inspection memos. Pursuant to the disclosure statement of A5, recovery of MO1 to MO3 iron rods and MO4 axe was effected as per Ext.P6 recovery mahazar. The aforesaid weapons were produced before the court

as per Ext.P44 property list dated 05.02.2005.

5. The subsequent part of the investigation was conducted by Sri Madhusudhanan (PW17.), Circle Inspector of Police, Kuthuparamba Police Station. Upon receiving intimation of the death of Sri Balan Nambiar on 05.02.2005, PW17 Sri.Madhusudhanan proceeded to AKG Hospital and conducted inquest proceedings on 06.02.2005. He issued Ext.P1 inquest report. The remaining part of the investigation was conducted by CW-39, Sri K. K. Sunil Babu, the then Circle Inspector of Police, Kuthuparamba Police Station. He filed Ext.P52 report dated 23.08.2005 before the Learned Magistrate, arraigning A7, A8, and A9 as accused. CW-39 also recorded the arrest of A7, A8, and A9 on 23.08.2005 as per Ext.P46 to Ext.P51 arrest memos and inspection memos. He recovered an iron rod based on the confessional statement of A7 as per Ext.P3 recovery mahazar. Ext.P3(a) is the confession extract. CW39 subsequently arrested A10 on 24.08.2005 as per Ext.P53 arrest memo and Ext.P54 inspection memo. Thereafter, the investigation of the case was handed over to Crime Branch CBCID, Kannur, as per Ext.P27 report dated 10.10.2005. CW-14, Sri.Krishnan Nair, DYSP, CBCID, conducted the remaining part of the investigation. He seized Ext.P9 passbook of PW-14 Vineetha as per Ext.P20 seizure mahazar. He filed Ext.P28 report before the court on 14.03.2007. As per the said report A11, A12, A13, and A14 were arrayed as accused. Sri Ratheesh Krishnan (PW21), DYSP, Crime Branch, CBCID, Kannur (PW-21) conducted further investigation from 11.06.2007 and thereafter filed the charge sheet against the accused persons.

6. The final report was filed against the accused before the Court of the Judicial First Class Magistrate-II, Kuthuparamba. The learned Magistrate, having taken the case on file as C.P. No.46 of 2018, and being satisfied that the offences alleged were exclusively triable by the Court of Session, committed the case to the Hon'ble Sessions Court, Thalassery, under Section 209 of the Code of Criminal

Procedure. The case was thereafter transferred to this Court for trial and disposal. Having considered the materials on record, this Court was of the view that there were sufficient prima facie materials to frame charges against the accused. Therefore, charges were framed by my learned predecessor for the aforementioned offences. The same was read over and explained to the accused. The accused pleaded not guilty and claimed to be tried.

7. The prosecution examined PW1 to PW22, and Exts.P1 to P26 were marked. MO1 to MO21 material objects were also marked. Exts.D1 to D2 were also marked. CW2, CW4, CW18, CW21, CW23, CW24, CW27, CW39 and CW40 were no more and therefore they could not be examined before the court. CW3, CW6, CW7, CW8, CW9, CW10, CW26, CW35, CW36 were given up by the prosecution. After the completion of prosecution evidence, all the accused except A4 were examined under Section 313(1)(b) Cr.P.C. The accused denied all the incriminating circumstances appearing in evidence against them. A4 was absconding during the trial proceedings and therefore the case against A4 was split up and pending as LPC No.8/2019. The accused filed a statement contending that they have been falsely implicated in the above case. Heard the learned Public Prosecutor and the learned counsel for the accused under Section 232 of the Cr.P.C. As this is not a case where there is a complete absence of evidence against the accused, they are therefore not entitled to an order of acquittal under section 232 of Cr.P.C. Therefore, the accused were called upon to enter their defence. The defence, however, did not examine any witnesses.

8. Heard the learned public prosecutor, and the learned counsel for the accused person.

9. The following points arise for consideration:-

1. *Whether the death of Balan Nambiar was homicidal in nature, and whether it was the direct result of the injuries allegedly inflicted*

during the occurrence?

2. *Whether the prosecution has proved that on 27.01.2005 at about 23:30 hours, the accused persons formed themselves into an unlawful assembly at Koottikunnu and in prosecution of the common object of such unlawful assembly, committed criminal trespass into the residential house "Tapasya"?*
3. *Whether the prosecution has proved that the accused persons committed mischief and caused damage to the household articles, resulting in loss of Rs.26,254/-?*
4. *Whether the prosecution has established that the accused committed the offence of dacoity by robbing gold ornaments and cash from the house?*
5. *Whether the prosecution has proved that the accused committed mischief by fire or explosive substance?*
6. *Whether the prosecution has proved that A2 and A3 inflicted injuries on Balan Nambiar with deadly weapons, in furtherance of the common object of the unlawful assembly and caused his death?*
7. *Whether the prosecution has proved that the accused committed the offence under section 143, 147, 148, 448, 452, 427, 436 read with 149 IPC and section 396 and 302 IPC?*
8. *What order or sentence?*

10. **Point No.1:** The first issue that arises for consideration is regarding the cause and nature of death of Balan Nambiar. The court has to consider whether his death on 05.02.2005 at AKG Memorial Hospital, eight days after the alleged assault on the night of 27.01.2005, was homicidal and attributable to the injuries sustained in the said occurrence.

11. The learned counsel for the accused would vehemently contend that, even though the incident happened on 11.30 p.m., the injured person was shifted to the hospital only the next day at 06.00 a.m. Therefore, it is contended that the death of Balan Nambiar cannot be directly attributed to the alleged assault that happened at 11.30 p.m., in the previous night. It is further contended that the deceased was suffering from multiple pre-existing ailments, and that subsequent complications such as pneumonia and infection could have independently caused the death, thereby breaking the chain of causation.

12. I am unable to accept the aforesaid contentions raised by the accused. When the death results from subsequent medical complications directly flowing from the injury inflicted, the accused cannot contend that he has not caused the death and that his liability must be confined to a lesser offence. In ***Yohannan v. State (1958 KLT 273)*** the Hon'ble High Court of Kerala considered a similar question. That was a case where a person stabbed his wife with a pen knife. The victim died six months after the occurrence. The immediate cause of death was asthenia from cystitis and trophic changes caused by the injury to the spinal cord. It was held that the death from cystitis and bed sores was the direct result of the paralysis that was caused by the inflicted injury. His Lordship Justice Raman Nayar, observed that in law it does not matter that the death is from a secondary cause so long as that secondary cause is a natural consequence of the injury inflicted. Where the intention to cause death is clearly made out it does not matter that death was caused not, in the language of the medical books, directly, but by a chain of consequences, each flowing upon the other in the processes of nature and not being an unexpected complication causing a new mischief. The chain of causation is direct, and the intention to cause death being established, the accused is guilty of nothing short of murder.

13. In ***State of Kerala v. Narayanankutty (1980 KLT 908)*** the Hon'ble High Court of Kerala was considering a case where death resulted after 11 days due to intracerebral sepsis as a result of contact with soil. In that case, the accused had

inflicted a blow on the head of the deceased with the blunt side of a spade, which resulted in a lacerated wound in the right temporo-parietal region accompanied by a depressed fracture of the skull. The Trial Court found that the death was not the direct result of the head injury. However, the Hon'ble High Court of Kerala disagreed with that said view and observed as follows:

14. An injury may lead to death. Death may be instantaneous or may be delayed. The injury may lead to shock, excessive bleeding, coma, syncope etc. and cause death; in such a case injury and death have a clearly perceptible and direct nexus and there will be no difficulty in finding that death is the direct result of injury. The decision may not be so easy in a case where death is caused not directly by the injury itself but due to a complication or development or in a case where death is not instantaneous but is delayed. Where death is delayed or due to a later complication or development, court has to consider the nature of the injury, complication or development and attendant circumstances. If the complication or development is the natural or probable or necessary consequence of the injury and if it is reasonably contemplated as its result, the injury can be said to have caused death. If, on the other hand, the chain of consequences is broken or if there is unexpected complication causing new mischief, the relation of cause and effect is not established or the causal connection is too remote and the injury cannot be said to have caused death. If the original injury itself is of a fatal nature, it makes no difference that death is actually caused by a complication naturally flowing from the injury and not the injury itself, since causal connection is proximate.

15. The injury caused to Janu Amma was a very grave injury. In the words of PWs 10 and 15, the injury led to a comminuted, depressed

fracture, laceration of brain tissue, tear of dura mater and active bleeding with cerebral haemotoma. According to them the injury was sufficient in the ordinary course of nature to cause death. The development of intra cerebral sepsis or brain abscess could be due only to contamination. The evidence of PW 15 shows that this was a complication of the injury. Contamination was the direct result of the injury because of the laceration of the brain tissue and tear of dura mater. This supervening complication was the consequence which naturally flowed from the injury. Therefore we have no hesitation to conclude that the head injury caused death of Janu Amma

14. In light of the principles laid down in ***Yohannan v. State (1958 KLT 273)*** and ***State of Kerala v. Narayanankutty (1980 KLT 908)***, the position of law is clear to the effect that if death follows as a result of natural and probable consequence of the injury, the chain of causation is not broken merely because death was delayed or because complications intervened. It means consequences that follow in the ordinary course of events are reasonably foreseeable. For example if a person stabs someone in the chest, piercing the lung. The victim develops pneumonia from the collapsed lung and dies three weeks later. Is the pneumonia a "natural and probable consequence" of the stabbing? Of course it is. Pneumonia is a recognized complication of chest wounds. It occurs in the ordinary course of such injuries. Therefore, even if death is caused by secondary complications such as infection, pneumonia, sepsis, or other medical complications attributable to the injury inflicted, the legal nexus between the injury and death stands established. Further, it is also necessary that such complications arise in the ordinary course of nature.

15. So long as the intervening developments are neither independent nor unexpected, but are the direct and foreseeable outcome of the injury inflicted, the act of the accused remains the proximate cause of death. For instance let us visualise a

situation where a person pushes someone and that person falls and break his arm. That person while crossing the car park of the hospital is struck by a lightning and killed. The lightning strike is not a natural and probable consequence of the push. It is a highly unusual and unforeseeable event that breaks the chain of causation. If someone deliberately murders the victim while recovering from the injury in the hospital, that would definitely break the chain and the accused who caused the original injury is not liable for committing murder. Similarly if the victim refuses treatment for irrational reasons, or does something deliberately self-destructive, it may break the chain. The aforesaid illustrations demonstrate certain situations that constitute truly independent acts, not arising from or flowing from the injury. The chain of causation is broken only when something truly independent, unexpected, and overwhelming intervenes, which makes the original injury merely part of the background history rather than the real cause of death. Infection, sepsis, pneumonia, organ failure are all recognized complications of serious injuries which occur in the ordinary course.

16. Hence if you inflict an injury, and death follows in the natural course of events, you are responsible. You cannot complain that the victim was weak, or that complications arose, due to treatment or that death was delayed. The complications such as infection, sepsis, or organ failure arising in the ordinary course of nature from the injury inflicted are natural and probable consequences of the said act.

17. The deceased Balan Nambiar admittedly was not a healthy man. He had high blood pressure, diabetes, kidney problems, and heart disease. After the assault on head he developed a clot. The clot developed only due to the assault on head. The clot has to be removed, otherwise it would have caused death. The operation to remove the clot precipitated the pneumonia and lung infection. The right question that should be asked in the present case is whether Balan Nambiar would have died, but for the assault? The answer is definitely no. The evidence shows that on

27.01.2005, Balan Nambiar was at home, living with his chronic conditions. Eight days after the attack on his head, he died. What intervened? The blow on the head causing subdural bleeding, surgery, complications and resultant death. If the assault had not occurred, Balan Nambiar would not have died on 05.02.2005. Therefore the contentions raised in this regard cannot be accepted.

18. PW11 Dr. R.Prajeesh at the time of the incident was working as Resident Medical Officer at Thalassery Co-operative Hospital. He deposed that on 28.01.2005 at 10:15 AM, he examined a person named Balan Nambiar aged 78 years old. PW11 further deposed that at the time of examination, Balan Nambiar was in a drowsy state but was arousable. He stated that the CT scan examination of his brain was conducted. The CT scan revealed acute left temporo-frontoparietal subdural hematoma with mass effect and midline shift and bleeding in the head. He further deposed that two contusions were observed on Balan Nambiar's body - one on the head and the other on the right hand. He issued Ext. P15 injury certificate.

19. PW9 Gopalakrishna Pillai is the forensic surgeon. He was working as Professor of Forensic Medicine at Pariyaram Medical College. He conducted the post-mortem examination of Balan Nambiar at Academy of Medical Sciences, Pariyaram on 06.02.2005 between 3:45 p.m and 4:45 p.m and thereafter issued Ext.P.13 post-mortem certificate. In Ext. P13, PW9 noted the following ante-mortem injuries on the deceased:

1. A horizontal tracheostomy wound on the front of the neck (surgical).
2. An inverted 'V'-shaped sutured wound, measuring 22 cm in length, on the left side of the head, with the anterior end situated 6 cm above the mid-point of the left eyebrow and the posterior end just above the upper part of the left ear. On dissection, the scalp tissues over the left and posterior aspects of the head were found contused. A segment of skull bone measuring 10 × 10 cm from the parieto-temporal region had been

surgically removed, with evidence of six burr holes at its margins, and was loosely replaced. The dura mater was sutured. There was a small extradural clot, a laceration of the parietal lobe measuring 4 × 3 cm, contusion of the left temporal pole, and subdural as well as subarachnoid haemorrhage involving the entire left hemisphere of the brain.

3. A contusion measuring 10 × 8.5 cm on the outer aspect of the right upper arm, located 5 cm above the elbow.

20. Thus, PW9 has noted laceration of brain tissue and subdural and subarachnoid haemorrhage. PW9 categorically opined that the clinical and post-mortem findings were consistent with death due to respiratory complications arising as a result of blunt violence sustained to the head. He stated that the injuries found on the deceased's body could not be caused by MO1 , MO2, MO3, and MO4 weapons. However, he opined that the injuries, particularly injury Nos. 2 and 3, could have been caused by a wooden stick (MO5), and that injury No.3 could possibly be caused by MO6 iron pipe. There is no reason to disbelieve the evidence of PW9 regarding the nature of the injuries or the weapon used. The testimony of PW9 confirms that the victim's death resulted from the injuries mentioned in Ext.P13 post-mortem report. The evidence of PW9 coupled with Ext.P13 clearly proves that the deceased died as a result the respiratory complications arising as a result of blunt injury sustained on the head. Therefore, the injuries sustained by deceased on 27.01.2005 were the direct, proximate, and operative cause of his death. Accordingly, it is concluded that the death of Balan Nambiar was homicidal in nature and attributable to the said assault. Therefore, this point is answered accordingly

21. **Point No.2 to 7:-** These points are considered together for the sake of convenience. PW1 K. Balakrishnan stated that at the time of the incident, he was residing at a place called Nirmalagiri. He deposed that upon learning about the death of Balan Nambiar, he went to AKG Hospital. He further stated that he signed as a

witness in Ext.P1 inquest report.

22. PW2 Kunhiraman Nambiar deposed that he was residing in Payam Village. He stated that his daughter Sreevidhya (CW3) was married to the son of the deceased Balan Nambiar. He further deposed that on 29.01.2005, he witnessed the investigating officer examining Balan Nambiar's house and inspecting the damaged items. He stated that he signed as a witness in the Ext. P2 document prepared for this purpose.

23. PW4 P. Rajesh stated that at the time of the incident, he was residing at Mooriyattu at Kuthuparamba. He deposed that on 05.02.2005 at about 03:00 p.m, he had gone to inquire about stones at Valiya Velicham red stone laterite quarry. At that time, he saw a police vehicle proceeding towards a cashew plantation. He further deposed that a person named Muralidharan (A4) pointed out a Tata Sumo car bearing registration number KL-13C-7668 to the police. The police prepared Ext. P5 mahazar and seized the vehicle into custody. He signed as a witness in Ext.P5 mahazar. PW4 would further depose that subsequently, the police brought down the A5 Suhas from the police vehicle and took him to the cashew plantation. He witnessed A5 retrieving and handing over three iron rods and an axe that had been concealed. He identified MO1, MO2, MO3, and MO4. He stated that he and Vinod signed as witnesses in the mahazar prepared with regard to the seizure of weapons.

24. PW5 stated that at the time of the incident, he was residing at a place called Vattappara. He deposed that during the relevant period, he owned a Tata Sumo vehicle bearing number KL-13C-7668. He stated that the vehicle was purchased from a person named Aboobacker in Chokkli, and that the word "DREAMS" was written on the front glass of the vehicle.

25. PW6 deposed that at the time of the incident, he was residing near Ambilattu Nettoor Komathu temple. He stated that he was operating a granite quarry near Ayesha Company at Palaparambu. He further stated that all the workers in the

quarry were from Tamil Nadu.

26. PW7 Bijunath stated that at the time of the incident, he was working as Manager at Mahindra Finance, Thalassery Branch. He deposed that as requested by the investigating officer, he produced the Ext.P11 account statement regarding the loan account details of a person named Muralidharan(A4). PW7 further deposed that Muralidharan had taken a loan of Rs.2,10,000/- to purchase a Maruti Omni van bearing number KL-13-N-3269, and had additionally paid Rs.38,273/- as advance payment to the branch. He stated that Rs.2,48,273/- was given to the dealer and the vehicle was handed over to him. He further stated that the loan was taken during the 2005 period.

27. PW8 Manoharan deposed that at the time of the incident, he was in charge as Kuthuparamba Municipal Secretary. He stated that as requested by the investigating officer, he issued Ext.P12 ownership certificate relating to building number 1/198(2) of Kuthuparamba Municipality.

28. PW12 stated that at the time of the incident, he was working as Executive Engineer in Thalassery Building Division. He deposed that as requested by the investigating officer, he assessed the damage to the building involved in the incident. He issued Ext. P16 report assessing the damages. As per Ext.P16, the total damage sustained was Rs.26,254/-.

29. PW18 Murugan is a native of Salem. PW18 would depose that before 2005, he was working at Rajettan's quarry at Palaparambu, Kuthuparamba. He stated that Raju and Rajendran were also working in the same quarry along with him. PW18 further stated that usually after finishing work, they would leave the work materials there and go to their residence. He deposed that on 28.01.2005, the iron rods and hammer were missing from the worksite. He had informed this matter to the employer, and later the hammer was found in a forest near the gate.

30. PW19 Rajendran is also a native of Tamil Nadu. At the time of the incident, he was working in a quarry at Palaparambu, Kuthuparamba. He stated that one Rajettan was the owner of the quarry. PW19 further stated that the hammer was recovered by the police. The police seized the hammer as per Ext.P23 mahazar. He and Raju signed as a witness in Ext.P23 document. He signed in Ext.P23 mahazar at the quarry, during the 2005 period. He does not remember the exact date on which he signed Ext.P23 mahazar. He identified MO19 hammer.

31. In the present case, the recovery of MO1 to MO4 iron rods does not in any manner advance the case of the prosecution. The evidentiary value of a recovery effected under Section 27 of the Evidence Act is dependent upon the ability of the prosecution to connect the weapon so recovered with the crime. In the present case, such a nexus is absent. The recovery is stated to have been effected as per the disclosure statement of A5 Suhas. However, the medical evidence completely rules out any attack using MO1 to MO4 iron rods as alleged by the prosecution. PW9 Dr. Gopalakrishna Pillai, the post mortem doctor has categorically deposed that MO1 to MO4 weapons could not have caused the injuries sustained by the deceased. This medical evidence strikes at the root of the prosecution case regarding the use of iron rods and axe. When the alleged weapons are incompatible with the injuries sustained by the deceased, the recovery of these weapons loses its probative value. Further, there is no evidence whatsoever linking the recovered iron rods with the occurrence. There is no bloodstain analysis, forensic linkage, or other scientific evidence linking MO1 to MO4 with the incident. Therefore, the recovery of MO1 to MO4 iron rods is of no evidentiary value.

32. Hence the only evidence that remains on record is the evidence of PW14 Vineetha. The question that arises for consideration is whether the evidence of PW14 is reliable and can be safely acted upon without any corroboration. Before adverting to the merits, it is necessary to refer to the observations of Sarkaria J. in ***Hari Obula***

Reddy v. State of Andhra Pradesh, AIR 1981 SC 82, which lays down the principles dealing with the appreciation of evidence of an interested or partisan witness. It was observed that while appreciating the evidence of a witness, no rigid rule can be prescribed. However, when evaluating the testimony of an interested or partisan witness, the Court may consider whether the presence of such witness at the scene of occurrence at the relevant time is probable. If that requirement is satisfied, the Court must then examine whether the substratum of the prosecution case narrated by the witness is consistent with the other evidence on record. The court must also consider whether the evidence is consistent with the ordinary course of human conduct, the surrounding circumstances and inherent probabilities of the case.

33. PW14 Vineetha herein is the daughter of the deceased Balan Nambiar. PW14 deposed that, during the year 2005, she was residing at the house named “Tapasya” belonging to her elder brother Vinayakumar at Koottikunnu. On 27.01.2005, as her mother was unwell, she went to the hospital at Kannur in the morning and returned home at about 16:00 hours after consulting the doctor. She stated that, at the relevant time, construction of a new house was in progress adjacent to “Tapasya”, and the work was nearing completion. At about 19:00 hours, her father Balan Nambiar received a telephone call informing him that Santhosh, son of her younger paternal uncle, had sustained stab injuries at Thokkilangadi and that the assailant was Preman. She further stated that there was prior enmity between Preman and Santhosh in connection with an earlier incident relating to damage caused to another family house named “Gokulam”, in which Preman had been a witness.

34. PW14 would further depose that at about 21:00 hours, two police personnel came to their house and enquired whether her brother Balraj was available and whether Preman had come there. She would further depose that shortly prior thereto she had noticed a white Tata Sumo vehicle bearing registration No. KL-13-C-7668 proceeding towards Ambilad. The word “Dreams” was inscribed on the front of

the vehicle. She further stated that, after the police left, the said vehicle returned and stopped in front of their house. A person from inside the vehicle shouted that they would destroy the house for sheltering Preman. She deposed that, out of fear, they locked the gate and doors and remained inside the house.

35. PW14 would further depose that at the time of the incident, Balan Nambiar, her mother, her two children Vaishnav and Malavika, her brother's wife Sreevidhya and their son Siddharth alone were present at the house. At about 23:00–23:30 hours, while they were sleeping, she heard the family dog barking loudly. Thereupon she heard footsteps and voices of several persons approaching. According to her, the assailants broke open the grill door situated at the back of the house. They also destroyed the door and forcibly entered the house. She would further depose that A2 (Jaims), A3 (Prabeesh), A5 (Suhas), A7 (Roopesh) and A12 (Rajeevan), were part of the mob. The accused persons were armed with weapons such as iron pipes, crowbars, wooden sticks, and hammers. PW14 further deposed that when her father was being taken inside, A3 attempted to strike Balan Nambiar with an iron pipe. However, the blow landed on his forearm when she tried to pull him away. She would further depose that A2 attacked Balan Nambiar with an iron rod, causing injury near the ear. Thereupon, the accused persons started vandalising the house. They damaged the television, washing machine, furniture, telephone, and other household articles. The assailants also broke open a cabinet containing gold ornaments and cash of Rs.25,000/- and committed robbery. She further stated that documents and clothes were set on fire. She heard someone from outside shouting about avenging the death of his son. She also heard one of the assailants asking others to release cooking gas, which caused further fear. After committing the aforesaid acts, the assailants fled from the spot in the same Tata Sumo vehicle. PW14 deposed that, upon coming out, she saw her father lying on the floor with visible injuries and swelling. The injured Balan Nambiar was taken to the Christuraj hospital in the morning at about 06:00 hours and thereupon shifted to Thalassery Co-operative

Hospital. Subsequently he was shifted to AKG Memorial Hospital, Kannur, where he underwent surgery but succumbed to the injuries on 05.02.2005.

36. PW14 stated that her statement was recorded by the police at AKG Hospital on 28.01.2005. She identified Ext.P18 F.I.Statement. She also identified Ext.P19 passbook. She also identified A1 to A3 and A5 to A14 from the dock. PW14 also identified MO7 to MO18 material objects which were recovered from her house, including the broken telephone, computer parts, marble and granite pieces, furniture parts, steel utensils, glass fragments, cabinet lock, water pipe, and burnt remnants, and stated that all these were remnants of the articles destroyed during the occurrence.

37. The learned counsel for the accused would contend that the failure on part of the investigating officer to conduct a test identification parade is fatal to the prosecution case. It is argued that the investigating officer ought to have verified the truthfulness of the testimony of PW14 by conducting a test identification parade. I am of the view that mere failure of the investigating officer to conduct a test identification parade, itself is not a ground to disbelieve the testimony of PW14. The evidence of a witness cannot be rejected for the sole reason that no test identification was conducted by the investigating officer. The identification of the accused in court constitute the substantive evidence. Even if such identification is for the first time, at the trial, for that reason alone, the evidence cannot be rejected. The conduct of the Test Identification Parade is within the realm of the investigation. The failure of the investigating officer to hold a Test Identification Parade does not ipso facto render the evidence of identification of the accused in court inadmissible or vitiated. The probative value of such identification is a matter to be determined by the court having regard to the facts and circumstances of each case. The Hon'ble Supreme Court in the case of ***Malkhansingh and Others v. State of Madhya Pradesh (2003) 5 SCC 746*** considered the necessity of conducting a Test Identification Parade and held as

follows:

"7.The facts, which establish the identity of the accused persons, are relevant under section 9 of the Evidence Act. **As a general rule, the substantive evidence of a witness is the statement made in court. The evidence of mere identification of the accused person at the trial for the first time is from its very nature inherently of a weak character. The purpose of a prior test identification, therefore, is to test and strengthen the trustworthiness of that evidence. It is accordingly considered a safe rule of prudence to generally look for corroboration of the sworn testimony of witnesses in court as to the identity of the accused who are strangers to them, in the form of earlier identification proceedings.** This rule of prudence, however, is subject to exceptions, when, for example, the court is impressed by a particular witness on whose testimony it can safely rely, without such or other corroboration. The identification parades belong to the stage of investigation, and there is no provision in the Code of Criminal Procedure, which obliges the investigating agency to hold, or confers a right upon the accused to claim, a test identification parade. They do not constitute substantive evidence and these parades are essentially governed by section 162 of the Code of Criminal Procedure. **Failure to hold a test identification parade would not make inadmissible the evidence of identification in court. The weight to be attached to such identification should be a matter for the courts of fact. In appropriate cases it may accept the evidence of identification even without insisting on corroboration.** (See *Kanta Prashad vs. Delhi Administration* :AIR 1958 SC 350; *Vaikuntam Chandrappa and others vs. State of Andhra Pradesh*: AIR 1960 SC 1340 ; *Budhsen and another vs. State of U.P.* : AIR 1970 SC 1321 and *Rameshwar Singh vs. State of Jammu and Kashmir* : (1971) 2 SCC 715).

38. Therefore, the identification made by PW 14 from the witness box, which is the substantive evidence, cannot be ignored for the reason that no test identification parade was conducted by the investigating officer. The evidentiary value of such identification depends on the facts and circumstances of the case. The Division Bench of the Hon'ble High Court of Kerala in ***Chandran v. State of Kerala, 1987 (1) KLT 391*** has elaborately considered the question regarding evidentiary value of identification evidence and it was observed that if an accused is known to a witness it would be a futile exercise to put him for identification. If an accused is not previously known to a witness, the investigating agency has to consider whether a test identification parade should be arranged. It furnishes to the investigating agency an assurance that the investigation is proceeding on correct lines. It also furnishes corroboration of the evidence to be given by the witness in Court at the trial. The result of the test identification parade is not substantive evidence. When a stranger witness makes identification of an accused in Court, the Court, by way of caution or prudence, seeks some assurance before accepting the identification as correct and that assurance would be available from the positive result of the test identification parade. It cannot be said that the absence of test identification parade is fatal in all cases as assurance could be available from other sources and circumstances and it cannot be held as a general principle of law that after lapse of a period, witness would, in no case, be able to identify a person whom he had seen for the first time earlier.

39. While considering the probative value to be attached to the identification evidence the court may take into account various factors such as whether the witness was having clear and unobstructed view of the incident and whether the incident happened in broad daylight or in dark night. In ***Budhsen and another v. State of U.P., AIR 1970 SC 1321***, the Hon'ble Supreme Court held that the facts which establish the identity of an accused person are relevant. The Court further held that evidence of mere identification of the accused for the first time at trial is, by its very nature, inherently of a weak character. The evidence of the witnesses should

ordinarily clarify as to how and under what circumstances he came to pick out the particular accused person and the details of the part which the accused played in the crime in question with reasonable particularity. In ***Ronny @ Ronald James Alwaris v. State of Maharashtra (1998) 3 SCC 434***, the Hon'ble Supreme Court observed that where the accused was known to the witness from an earlier period or where the witness had a chance to interact with the accused or where the witness had opportunity to observe the distinctive features of the accused, the identification evidence in the court can be accepted. In the ***State of Uttar Pradesh vs. Boota Singh and others (1979) 1 SCC 31*** the Hon'ble Supreme Court observed that the evidence of identification becomes stronger if the witness has an opportunity of seeing the accused not for a few minutes but for considerable length of time, in broad day light, when he would be able to note the features of the accused more carefully than on seeing the accused in a dark night for a few minutes.

40. In the case of ***Delhi Administration v. Bal Krishan (AIR 1972 SC 3)***, the Hon'ble Supreme Court was dealing with a case where no test identification parade was conducted and identification was made for the first time during the trial held 14 months after the occurrence. The occurrence took place at night, though two lanterns and torches were present. A large number of persons were involved in the dacoity. It was held that the identification in Court could not be relied upon. However, the Court observed that it cannot be laid down as a proposition of law that after the lapse of a long period, witnesses would, in no case, be able to identify the dacoits they had seen in the course of a dacoity committed during the night. However, the Courts will have to be extremely cautious while considering such evidence. In ***Malkhansingh (supra)***, the Supreme Court further observed that much evidentiary value cannot be attached to the identification of an accused in court where the identifying witness is a total stranger who had only a fleeting glimpse of the person identified, or who had no particular reason to remember the person concerned, especially where the identification is made for the first time in court.

41. Therefore, the settled position of law is that identification evidence, particularly when made for the first time in Court, is inherently of a weak character and must be approached with caution. Its probative value depends upon the surrounding circumstances, including the opportunity available to the witness to observe the accused, the duration and conditions of such observation, prior acquaintance, and the existence of any test identification parade. Where the witness had a clear, sustained, and unobstructed opportunity to notice the accused, or where the accused was previously known to the witness, the identification in Court may carry considerable evidentiary weight. However, in cases involving brief or uncertain observation, poor visibility, long delay, or where the witness is a stranger and no prior identification procedure was conducted, such evidence becomes unsafe to rely upon without substantial corroboration. If the identification evidence is of doubtful nature, the absence of a test identification parade becomes a relevant factor in its appreciation. In cases where a person is alleged to have committed the offence is not previously known to the witnesses, it is obligatory on the part of the investigating agency to hold a identification parade for the purpose of enabling the witnesses to identify the person alleged to have committed the offence. The absence of test identification may not be fatal if the accused is known or sufficiently described in the complaint leaving no doubt in the mind of the Court regarding his involvement. Such a parade may not be necessary in a case where the accused person is arrested on the spot immediately after the occurrence. The evidence of identifying the accused person at the trial for the first time, is from its very nature inherently of a weak character. The main consideration is whether the evidence of the witness in court regarding the identity of the accused is trustworthy.

42. I have carefully considered the identification evidence tendered by PW14 Vineetha. Having regard to the well-established principles of law aforementioned, it becomes manifestly apparent that such testimony must be subjected to cautious scrutiny. First of all, I shall deal with the question of whether the prosecution has

proved the culpability of A7 to A14. PW14, the only eyewitness examined in the present case did not initially name A7 to A14. A7, A8 and A9 were arraigned as an accused as per Ext.P52 report. A11 to A14 were added as an accused on 14.03.2007 as per Ext.P28 report. PW14 in her deposition has identified all the 13 accused persons from the dock (A4 absconding). The entire prosecution case was initiated based on Ext.P18, FI Statement of PW14 recorded on 28.01.2005 at about 16:00 hours at AKG Hospital. However, in her initial statement (Ext.P18), PW14 mentioned only the name of A1. She did not mention the names of any other accused persons in Ext.P18 F.I.Statement. PW14 merely stated that apart from A1, seven to eight other persons were also involved in the incident. The names of A2 to A6 were mentioned for the first time on 30.01.2005. The third statement of PW14 was recorded on 05.02.2005, and even then, PW14 did not mention the names of A7 to A14. It is also significant to note that PW14, in her cross-examination, admitted that when her fourth statement was recorded on 02.08.2005, she did not reveal the names of A7 to A14 or any distinguishing identification features of these accused persons. It is extremely difficult to comprehend why PW14 did not disclose the names of A7 to A14 when her statement was recorded almost six months after the incident. The prosecution cannot be permitted to contend that PW14 was under stress or, due to grief-stricken circumstances, was unable to reveal the names.

43. I am not finding any objection or fault with PW14 for not disclosing the names of A7 to A14 in her FI Statement or in her statement recorded two days after the incident on 30.01.2005. This Court also does not find any fault with PW14 for not disclosing the identity of A7 to A14 when her statement was recorded on 05.02.2005. However, it cannot be contended that even six months after the death, PW14 was still in a grief-stricken state. Therefore, the omission to name A7 to A14 even after a period of six months, when her statement was recorded on 02.08.2005, is of crucial significance. If PW14 was really aware of the involvement of A7 to A14, she would have definitely revealed the same to the Investigating Officer, at least when her

statement was recorded six months after the incident. It must be noted that PW14 in her evidence identified A7 to A14, by their names and identified them from the witness box. Therefore, nothing prevented PW14 from revealing the identity of A7 to A14 when her statement was recorded six months after the incident on 02.08.2005. There is also another aspect in the evidence of PW14 which must be taken into account. PW14 specifically stated that 7 to 8 persons entered her house and started vandalizing the household articles. According to the evidence of PW14, only 7 or 8 assailants entered the house. The other assailants were outside the house, attacking the window glasses. If so, it would be impossible for PW14 to witness the other assailants who were outside the house. The evidence of PW14 in this respect is totally improbable and inconsistent with the facts and circumstances of the case. Therefore, I am of the view that identification of A7 to A14 for the first time in court, after a gap of more than 20 years, is not of much significance. It appears that A7 to A14 have been subsequently planted as accused.

44. PW14 has also deposed that when assailants forcibly entered the house, she, along with her family members, were confined within a bedroom. From such a position, they witnessed the attack on Balan Nambiar by looking through a partially opened door. Thus, the opportunity for observation was limited, both in angle and in scope. If that be so, it is inherently doubtful that a person so placed observing events through the narrow aperture of a slightly opened door could have a clear and simultaneous view of occurrences taking place inside the central hall and also outside the house. The line of sight, by its very nature, would have been restricted to the immediate vicinity visible from within the room. Therefore, her evidence that she also witnessed the acts allegedly committed by other accused persons outside the house is not merely improbable, but is also a physical impossibility. I am of the view that this inconsistency materially affects the credibility of her testimony, and renders her version unsafe to rely upon. Having considered the aforesaid circumstances, I am of the view that the failure to conduct Test Identification Parade is significant

circumstance. It must also be noted that A7 to A14 were arrested on 23.08.2005. Admittedly, this is a case where large number of accused persons were involved. In such cases, the prosecution ought to have conducted a proper Test Identification Parade to test the veracity of the testimony of PW14, especially considering the fact that until 02.08.2005, PW14 had not disclosed the names of A7 to A14. For the aforesaid reasons, I am of the view that no reliance can be placed upon the evidence of PW14 for proving the culpability of A7 to A14.

45. The next question to be considered is whether PW14 Vineetha has previous acquaintance with the accused persons. PW14, in her evidence, asserts that several of the accused persons are previously known to her. She admits that she has prior acquaintance and familiarity with Sunil Kumar. Therefore, with respect to the accused who were previously known to the witness, the absence of a Test Identification Parade is not per se fatal to the prosecution case.

46. In the present case, more than fourteen accused persons have been put on trial. PW14 does not specify which of these accused persons were in fact previously known to her. She has not clearly specified which accused were previously known to her. She has also not explained how and in what manner she had prior acquaintance with each of them. As observed by the Hon'ble Supreme Court in ***Budhsen v. State of U.P. (supra)***, identification must be supported by clarity as to how and under what circumstances the witness could identify each accused. For instance, if the witness says that one of the accused was her neighbour, that could explain the reason for prior acquaintance. The witness can also say that one of the accused is conducting a shop at the bus stop and that she ordinarily sees him at the locality. The witness may also have familiarity with a person whom the witness regularly finds at the bus stop during the travel to the workplace. These are some of the illustrations which would demonstrate that the concerned witness attained prior familiarity with the facial features of the accused. The witness can also sufficiently describe about the accused

which may lend assurance to the evidence regarding the prior familiarity with the accused. The witness may describe the accused as the bus conductor of a particular bus in which she regularly travels, or the security guard of an apartment complex where the witness had the occasion to visit, or salesman of a supermarket where the witness regularly visits. Therefore, if PW14 has sufficiently described about the manner in which she had acquired familiarity with the accused, it would have considerably enhanced the value of her evidence. In the instant case, PW14 has merely used the expression “കണ്ടാൽ അറിയാം”, which is equivalent to “known by sight”. This evidence of PW14 is totally ambiguous and vague. It does not establish how she became familiar with the face or names of the accused, other than A1. The evidence of PW14 does not disclose whether the alleged prior acquaintance arose from regular interaction, proximity of residence, or any other sustained or special association with the accused persons. In view of the aforesaid discussion, the evidence to the effect that PW14 had previous acquaintance with the accused cannot be countenanced. Hence no credibility can be placed on such evidence.

47. In the present case, specific overt acts have been attributed only to three of the accused persons. It is stated that A1, from outside the house, was shouting that after killing his son, he would not allow them to have a good night's sleep. The overt acts are also attributed against A2 and A3. PW14 has not attributed any overt act to any of the other accused persons. If PW14 had witnessed any distinguishing act committed by the accused persons, the same would have resulted in a lasting impact on her memory. However no specific overt act has been attributed to 11 of the accused persons. For this reason also, the identification evidence of PW14 is inherently weak in nature. The identification of the accused persons who committed no overt act after a period of more than 20 years, is inherently weak in nature.

48. The defence has raised certain contention touching upon the conduct of PW14 in deliberately evading the process of the court. It is argued that PW14 had

willfully disobeyed summons to get herself acquainted with the facial features of the accused. It is further argued that whenever PW14 was present before the court for seeking adjournment she was accompanied by a battery of relatives. This, according to the defence, was intended to assist her in identifying the accused. It must be noted that the case had been previously posted for trial; however, the trial could not be commenced due to the repeated absence of PW14. The presence of PW14 could be secured only after the issuance of repeated non-bailable warrants and after the initiation of coercive steps under Section 82. It is also an admitted fact that although PW14 was cited as the first witness (CW1) in the witness list, she remained continuously absent and failed to co-operate with the trial process. Finally on 02.09.2025, when the case was posted for examination it was reported that PW14 was present in the court premises. However, it was submitted by the Public Prosecutor, and the husband of PW14, that she was unwell, and an adjournment was sought. The matter was thereupon adjourned to 10.09.2025. On that day, PW14 was personally present before the court. However she personally sought an adjournment on the ground that she was feeling unwell. The defence has a specific case that PW14 deliberately remained absent from Court in order to facilitate tutoring and to enable her to identify the accused persons in dock. It is contended that the intention behind seeking adjournment is to recognise the accused persons from court premises with the assistance of her relatives and duty police officers. I refrain from making any comments on the aforesaid conduct of PW14. However, it is enough to say that this circumstance, taken cumulatively with other circumstances, casts reasonable doubt on the reliability of identification of all 13 accused persons by PW14.

49. There are also other aspects which cause serious doubts regarding the identification of all 13 persons. The alleged incident admittedly happened at 11.30 p.m. at night. According to PW14, there were a large number of assailants who forcibly entered into the house and started destroying the household articles. It must also be noted that A1's son, Preman, was stabbed to death on the same day, and there

was by her own admission, an atmosphere of fear and terror prevailing among the family members present inside the house. PW14 herself admits that soon after the assailants broke open the door and entered the central hall she went inside a room with other female members and children and locked themselves up inside the room. Further, in cross-examination, PW14 admits the following facts:-

- i. That she did not see the accused who broke the grill or the door.
- ii. That she cannot attribute specific overt acts to any of the assailants except A2 and A3.
- iii. That the overt acts and actions of A2 and A3 were witnessed by PW14 not under clear circumstances.
- iv. That she ran towards the bedroom and locked the door.
- v. That PW14 witnessed even the supposed overt acts of A2 and A3 secretly peeping through the hole of the door by opening the same slightly.

50. It is evident that under the above circumstances, PW14 would not be able to make a clear identification of all the accused persons by peeping through the door. The question to be considered is whether the identification made by PW14 from the court wherein she named and identified thirteen accused persons can be accepted. While considering the aforesaid aspect the court will have to consider whether PW14 was having sufficient opportunity to clearly observe the incident so as to have lasting impressions on her mind regarding the incident. Is it possible for PW14 to identify and observe each of the 14 accused at dark night under stressful and chaotic circumstances by peeping through the small opening of the door? I think the same is impossible. Is it possible for PW14 to witness the individual overt acts of 14 individuals? Is it possible for PW14 to identify a large body of individuals, without

identifying any overt acts or distinguishing or remarkable acts committed by each accused? Is it possible for PW14 to identify 14 accused persons peeping through the side door of the fully locked room under stressful circumstances? Is it possible for PW14 to identify 7 accused persons who were outside the house, since the evidence shows that she was inside the house locked inside a room? Is it possible for PW14 to identify the 7 assailants outside, when she was unable to narrate the overt acts of 7-8 accused who were inside the house indulging in vandalism? I think the answer to the above questions should be negative.

51. The specific defence case is that PW14 was residing with her husband 20 kilometers away from the scene of occurrence. PW14, during the relevant time, was a married woman with two children. PW14, in her evidence, stated that even though the incident happened on 27.01.2005, she took the deceased to the hospital on the next day at about 06.00 a.m. According to PW14, the deceased was initially taken to Christuraj Hospital at Kuthuparamba, which is situated just 300 meters away from the scene of occurrence. The aforesaid evidence of PW14 should be viewed very carefully. According to PW14, from Christuraj Hospital, the doctors therein directed that the injured be shifted to a hospital where a neurosurgeon is available. Therefore, Balan Nambiar was shifted to Thalassery Co-operative Hospital.

52. According to the testimony of PW14, they took Balan Nambiar to Christuraj Hospital by around 06.00 a.m. If so, they would have definitely reached there within 06.20 a.m. or 06.30 a.m., since the Christuraj Hospital, according to the evidence of PW14, is situated just 300 meters away from the scene of occurrence. PW14 further in cross examination admitted that she remained in Christuraj Hospital about 30 minutes. PW11 is the doctor who treated the injured Balan Nambiar at Thalassery Co-operative Hospital. He issued Ext.P15 wound certificate. The evidence of PW11 and Ext.P15 wound certificate prove that Balan Nambiar was admitted to Thalassery Co-operative Hospital at about 10.15 a.m. The distance between

Christuraj Hospital, Kuthuparamba, and Thalassery Co-operative Hospital is just 30 minutes' travel time. It is very difficult to conceive that it took three hours to travel from Christuraj Hospital, Kuthuparamba to Thalassery Co-operative Hospital in an ambulance. Hence the only plausible explanation would be that Balan Nambiar would have been admitted for 2 or 3 hours in Christuraj Hospital. That is the only plausible explanation for reaching Thalassery Hospital by around 10.15 a.m. The aforesaid explanation suggested by the prosecution can be accepted provided the medical records of Christuraj Hospital are produced. In the present case, no documents have been produced to prove that Balan Nambiar was admitted to Christuraj Hospital at Kuthuparamba. The non-production of these documents assumes significance for the reason that Balan Nambiar was shifted to the hospital only by 10.15 a.m. PW21 has investigated the case for more than one year. However, he has not produced any single document with regard to the treatment at Christuraj Hospital. No explanation is forthcoming with regard to the non-production of documents from Christuraj Hospital. The aforesaid circumstance is very much important because this probablise the case of the defence that PW14 was residing during the relevant time at her husband's house and that she came in the next morning to take Balan Nambiar to the hospital after receiving information about the incident. The aforementioned defence is actually plausible. In this context, the failure to mention the names of accused Nos.2 to 14 assumes significance. If she had witnessed the incident, it would have been natural for her to reveal the identities of all the assailants as soon as possible. This may perhaps explain the reason why they reached the Thalassery Co-operative Hospital only by 10.15 a.m.It probabilises the case of the defence that PW14 was unaware of the incident. That is why she had not mentioned the names of A2 to A14, even though she says that she had prior familiarity with these accused. PW14 Vineetha's brother Balraj wanted to marry A1 Govindan Nambiar's daughter. A1 was not amenable to the said marriage, which resulted in enmity between the two families. Govindan Nambiar's relative Santhosh

was also murdered on the same day and the police personnel had come to the house enquiring about Balraj and Preman. In such circumstances, it appears that PW14 mentioned only the name of the first accused because she suspected that A1 might have been involved in the incident. That is the only explanation for not mentioning the names of A2 to A14. The aforesaid circumstances also creates reasonable doubt regarding the presence of PW14 Vineetha at the scene of occurrence.

53. PW14 categorically deposed that she saw A2 attacking her father on the head with an iron rod and A3 attacking on the back of the ear with an iron rod. A person of ordinary prudence would know that the attack using an iron rod would inevitably result in deadly and fatal consequences. The normal course of human conduct would be to take such a person to the hospital immediately. PW9, Dr. Gopalakrishna Pillai, one of the most trained experts in medico-legal cases, categorically opined that none of the injuries sustained on the body of the deceased could be caused by an attack with a iron rod. He categorically stated that the injuries sustained by the deceased can be caused only by a wooden stick. Therefore, the evidence of PW14 regarding attack using an iron rod is to that extent disputed by the evidence of PW9, Dr.Gopalakrishna Pillai. The only plausible and rational explanation which presents itself to this Court is that Balan Nambiar may have been assaulted with a wooden stick in the head. His relatives, upon witnessing the nature of the injury, may have considered it to be of a non-serious character and may consequently have formed the opinion of conveying Balan Nambiar to hospital only the next morning, when he began to experience symptoms of vomiting and distress. This is the only rational explanation which can account for the failure to shift Balan Nambiar to the hospital immediately after the incident at 11.30 p.m. Having considered the aforesaid aspects, I am of the view that it would be extremely dangerous and unsafe to place any implicit reliance upon the testimony of PW14 Vineetha. In these circumstances, the failure to conduct a Test Identification Parade assumes significance. The incident having occurred at night, coupled with the non-

mentioning of the specific overt acts of the majority of the accused, and the omission of their names in Ext.P18, makes the subsequent identification in Court unsafe to rely upon. Having regard to the totality of the facts and circumstances, including the place and manner in which the alleged identification was made, it appears manifestly improbable that PW14 could have identified all the accused persons. Consequently, no credibility can safely be placed on her sole testimony in this regard.

54. There is yet another aspect which demands the attention of this Court. PW14 in her evidence has categorically deposed that she observed the accused A2 delivering a blow to her father's head with an iron rod. She has further sworned that she witnessed A2 attack Balan Nambiar in the back of the ear with an iron rod. However, in the present case, PW9, Dr. Gopalakrishna Pillai, being one of the most experienced and learned experts in matters of medico-legal cases, categorically opined that none of the injuries sustained upon the body of the deceased could possibly have been caused by an attack delivered with an iron rod. He stated with certainty that the injuries sustained by the deceased could have been caused only by means of a wooden stick. Therefore, the evidence of PW14 regarding the attack delivered by means of an iron rod stands contradicted and impeached by the expert medical testimony of PW9, Dr.Gopalakrishna Pillai.

55. In the present case, the prosecution case ultimately rests upon the solitary testimony of PW14 as the eye-witness. However, her evidence is vitiated by inherent contradictions on material particulars, thereby rendering it unsafe to place implicit reliance upon the same. In this factual backdrop, the non-examination of CW3 Sreevidhya assumes significance. She is, by all accounts, the most natural and probable witness. CW3 Sreevidhya is the daughter-in-law of Balan Nambiar. PW14 categorically stated that CW3 Sreevidhya is residing at the matrimonial house. The presence of CW3 Sreevidhya is also admitted by PW14 Vineetha. Therefore, CW3 Sreevidhya is the most natural witness being a resident of the matrimonial home

where the occurrence took place. Her presence at the house cannot be doubted. However, the prosecution has neither chosen to examine her nor furnished any satisfactory explanation for giving up such a witness. The failure to examine a material witness, who is both natural and available, gives rise to an adverse inference against the prosecution. The accused could therefore, quite reasonably ask the Court to give them the benefit of the presumption under Section 114 Illustration (g) of the Evidence Act and to infer that, if she had been produced, it would have damaged the prosecution case against the accused. CW3 Sreevidhya is an eyewitness to the incident. It is difficult to comprehend why the prosecution has given up an eyewitness who would have helped in unfolding the narrative of the prosecution case. In this context, it would be useful to refer to the principle laid down by the Privy Council in ***Stephen Sneviratne v. King* AIR 1936 PC 289**, with regard to non-examination of such material witness, wherein it was observed as follows:-

“Their Lordships do not desire to lay down any rules to fetter discretion on a matter such as this was is so dependent on the particular circumstances of each case. Still less do they desire to discourage the utmost candour and fairness on the part of those conducting prosecutions; but, at the same time they cannot, speaking generally, approve of an idea that a prosecution must call witnesses irrespective of considerations of number and of reliability, or that a prosecution ought to discharge the functions both of prosecution and defence. If it does so, confusion is very apt to result, and never is it more likely to result than if the prosecution calls witnesses and then proceeds almost automatically to discredit them by cross-examination. Witnesses essential to the unfolding of the narrative on which the prosecution is based, must, of course, be called by the prosecution, whether in the result the effect of their testimony is for or against the case for the prosecution.”

56. In ***Habeeb Mohammad v. State of Hyderabad*** AIR 1954 SC 51, a three judge Bench of the Hon'ble Supreme Court, considered the aforesaid decision of the Privy Council in ***Stephen Senivaratne (supra)*** and expressly approved the principles enunciated therein. Whether the examination of a witness is essential or not depends upon the facts and circumstances of the case. The question to be considered is whether the evidence of such witness is essential to unfolding the narrative of the prosecution case. In ***Narain v. State of Punjab*** reported in AIR 1959 SC 484 : (1959 Cri LJ 537), the Hon'ble Supreme Court observed as follows:-

“13. The question then Is, was Raghbir a material witness? It is an accepted rule as stated by the Judicial Committee in Stephen Seneviratne v. The King, AIR 1936 PC 289: ((1936) 37 Cri LJ 963) that witnesses essential to the unfolding of the narrative on which the prosecution is based, must, of course, be called by the prosecution”. It will be seen that the test whether a witness is material for the present purpose is not whether he would have given evidence in support of the defence. The test is whether he is a witness “essential to the unfolding of the narrative on which the prosecution is based”. Whether a witness is so essential or not would depend on whether he could speak to any part of the prosecution case or whether the evidence led disclosed that he was so situated that he would have been able to give evidence of the facts on which the prosecution relied. It is not however that the prosecution is bound to call all witnesses who may have seen the occurrence and so duplicate the evidence. But apart from this, the prosecution should call all material witnesses.”

57. In ***Takhaji Hiraji v. Thakore Kubersing Chamansing*** [(2001) 6 SCC 145], a three Judge Bench of the Apex Court held thus:-

“19. It is true that if a material witness, who would unfold the genesis of the incident or an essential part of the prosecution case, not convincingly brought to fore otherwise, or where there is a gap or infirmity in the prosecution case which could have been supplied or made good by examining a witness who though available is not examined, the prosecution case can be termed as suffering from a deficiency and withholding of such a material witness would oblige the court to draw an adverse inference against the prosecution by holding that if the witness would have been examined it would not have supported the prosecution case. On the other hand, if already overwhelming evidence is available and examination of other witnesses would only be a repetition or duplication of the evidence already adduced, non-examination of such other witnesses may not be material. In such a case the court ought to scrutinize the worth of the evidence adduced.The court of facts must ask itself — whether in the facts and circumstances of the case, it was necessary to examine such other witness, and if so, whether such witness was available to be examined and yet was being withheld from the court. If the answer be positive then only a question of drawing an adverse inference may arise. If the witnesses already examined are reliable and the testimony coming from their mouth is unimpeachable the court can safely act upon it, uninfluenced by the factum of non-examination of other witnesses.”.

58. Therefore the prosecution is not bound to examine all the witnesses, when the available evidence on record is overwhelming and the examination of other witness would only amount to repetition or duplication of evidence. However when the prosecution deliberately withheld a material witness, the court can draw an adverse inference. In the present case CW3 Sreevidhya is a material witness. She was

present with PW14 Vineetha in the house during the incident. The examination of CW3 Sreevidhya would have shed light upon the incident that transpired on 27.01.2025. CW3 Sreevidhya would have also explained whether PW14 Vineetha was actually present in the house. The defence has specifically challenged PW14's presence at the scene of occurrence. The specific case of defence was that PW14 was residing in the matrimonial house 20 kms away with her husband. Considering the defects and inconsistencies in the evidence of PW14, I am of the view that CW3 Sreevidhya's evidence would have enabled this court to ascertain if PW14 Vineetha was actually present at the scene of occurrence. The non examination of CW3 Sreevidhya assumes significance for the reason that the evidence of PW14 Vineetha the sole witness is totally discredited by the medical evidence and there are numerous gaps, omissions and inconsistencies in the testimony of PW14 Vineetha. It is beyond comprehension why the prosecution has given up CW3 Sreevidhya especially considering the nature of evidence tendered by PW14. Therefore it appears that the intention of the prosecution is to prevent inter-se contradictions and to prevent further weakening of the prosecution case. For the aforementioned reasons, I am of the view that the prosecution has deliberately and unfairly kept back CW3 Sreevidhya. On a careful consideration of the facts and circumstances of this case this court has every reason to believe that the withholding of this witness was influenced by an oblique motive and that has seriously prejudiced the accused. The explanation sought to be offered during arguments, namely that she was unwell and suffering from stammering cannot be accepted in the absence of any supporting evidence. No medical records or other documentary evidence have been produced to substantiate such a contention. In the absence of proof, the said explanation remains a bare statement which cannot be acted upon. Therefore, the non-examination of CW3, coupled with the unreliable nature of the sole eye-witness testimony of PW14, creates a serious doubt regarding in the identity of the accused.

59. The contradictions and inconsistencies hereinbefore noted must be weighed and considered in light of the fact that PW14 in her first statement, which was recorded on 28.01.2005, had mentioned only the name of A1. PW14 was well aware of the overt acts committed by A2 and A3. However, she has not mentioned the names of A2 and A3 in her initial statement. According to her own evidence, A2 and A3 are persons with whom she was well acquainted. If that be the case, it must be asked why PW14 ought not to have mentioned the names of A2, and A3 in her first statement. Even when her statement was recorded a full six months after the incident, she did not inform the investigating officer of either the names or the involvement of accused persons A7 through A14.

60. Having given the most anxious and thoughtful consideration to all the aspects and circumstances narrated hereinbefore, I am of the view that it would be dangerous and unsafe, and contrary to all principles of sound judicial reasoning, to place any reliance whatsoever upon the testimony of PW14 Vineetha. Hence, the prosecution has failed to prove the guilt of the accused persons. Hence, these points are answered against the prosecution.

61. **Point No.8:-** In view of the findings on points No.1 to 7, the accused are entitled to an acquittal.

In the result,

1. *The accused are found not guilty for the offences punishable under Section 143, 147, 148, 448, 452, 427, and 436 read with Section 149 of IPC, Sections 396 and 302 of IPC and are acquitted of the said offence under Section 235(1) of Cr.P.C.*
2. *The bail bond of the accused stand cancelled.*
3. *The case against Elancheri Murali @ Muraleedharan (A4) is pending as LPC No.8/2019 in Additional District Court-II,*

Thalassery.

4. *The CMO of this court shall preserve all records, documents, and material objects, since the same will be essential for the trial against the absconding accused Elancheri Murali @ Muraleedharan (A4).*
5. *The District Legal Services Authority shall award compensation to PW14 Vineetha.C.K, daughter of the victim Balan Nambiar under the Victim Compensation Scheme in terms of Section 357A of the Code of Criminal Procedure. Send a copy of the order to DLSA.*

(Dictated to the Confidential Assistant and typed by him, directly into the computer, corrected and pronounced by me in open court, on this the 27th day of April, 2026.)

sd/-

Addl.Sessions Judge-IV, Thalassery

WITNESSES FOR THE PROSECUTION

Rank	Name		Whether eye witness, police witness, expert witness, Medical witness, other witness
PW1.	Sri.	K.Balakrishnan	Other witness
PW2.	Sri.	Elambilal Kunhiraman Nambiar	Other witness
PW3	Sri.	Janardhanan	Other witness
PW4	Sri.	P.Rajesh	Other witness
PW5	Sri.	Naseer.P	Other witness
PW6	Sri.	Premarajan.K	Other witness
PW7	Sri.	Byjunath.M	Other witness
PW8	Sri.	Manoharan.K.K	Other witness
PW9	Dr.	S.Gopalakrishna Pillai	Medical witness
PW10	Sri.	Vinod.C	Other witness
PW11	Dr.	R.Prajeesh	Medical witness

PW12	Sri.	Jagadish.C	Expert witness
PW13	Sri.	K.Purushothaman	Police Witness
PW14	Smt.	Vineetha.C.K	Eye witness
PW15	Dr.	Prem Kumar	Medical witness
PW16	Sri.	Rajappan.P.T	Police witness
PW17	Sri.	Madhusoodanan.V	Police witness
PW18	Sri.	P.Murukan	Other witness
PW19	Sri.	R.Rajendran	Other witness
PW20	Sri.	Rahim	Other witness
PW21	Sri.	Ratheesh Krishnan	Police witness
PW22	Sri.	Pradeep Kumar	Police witness

EXHIBITS FOR THE PROSECUTION

Sl. No.	Date	Exhibit number	Description
1	06.02.2005	Exhibit P1/PW1	Inquest report
2	29.01.2005	Exhibit P2/PW2	Scene mahazar
3	31.08.2005	Exhibit P3/PW3	Seizure mahazar
4	31.08.2005	Exhibit P4/PW3	Contradiction in 161 statement of CW13
5	05.02.2005	Exhibit P5/PW4	Seizure mahazar
6	05.02.2005	Exhibit P5(a)/PW22	Confession extract
7	05.02.2005	Exhibit P6/PW4	Seizure mahazar
8	05.02.2005	Exhibit P6(a)/PW22	Confession extract
9	26.03.2005	Exhibit P7/PW5	Kacheet
10	22.03.2005	Exhibit P8/PW5	Contradiction in 161 statement of CW17
11	22.03.2005	Exhibit P9/PW5	Contradiction in 161 statement of CW17
12	21.08.2006	Exhibit P10/PW6	Contradiction in 161 statement of CW16
13	–	Exhibit P11/PW7	Loan statement (Mahindra finance)
14	15.02.2005	Exhibit P12/PW8	Ownership certificate
15	09.02.2005	Exhibit P13/PW9	Post-mortem certificate
16	05.02.2005	Exhibit P14/PW10	Contradiction in 161 statement of CW14
17	28.01.2005	Exhibit P15/PW11	Wound certificate
18	25.02.2008	Exhibit P16/PW12	Valuation report
19	31.08.2005	Exhibit P17/PW13	Observation mahazar
20	28.01.2005	Exhibit P18/PW14	FIS
21	–	Exhibit P19/PW14	Bank passbook
22	14.03.2007	Exhibit P20/PW14	Seizure mahazar (Bank passbook)
23	17.02.2005	Exhibit P21/PW15	Treatment certificate
24	24.02.2005	Exhibit P22/PW17	Site plan
25	31.08.2005	Exhibit P23/PW19	Seizure mahazar of hammer

26	31.08.2005	Exhibit P24/PW20	Contradiction in 161 statement of CW12
27	13.12.2007	Exhibit P25/PW21	Report of SBI Kuthuparamba
28	24.03.2008	Exhibit P26/PW21	Report by Assistant Engineer KSEB, Kuthuparamba
29	–	Exhibit P27/PW21	Report of the handing over of the investigation to CBCID
30	14.03.2007	Exhibit P28/PW21	Name and address adding report of A11 to A14
31	–	Exhibit P29/PW21	Accused deleting report (A15 & A16)
32	28.01.2005	Exhibit P30/PW22	FIR
33	29.01.2005	Exhibit P31/PW22	Property list
34	30.01.2005	Exhibit P32/PW22	Arrest memo A1
35	30.01.2005	Exhibit P33/PW22	Inspection memo A1
36	30.01.2005	Exhibit P34/PW22	Arrest memo A2
37	30.01.2005	Exhibit P35/PW22	Inspection memo A2
38	30.01.2005	Exhibit P36/PW22	Arrest memo A3
39	30.01.2005	Exhibit P37/PW22	Inspection memo A3
40	30.01.2005	Exhibit P38/PW22	Arrest memo A4
41	30.01.2005	Exhibit P39/PW22	Inspection memo A4
42	30.01.2005	Exhibit P40/PW22	Arrest memo A5
43	30.01.2005	Exhibit P41/PW22	Inspection memo A5
44	30.01.2005	Exhibit P42/PW22	Arrest memo A6
45	30.01.2005	Exhibit P43/PW22	Inspection memo A6
46	05.02.2005	Exhibit P44/PW22	Property list
47	05.02.2005	Exhibit P45/PW22	Section altering report (308 IPC deleted & 302 IPC added)
48	23.08.2005	Exhibit P46/PW22	Arrest memo A7
49	23.08.2005	Exhibit P47/PW22	Inspection memo A7
50	23.08.2005	Exhibit P48/PW22	Arrest memo A8
51	23.08.2005	Exhibit P49/PW22	Inspection memo A8
52	23.08.2005	Exhibit P50/PW22	Arrest memo A9
53	23.08.2005	Exhibit P51/PW22	Inspection memo A9
54	23.08.2005	Exhibit P52/PW22	Accused adding report (A7 to A9)
55	24.08.2005	Exhibit P53/PW22	Arrest memo A10
56	24.08.2005	Exhibit P54/PW22	Inspection memo A10
57	01.09.2005	Exhibit P55/PW22	Seizure mahazar of omni van
58	01.09.2005	Exhibit P56/PW22	Property list (omni van)
59	23.08.2005	Exhibit P57/PW22	Section adding & deleting report (deleted sections- 143, 147, 148, 452, 435, 302 r/w 149 IPC, Added sections - 436, 396 IPC)

WITNESSES FOR THE DEFENCE

– NIL –

EXHIBITS FOR THE DEFENCE

Sl. No.	Date	Exhibit number	Description
1		Ext.D1/PW4	Contradiction in 161 statement of PW4
2	–	Ext.D2/PW14	Contradiction in 161 statement of CW1
3	–	Ext.D3/PW14	Contradiction in 161 statement of CW1

COURT EXHIBITS

Sl. No.	Date	Exhibit number	Description
1	–	Ext.C1/PW5	CMP No.468/2005 (release tata sumo)
2	18.01.2005	Ext.C2/PW5	Agreement (Tata Sumo vehicle)
3	–	Ext.C3/PW5	RC particulars (Tata Sumo vehicle)
4	–	Ext.C4/PW5	Insurance document (Tata Sumo vehicle)
5	29.03.2019	Ext.C5/PW5	Death certificate of CW39
6	30.03.2019	Ext.C6/PW5	Death certificate of CW40
7	05.01.2024	Ext.C7/PW5	Death certificate of CW21

MATERIAL OBJECTS

1	MO1	കമ്പിപ്പാറ
2	MO2	കമ്പിപ്പാറ
3	MO3	കമ്പിപ്പാറ
4	MO4	കൈമുഴ
5	MO5	Wooden stick
6	MO6	Iron pipe
7	MO7	Damaged land phone
8	MO8	Broken pieces of computer
9	MO9	Broken pieces of granite
10	MO10	Marble

11	MO10(a)	Marble
12	MO11	കസേര കാൽ
13	MO12	ചളുങ്ങിയ സ്റ്റീൽ പാത്‌രം
14	MO13	Glass pieces of dining table
15	MO14	Glass pieces of window
16	MO15	Glass pieces
17	MO16	മേശയുടെ ലോക്ക് ഭാഗം
18	MO17	വാട്ടർ പൈപ്പ് പൊട്ടിയ ഭാഗം
19	MO18	കത്തിക്കരിഞ്ഞ ഉരുക്കിയ ചാര ഭാഗം
20	MO19	ചുറ്റിക

sd/-

ADDITIONAL SESSIONS JUDGE- IV

**IN THE COURT OF SESSION,
THALASSERY
SESSIONS CASE NO.442/2009**

J U D G M E N T

DATED :27.04.2026

To

1. The Registrar, High Court of Kerala
Ernakulam, Kochi – 682 031.
2. Judicial First Class Magistrate-I,
Kuthuparamba.
3. The District Collector, Kannur.
4. The Supdt. of Police, Kannur.
5. The Supdt., Central Prison, Kannur.
- 6 The Public Prosecutor, Thalassery.
- 7 Accused.
