

T A B U L A R F O R M

1. Serial Number : Sessions Case No.251 of 2021
2. Name of the Police Station and Crime No. of the offence : Panoor Police Station,
: Crime No. 46/1979.

DESCRIPTION OF THE ACCUSED

| 3. Name and Rank | 4.Father's/ Name | 5. Occupation | 6. Residence | 7. Age |
|------------------|---------------------|------------------|-----------------------------|-------------|
| Prabhakaran | Gopalan Nambiar | -- | Valussery House, Chambad | 65 years |

DATE OF

| | | | |
|----------|---|---|---------------------------|
| 8. | Occurrence | : | 06.04.1979 |
| 9. | Complaint | : | 06.04.1979 |
| 10. | Apprehension of the accused | : | 24.03.2020 |
| 11. | Release on bail | : | 13.04.2020 |
| 12. | Commitment | : | 24.02.2021 |
| 13. | Commencement of trial | : | 13.12.2024 |
| 13 A. | Commencement of evidence | : | 02.07.2025 |
| 14. | Close of trial | : | 23.03.2026 |
| 15. | Sentence/Order | : | 01.04.2026 |
| 16. | Service of copy of judgment or finding on Accused | : | 01.04.2026 |
| 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. | : | 24.03.2020 to 13.04.2020 |

Additional Sessions Court-IV,
Thalassery, Dated:01.04.2026

sd/-
ADDITIONAL SESSIONS JUDGE- IV

IN THE COURT OF SESSIONS, THALASSERY

Present:- Sri. Vimal. J, Additional Sessions Judge-IV.
Wednesday, the 01st day of April, 2026/ 11th Chaithra, 1948.

SESSIONS CASE No.251/2021

[Sri. P.A. Sirajudheen, Addl. Chief Judicial Magistrate, Thalassery
in C.P. No.11 of 2020 –Cr. No. 46/2079 of
Panoor Police Station]

| | |
|----------------------|---|
| Complainant | : State : (SHO, Panoor Police Station) Prosecution Conducted by Smt. Reshma. A, Addl.Public Prosecutor, Thalassery. |
| Accused | Prabhakaran, S/o. Gopalan Nambiar, aged 65 years, Valussery(H) Chambad. |
| Accused defended by | : Adv. Sri.P. Premarajan. |
| Charge | : U/s.143,148,302,324 and 4(a) of the Explosive Substance Act 1908 read with section 149 of the Indian Penal Code |
| Plea of the accused | : Not guilty. |
| Finding of the Judge | : Not guilty. |
| Sentence/Order | : <i>The accused is found not guilty for the offence under section 143, 147, 148, 324 and 302 read with Section 149 IPC and under Section 4(a) of the Explosive Substances Act, 1908, and is acquitted under section 235 (1) of Cr.P.C.The bail bond of the accused stands cancelled.The material objects shall be destroyed as per law after the conclusion of the appeal period or if any appeal is preferred, after the conclusion of such appeal.</i> |

J U D G M E N T

The accused Prabhakaran, along with 8 other persons, were arrayed as accused in the final report laid by the Detective Sub Inspector, Crime Detachment, Cannanore, for the offences punishable under Sections 143, 147, 148, 324 and 302 read with Section 149 IPC and under Section 4(a) of the Explosive Substances Act, 1908, for causing the death of Thadathil Balan and Damu.

2. The prosecution case in brief is as follows:-

In Chambadu Bazar there is a branch of Dinesh Beedi Company which is functioning in a two-storied building situated on the northern side of Panoor-Thalassery road. At about 06.30 p.m. on 06.04.1979, Preetha bus proceeding from Panoor to Thalassery stopped in front of the Dinesh Beedi Company. The accused Prabhakaran along with other accused persons alighted from the bus. Venu took a country bomb from his bag and threw it towards the building where Dinesh Beedi Company was functioning. The bomb hit against a wall of the company and exploded. Prabhakaran, Chandran, Raghavan, Karunan and other accused persons were armed with swords and dandas. They incessantly attacked Thadathil Balan and U.P. Damu. As a result of the incident, Sreedharan, Karunan, P.C. Bhaskaran, T. Balan, K. Govindan, K.K. Kannan, P. Mukundan, K.P. Rajan, Kunhiraman and P. Chandran also sustained injuries. After the attack, the assailants left the place after blasting country bombs. After the assailants left, the injured persons were taken to Thalassery Co-operative Hospital. Exhibits P8 to P19 are the wound certificates of CWs.1 to 11 and U.P.Damu. Damu died on 24.05.1979. Thadathil Balan died on 06.04.1979 at 09.45 p.m. Exhibits P20 and P21 are the post-mortem certificates of the deceased Thadathil Balan and U.P.Damu. Exhibit P1 FI Statement, of CW1 was recorded by CW40, Head Constable of Thalassery Police Station, from the hospital. CW40 registered Crime No.148/TR/1979 of Thalassery Police Station under Sections 143, 147, 148, 324, 286 r/w 149 IPC. Since the incident happened within the jurisdiction of Panoor Police Station, the FIR was transferred to Panoor Police Station and the same was registered as Crime No. 46/1979 of that police station

under the above sections.

3. The investigation in the above case was conducted by the Detective Sub Inspector, Crime Detachment, Cannanore. After the completion of investigation, Sri. Narayanan Nair, the Detective Sub Inspector, Crime Detachment, Cannanore, filed the charge sheet before the trial Court against Prabhakaran and 8 other accused persons. The offences imputed against the accused were conclusively triable by the Sessions Court and therefore the case was committed to the Sessions Court by the learned Magistrate as per CP No. 9/1980. Except Prabhakaran, all other accused faced trial and they were acquitted as per the judgment dated 06.11.1982 in SC No.60/1981. The case against the accused Prabhakaran was split up since he was absconding. The accused subsequently was apprehended and the case against the accused was committed for trial before this court as per order in CP No. 11/2022. Thereafter, charges were framed against the accused Prabhakaran for the offences under Sections 143, 147, 148, 324, 286, 307, 302, 149 IPC and Section 4(a) of the Explosive Substances Act. The accused pleaded not guilty and claimed to be tried.

4. The prosecution examined PW1 to PW7. Exts.P1 to 37 were marked. Ext.C1 was also marked. After the completion of the prosecution evidence, the accused was examined under Section 313(1)(b) of the Cr.PC. He denied all the incriminating circumstances appearing in evidence against him and maintained his innocence. As there was no ground to acquit the accused under Section 232 of the Cr.P.C at that stage, the accused was called upon to enter his defence. No defence evidence was adduced by the accused.

5. I have heard the learned the Additional Public Prosecutor for the State and the learned counsel for the accused.

6. Following are the points which arise for consideration.

1. *Whether the prosecution has succeeded in proving that Thadathil Balan and U.P Damu died due to the injuries sustained by them on 06.04.1979?*
2. *Whether the accused Prabhakaran along with other accused*

persons, eight in number, formed themselves into an unlawful assembly and committed rioting at or about 06.30 p.m. on 06.04.1979 in front of Chambadu Dinesh Beedi Company, having been armed with deadly weapons like swords, dandas and explosive substances?

- 3. Whether the prosecution has succeeded in proving beyond all reasonable doubt that the accused Prabhakaran attacked Thadathil Balan with a sword and attacked PW2 Mukundan in prosecution of the common object of the unlawful assembly?*
- 4. Whether the prosecution has succeeded in proving, beyond all reasonable doubt, that accused Venu threw a country bomb at Chambadu Dinesh Beedi Company and Chandran, Raghavan, Karunan, Achuthan and the accused herein dragged Thadathil Balan and caused injuries to him, which resulted in his death?*
- 5. Whether the prosecution has succeeded in proving that the accused Prabhakaran along with Chandran, Raghavan and Mukundan attacked UP Damu in prosecution of the common object of the unlawful assembly and caused his death?*
- 6. Whether the prosecution has succeeded in proving that Venu threw an explosive substance towards PW1 Payangul Suresh, CW2 Thadavan Ravindra Kumaran and CW6 Kuniyil Karai Kannan in prosecution of the common object of the unlawful assembly and caused injuries to them?*
- 7. Whether the prosecution has succeeded in proving that the accused Prabhakaran attacked PW2 Payangul Mukundan in prosecution of the common object of the unlawful assembly and caused injuries to him?*
- 8. Whether the prosecution has proved that the accused committed the offences under Sections 143, 147, 148, 324, 302, 149 IPC and Section 4(a) of the Explosive Substances Act?*

9. *What offence or offences, if any, has the accused Prabhakaran committed?*

10. *What punishment, if any?*

7. **Point No.1:-** The first question to be considered is whether the prosecution has succeeded in proving that the deaths of Thadathil Balan and UP Damu are homicidal in nature and that they sustained injuries in the incident that occurred on 06.04.1979. Exhibit P19 is the Wound Certificate of Thadathil Balan issued by Dr. Anantharam. Dr. Anantharam is no more and therefore Exhibit P19 Wound Certificate, was marked under Section 294 of the Code of Criminal Procedure, as the accused admitted the genuineness of the document. As per Exhibit P19, the following injuries were noted on the body of Thadathil Balan when he was examined by the doctor at 09.45 p.m. on 06.04.1979.

1. Lacerated wound 5cm x 2cm x 3cm deep over the chin region.
2. Lacerated wound 3cm x 1cm x 2cm deep just below wound No.1
3. Fracture mandible.
4. Fracture maxilla.
5. Linear abrasion with contusion 5cm x 1cm wide with bluish discoloration around in the middle of the neck.
6. Lacerated wound 1.5 cm x 0.5 cm x 0.5 cm deep over right occipital region.
7. Incised wound 2.5 cm x 1.5 cm, penetrating just inner to right nipple in fourth space.
8. 2.5 x 1cm x 0.5cm over the middle of right leg.
9. 2.1 x 1cm x 1cm deep over the front of the lower part of the left leg.

8. Exhibit P20 is the post-mortem certificate issued from the Department of Forensic Medicine, Medical College, Calicut on 07.04.1979. The post-mortem examination of the deceased Thadathil Balan was conducted by Dr. Babu Ahmad Kabir, Assistant Professor and Police Surgeon. However, the said doctor could not be examined since he was no more. The post-mortem certificate was marked under

Section 294 Cr.P.C, since the accused admitted the genuineness of the said document. Hence, the same can be read in evidence without formal proof. As per Exhibit P20, the following ante-mortem injuries were found on the dead body of Balan.

1. Lacerated contused oblique wound 4.5 x 1 cm, bone deep, on the right side of the lower jaw. The inner end was at the midline.
2. Lacerated contused oblique wound 3.5 x 1.5 cm, bone deep, outer to wound No. 1.
3. Lacerated contused wound 2.5 x 0.5 cm on the left side of the lower lip.
4. Contused abrasion 3 x 0.4 cm on the middle of the upper lip.
5. Contused abrasion 1.3 x 0.3 cm on the right side of the face, 1.5 cm outer to the angle of the mouth.
6. Contusion 0.8 x 0.4 cm on the right side of the face, 0.3 cm outer to the angle of the eye.
7. Dot blackish discoloration with conjunctival congestion of both eyes (black eye).
8. Lacerated oblique wound 3.5 x 0.5 cm, bone deep, on the left side of the forehead, 5 cm above the outer end of the eyebrow.
9. Lacerated wound 4 x 0.5 cm on the top and back of the left ear.
10. Contused abrasion 5 x 0.8 cm on the front of the root of the neck at the midline.
11. Sutured wound 3 cm long, horizontal, on the front of the right side of the chest, 4 cm away from the nipple, at 04.00 p.m.
12. Contused abrasion 0.5 x 0.2 cm on the outer end of the left collar bone.
13. Contused abrasion 1.5 x 0.8 cm on the back of the right shoulder blade, 3 cm below the top of the shoulder.
14. Lacerated wound 1.8 x 0.3 cm on the right side of the head, 3 m behind the ear.
15. Contused abrasion 1.8 x 0.4 cm on the middle of the right forearm at the outer aspect.

16. Abrasion 0.4 x 0.3 cm, 4 cm above wound No. 15.
 17. Multiple small abrasions over the back of the right hand near the knuckles.
 18. Oblique incised wound 11 x 0.2 cm, skin deep, on the outer and back aspect of the left upper arm. The upper end was 6 cm below the top of the shoulder.
 19. Multiple small abrasions over the back of the left elbow.
 20. Horizontal incised wound 3.2 x 0.2 cm, skin deep, on the outer aspect of the left wrist.
 21. Lacerated contused wound 2 x 0.8 cm on the middle of the front of the left lower leg.
 22. Sutured wound 1.5 cm on the inner aspect of the left ankle (surgical cut open).
 23. Lacerated contused wound 2.8 x 1.2 cm on the front of the right leg, 6 cm below the knee.
9. Exhibit P20 postmortem certificate also notes the following internal injuries:
1. Fracture of the upper and lower jaws with dislocation of the teeth.
 2. Fracture of both malar bones and nasal bones.
 3. On dissection, external injury No. 1 was directed inwards, backwards and downwards, and entered the right chest cavity through the sixth intercostal space, cutting the seventh costal cartilage, and the same produced an incised through-and-through wound on the lower lobe of the right lung 2.8 x 0.4 cm, and further pierced the right dome of the diaphragm (2.8 x 0.6 cm) and the superior surface of the right lobe of the liver 2.6 x 0.3 x 2.0 cm. All the injuries were in the same line. The right chest cavity contained 1,800 ml of blood and the peritoneal cavity contained 300 ml of blood. The right lung was collapsed.
 4. Fracture of the base of the skull involving both anterior cranial fossae

and the left middle cranial fossa. Sub-arachnoid hemorrhage over both cerebral hemispheres.

10. As per Exhibit P19, the allegation was that the injured Thadathil Balan was attacked by a group of assailants at about 06.30 p.m. on 06.04.1979 at Chambadu near Panoor, Thalassery. It is further noted in the wound certificate that Balan died at 11.40 p.m. on 06.04.1979. Exhibit P20, the post-mortem certificate issued by Dr. Babu Ahmad Kabir, the Assistant Professor and Assistant Police Surgeon, states that Balan died as a result of multiple injuries. Exhibit P17 is the wound certificate of UP Damu, now deceased. Exhibit P17 shows that UP Damu was examined at 07.20 p.m. on 06.04.1979. The only injury noted in Exhibit P17 is a lacerated injury 10 cm long and 4 cm wide on the skull. Exhibit P21 is the post-mortem certificate relating to the examination of UP Damu. The post-mortem examination of UP Damu was conducted by Dr. P. Gopalan, Tutor in Forensic Medicine, Medical College, Calicut, on 25.04.1979. He categorically opined that UP Damu died of brain abscess as a result of the head injury. Therefore, Exhibit P19 wound certificate and Exhibit P20 post-mortem certificate would categorically show that Thadathil Balan died as a result of the attack that occurred on 06.04.1979 at 06.30 p.m. at Chambadu. The defence has not challenged the veracity of the contents of Exhibit P19 wound certificate and Exhibit P20 post-mortem certificate relating to Thadathil Balan. Further, Exhibit P17 wound certificate and Exhibit P21 post-mortem certificate would also categorically show that UP Damu died as a result of the attack that occurred on 06.04.1979 at about 06.30 p.m. near Chambadu. Hence, these points are answered accordingly.

11. **Point No.2 to 9**:- Now the question to be considered is whether the prosecution has succeeded in proving the guilt of the accused persons beyond a reasonable doubt. The incident occurred on 06.04.1979. In the charge sheet filed by the prosecution, the prosecution has cited CW1, CW2, CW3, CW4, CW5, CW6, CW7, CW8, CW9, CW10 and CW11 as injured witnesses. CW12 to CW23 were cited as eye witnesses by the prosecution. It is also relevant to note that the trial as

against the other accused persons ended in the acquittal as per judgment dated 06.11.1982 in SC No. 60/1981. In that Sessions case, all the injured witnesses and the eye witnesses were examined by the prosecution. However, the learned Sessions Judge, after an exhaustive analysis of the entire evidence on record, came to the conclusion that the prosecution case was the result of fabrication and the accused persons were added after discussion, deliberation and tutoring and therefore all the accused persons who faced trial were acquitted. The accused herein, Prabhakaran, was absconding and therefore the case against Prabhakaran was split up. He was subsequently arrested and produced in the year 2021. Nevertheless, in spite of the acquittal of co-accused, this Court will have to independently consider the evidence adduced by the prosecution to ascertain whether the accused committed the offences as alleged. This Court should not be influenced by any of the observations made therein by the learned Sessions Judge while acquitting the other accused persons. However, it is also important to note that since the incident happened 45 years back, most of the injured witnesses are either no more or incapable of giving evidence. Among CW1 to CW10, the prosecution has examined CW1 as PW1 and CW7 as PW2. The injured witnesses namely CW2, CW3 and CW6 were no more. CW4, CW5, CW8, CW9 and CW10 were given up by the learned Public Prosecutor, since the learned Public Prosecutor was satisfied that because of advanced age and health-related conditions like mental weakness and other extreme medical conditions, these witnesses are incapable of giving evidence. Therefore, the learned Public Prosecutor gave up the aforesaid witnesses. CW11 to CW23 were cited as eye witnesses. CW11 and CW17 were examined as PW3 and PW4. CW12, CW14, CW15, CW16, CW18, CW19 and CW20 were no more. The other eye witnesses namely CW13, CW21, CW22 and CW23 were given up by the learned Additional Public Prosecutor since these witnesses were of advanced age and on account of mental senility were not in a position to give evidence. Therefore, in order to prove the guilt of the accused, the prosecution relies upon the oral testimony of PW1 and PW2, the injured witnesses, and PW3 and PW4, the eye witnesses to the incident. The question to be considered is whether the evidence so deposited by these witnesses is truthful and can be

accepted from the facts and circumstances of the case.

12. PW1, during the relevant time, was residing at Thazhe Chambadu. He stated that he was doing business at Thazhe Chambadu on 06.04.1979. The Preetha bus, which used to ply from Thoovakunnu to Thalassery, stopped in front of Dinesh Beedi Company at Thazhe Chambadu. Prabhakaran, Chandran and Raghavan alighted from the bus. He would depose that Raghavan threw a bomb towards the Dinesh Beedi Company. After the bomb explosion, the workers at Dinesh Beedi Company ran in different directions. Thadathil Balan was sitting near the Dinesh Beedi Company. Prabhakaran, Chandran, Raghavan and Venu attacked Balan with knives, swords, dandas and axes. U.P. Damu came to the spot after witnessing the attack on Balan. The accused also attacked U.P. Damu with knives and swords. PW1 further deposed that one Purushu attacked Kunhiraman, K. Balan, Kumaran and Bhaskaran. PW1 would also depose that two assailants attacked him and also threw a bomb towards him. As a result of the explosion, he sustained injuries to his fingers. He was taken to Thalassery Co-operative Hospital. He lodged Exhibit P1 complaint. He stated that the alleged incident happened on account of political enmity.

13. PW2 herein is cited as another injured witness. He stated that during the relevant time, he was conducting a small tea shop near Dinesh Beedi Company at Chambadu. He stated that at about 06.30 p.m., the Preetha bus, which was coming from Panoor to Thalassery, halted at Chambad. He stated that certain assailants got down from the bus. They initially threw a cracker towards the first floor of Dinesh Beedi Company. Thereupon Prabhakaran attacked him. He tried to escape from the assault. At that juncture, he saw Prabhakaran attacking Balan. He also witnessed Chandran attacking Balan. Thereafter, he became unconscious. He would depose that around 10 to 12 accused individuals participated in the incident. He does not recollect the names of other accused persons.

14. PW3 is an ocular witness. He deposed that the incident occurred at about 06.30 p.m. on 06.04.1979. He would depose that around five to ten assailants who were armed with sticks and stones alighted from the Preetha bus. After alighting from the bus, one of the assailants threw a bomb towards Dinesh Beedi Company.

They started attacking the persons standing in front of the Beedi Company and others who were present at the Chambad Bazar. He stated that many persons sustained injuries in the incident. He would further depose that Chandran, Raghavan, Venu and Prabhakaran were the persons who carried out the attack. He would further state that UP Damu and Thadathil Balan died in the incident. He identified the accused.

15. PW4 would depose that on 06.04.1979, he was conducting a textile shop named T. K. Balan. In the evening, after 06.00 p.m., when the Preetha bus reached Thazhechambadu, certain persons got down from the bus,whereafter, he heard the sound of an explosion from Dinesh Beedi Company. He saw the accused Prabhakaran attacking Balan. He also identified Prabhakaran.

16. First of all, I shall analyze the evidence of PW1, the injured witness. PW1 would depose that Prabhakaran, Chandran and Raghavan alighted from the bus. The initial attack was carried out by Raghavan by throwing a bomb towards Dinesh Beedi Company. However, the aforesaid evidence of PW1 in his examination-in-chief is contradicted by PW1 himself during his cross-examination. PW1 in cross-examination deposed that it was Venu who threw the bomb towards Dinesh Beedi Company. He denied the earlier statement made to the effect that it was Raghavan who threw the bomb towards Dinesh Beedi Company. He further stated that Raghavan was in fact carrying a sack in his hand and Venu took the bomb from Raghavan and threw it towards Dinesh Beedi Company. Therefore, there is material inconsistency in the testimony of PW1 with respect to the commencement of the attack. There is reasonable doubt whether the bomb was actually thrown by Venu or Raghavan.

17. The genesis of the attack on Thadathil Balan as deposed by PW1 is also discrepant in material particulars. PW1 in his examination-in-chief stated that Thadathil Balan was sitting near the company. The accused after hurling a bomb towards Dinesh Beedi Company, started attacking Balan. In cross-examination, PW1 stated that Thadathil Balan was standing in front of Dinesh Beedi Company and was smoking a cigarette when the accused attacked Thadathil Balan. However, these two

opposing versions deposed by PW1 in examination-in-chief and cross-examination were again subsequently changed by PW1. He would depose to the effect that Thadathil Balan also got down from the same bus from which the assailants also alighted. Hence, when the actual attack took place, what was Balan doing? On this aspect PW1 deposed three different things.

18. If the last version of PW1 is to be believed, then it is reasonable to conclude that the accused were also travelling in the same bus along with Thadathil Balan. Exhibit P20 wound certificate reveals that Thadathil Balan had sustained as many as 23 ante-mortem injuries. From the injuries sustained, it is evident that the intention of the accused was to cause the death of Thadathil Balan. The attack does not appear to be random attack on CPI(M) activists at Chambadu. This is more so for the reason that the deceased U.P. Damu had sustained fewer ante-mortem injuries. Ext.P17 wound certificate shows that Damu had sustained only a lacerated injury on the skull. Therefore, if the intention of the accused was to eliminate Thadathil Balan, they could have done so inside the Preetha bus. It is very difficult to believe that the accused would have waited until Thadathil Balan got down from the bus to carry out the attack.

19. It is difficult to think that the accused persons, after closely following Thadathil Balan, would carry out the attack at Chambad, which is a stronghold of CPI(M). It is also important to note that Dinesh Beedi Company, which employed more than 100 persons, was also functioning in Chambad. There was no necessity for the accused persons to take such a risk in attacking Thadathil Balan at Chambad, as they could have attacked him inside the Preetha bus. Further, the prosecution has not examined either the conductor or other employees of Preetha Bus. It must be remembered that the case of the prosecution was that the accused persons were heavily armed with dandas, swords and sticks. If so, the passengers and employees of Preetha bus would have definitely noticed the presence of armed assailants in the bus. Therefore, the failure to examine those witnesses is also a serious lacuna in the prosecution case. Therefore, the initial version given by PW1 in his Exhibit P1 FI Statement cannot be believed.

20. The identification of the accused by PW1 is also suspicious, as rightly contended by the learned counsel for the accused. It appears that PW1 has identified Prabhakaran only because he is standing alone in the dock. PW1 would depose that he has been able to identify Prabhakaran since he had previous acquaintance with Prabhakaran. However, with regard to the identity of Prabhakaran, PW1 initially stated that the name of the father of Prabhakaran was Gopalan. However, in the later part of cross-examination, he admitted that the accused herein is the son of Meethale Govindan Nambiar. Further, while his Exhibit C1 statement was recorded before the committal court, he had not mentioned that the name of the accused as Balusery Prabhakaran. He has also not stated the fact that Prabhakaran was previously known to him.

21. It is also important to note that even in Exhibit P1 FI Statement, which was recorded on 06.04.1979 at about 21.20 hours, he had not mentioned any details of Prabhakaran. There is also no mention in Exhibit P1 FI Statement that the accused was also known as Balusery Prabhakaran. There is also no reference to the name of the father of the accused. For the reasons stated above, it appears that the evidence of PW1 to the effect that he had previous acquaintance with the accused Prabhakaran appears to be false and concocted evidence.

22. The prosecution examined PW3 to prove the attack on Thadathil Balan by the accused Prabhakaran. PW3 would depose that the incident occurred on 06.04.1979 at about 06.30 p.m. He would depose that at about 06.30 p.m. he heard the sound of an explosion. He was inside the party office at that time. After the explosion, he went outside. He saw people running in different directions after the attack. He also confirmed that soon after the bomb explosion, the attack started. However, he stated that since the incident happened 45 years ago, he is unable to recollect whether it was actually Prabhakaran who attacked Balan. He stated that he thinks that Prabhakaran might have assaulted Thadathil Balan. Hence, on account of the long passage of time, PW3 cannot say emphatically that it was Prabhakaran who attacked Balan. For these reasons, the evidence of PW3 is of no assistance to the prosecution.

23. The evidence of PW4 is to the effect that he was running a textile shop at Chambad named T.K. Balan. He saw Prabhakaran attacking Balan. However, he categorically admitted that he could not recollect anything about the incident except the names of Prabhakaran and Chandran. It has come out in evidence that PW4 has not witnessed the initial part of the attack. He has not seen the accused persons alighting from the bus. He admitted that he was inside his shop when the first explosion took place. Thereupon he looked outside towards the Dinesh Beedi Company. He witnessed Prabhakaran attacking Balan. He admitted that his shop was 50 metres away from Chambad bus stop.

24. It is to be noted that, because of the passage of time, the original documents such as the scene mahazar prepared in the case have been destroyed. Further, the Investigating Officer who prepared the scene mahazar is also no more. Therefore, the learned counsel for the accused would contend that the destruction of the original documents along with the death of material witnesses like the Investigating Officer who prepared the scene mahazar has prejudiced the defence of the accused, as the accused is prevented from effectively cross-examining these witnesses with regard to the location of the scene of occurrence. I do not wish to make any comments upon the aforesaid submissions made by the counsel for the accused. Suffice it to say that the trial in this case was delayed since the accused himself was absconding for 43 years. Be that as it may, PW4 nevertheless in his evidence admitted that after the bomb exploded, there was smoke. It must also be observed that PW1 had witnessed the incident from about 40 metres away from the scene of occurrence. The people in the locality were running in different directions. Under these difficult circumstances, PW4 would have had to make identification of the attacker. Therefore, under these difficult circumstances, the possibility of mistaken identification cannot be ruled out. Further, during the course of investigation, no test identification parade was conducted. The accused was also not shown to PW4 during the stage of investigation for the purpose of identification. PW4 also does not have a case that he had previous acquaintance with the accused. PW4 further stated that after the incident on 06.04.1979 he had not seen the accused

Prabhakaran thereafter. After the incident, he was seeing Prabhakaran for the first time during the examination before the court on 19.08.2025, after a gap of more than 47 years. Having considered the above factors, the identification of Prabhakaran in the court for the first time cannot be accepted.

25. Further, PW1, PW2 and PW3, the ocular witnesses, had categorically deposed that the accused herein during the time of the incident was a youngster aged around 40 years. The facial features of the accused Prabhakaran have completely changed now. He is an old man with a beard. In these circumstances, I am of the view that the identification of the accused by PW4 cannot be accepted.

26. As stated above, PW1, PW2 and PW3 would depose that the physical features of the accused herein who is present before this court are completely different from that of the attacker Prabhakaran in the year 1979. It is also relevant to note that no test identification was conducted in the present case. I am of the view that the identification of the accused, Prabhakaran for the first time after 40 years is inherently of weak character. Therefore, for this reason also, the evidence of PW1 to PW4 cannot be accepted. It is also significant to note that in Exhibit P1 FI Statement, PW2 has narrated the names of all accused persons. However, the most crucial aspect is that PW1 has not mentioned the father's name, identification features and other details of Prabhakaran with whom he is supposed to have previous acquaintance. In Exhibit P3 FIR, PW1 has named 9 accused persons. However, even in Exhibit P3 FIR there are crucial omissions. He has not specifically stated that he had previous acquaintance with the accused Prabhakaran.

27. It must be noted that the FIR in the instant case was registered on 06.04.1979 at about 21.20 hours, as per the statement of PW2. However, PW3 in his evidence would categorically depose that the police reached the scene of occurrence within 30 minutes. According to the prosecution, a large number of witnesses had witnessed the aforesaid incident, which happened at Chambad town in front of Dinesh Beedi Company. If so, the police officers could have recorded the first information statement of the persons who witnessed the incident when they reached the scene of occurrence. PW3 would depose that when the police reached the spot,

he informed the police about the incident. Therefore, nothing prevented the police from recording the first information statement of PW3. PW3 is also not an injured witness. He had witnessed the entire incident from the office of CPI(M) situated at Chambad. He also admitted that after the incident he did not go to the hospital along with the injured on that day. Therefore, PW3 was having ample time to lodge the first information statement. He also admitted that when the police reached the scene of occurrence, about 30 minutes after the incident, he informed the entire incident to the police and the statement was recorded by the police. If that be so, it appears that the first information statement given by PW3 has been suppressed by the prosecution.

28. In view of these facts and the answers elicited in cross-examination, it is evident that the police reached the scene of occurrence within 30 minutes after the incident. The same is also probable since PW3 admitted that Panur Police Station is situated just 3 kilometres away from the scene of occurrence. It may be stated that realising the difficulty created by the aforesaid answers, the witness subsequently changed his version and took a different attitude in his re-examination, wherein he stated that he informed the police about the incident on the next day of the incident. Admittedly, the said explanation was elicited from the witness to a pointed question in re-examination. Therefore, I do not find any difficulty in agreeing with the submission of the learned counsel for the accused that the initial statement given by PW3 might have been suppressed by the prosecution.

29. This aspect assumes significance for the reason that PW1 admitted that while he was admitted in the hospital, he was in the same ward along with six other persons. He also admitted that a large number of party leaders had come to visit him after the incident. Therefore, it can be reasonably inferred that Exhibit P1 FI Statement was the result of coaching, deliberation and discussion. This evidence of PW1 should be read in conjunction with the evidence of PW3 to the effect that he had informed the police about the incident on the same day itself within 30 minutes after the incident and that he had given a signed statement before the police. Therefore, it appears that the initial FIR lodged in the case has been suppressed by

the prosecution. Therefore, there is every possibility that the names of the accused persons were supplied by local party leaders and that the FIR has been prepared after due deliberation, discussion and tutoring.

30. For the reasons stated above, the evidence available is not sufficient to hold that the prosecution has succeeded in proving beyond all reasonable doubt that the accused did commit the offences attributed to him, even though the fact that there was an attack at the relevant time cannot be disputed. Therefore, these points are answered against the prosecution.

31. **Point No.5:-** In view of the aforesaid findings, the prosecution has failed to prove the case beyond all reasonable doubt and therefore the accused is entitled to be acquitted.

In the result,

1. *The accused is found not guilty for the offence under section 143, 147, 148, 324 and 302 read with Section 149 IPC and under Section 4(a) of the Explosive Substances Act, 1908, and is acquitted under section 235 (1) of Cr.P.C.*
2. *The bail bond of the accused stands cancelled.*
3. *The material objects shall be destroyed as per law after the conclusion of the appeal period or if any appeal is preferred, after the conclusion of such appeal.*

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court, on this the 1st day of April, 2026.)

sd/-

ADDITIONAL SESSIONS JUDGE-IV

WITNESSES FOR THE PROSECUTION

| Rank | Name | | Whether eye witness, police witness, expert witness, Medical witness, other witness |
|------|------|--------------|---|
| PW1 | Sri. | Sreedharan | Eye witness |
| PW2 | Sri. | Mukundan | Eye witness |
| PW3 | Sri. | Balan | Eye witness |
| PW4 | Sri. | Balan | Eye witness |
| PW5 | Sri. | Nanu | Other witness |
| PW6 | Sri. | Sathyasivan | Police witness |
| PW7 | Sri. | Balakrishnan | Police witness |

EXHIBITS FOR THE PROSECUTION

| Sl. No. | Date | Exhibit number | Description |
|---------|------------|----------------------------------|---|
| 1 | 06.04.1979 | Exhibit P1/PW1 | FIS |
| 2 | 07.04.1979 | Exhibit P2/PW5 | Scene Mahazar |
| 3 | 06.04.1979 | Exhibit P3/PW7 | FIR |
| 4 | 10.04.1979 | Exhibit P4(Marked u/s.294Cr.PC) | Portion marked in 162 statement of CW9 |
| 5 | 08.04.1979 | Exhibit P5(Marked u/s.294Cr.PC) | Portion marked in 162 statement of CW15 |
| 6 | 08.04.1979 | Exhibit P6(Marked u/s.294Cr.PC) | Portion marked in 162 statement of CW16 |
| 7 | 08.04.1979 | Exhibit P7(Marked u/s.294Cr.PC) | Portion marked in 162 statement of CW17 |
| 8 | 10.04.1979 | Exhibit P8(Marked u/s.294Cr.PC) | Wound certificate of Bhaskaran |
| 9 | 10.04.1979 | Exhibit P9(Marked u/s.294Cr.PC) | Wound certificate of Balan |
| 10 | 10.04.1979 | Exhibit P10 (Markedu/s.294Cr.PC) | Wound certificate of Sreedharan |
| 11 | 09.04.1979 | Exhibit P11(Marked u/s.294Cr.PC) | Wound certificate of |

| | | | |
|----|------------|----------------------------------|-----------------------------------|
| | | | Kumaran |
| 12 | 10.04.1979 | Exhibit P12(Marked u/s.294Cr.PC) | Wound certificate of Govindan |
| 13 | 09.04.1979 | Exhibit P13(Marked u/s.294Cr.PC) | Wound certificate of Mukundan |
| 14 | ----- | Exhibit P14(Marked u/s.294Cr.PC) | Wound certificate of Kunhiraman |
| 15 | ----- | Exhibit P15(Marked u/s.294Cr.PC) | Wound certificate of Chandran |
| 16 | ----- | Exhibit P16(Marked u/s.294Cr.PC) | Wound certificate of Raju |
| 17 | ----- | Exhibit P17(Marked u/s.294Cr.PC) | Wound certificate of Damu |
| 18 | 07.04.1979 | Exhibit P18(Marked u/s.294Cr.PC) | Wound certificate of Kunhikannan |
| 19 | 06.04.1979 | Exhibit P19(Marked u/s.294Cr.PC) | Wound certificate of Balan |
| 20 | 07.04.1979 | Exhibit P20(Marked u/s.294Cr.PC) | Postmortem certificate of Balan |
| 21 | 25.04.1979 | Exhibit P21(Marked u/s.294Cr.PC) | Postmortem certificate of Damu |
| 22 | 07.04.1979 | Exhibit P22(Marked u/s.294Cr.PC) | Inquest report of Balan |
| 23 | 25.04.1979 | Exhibit P23(Marked u/s.294Cr.PC) | Inquest report of Damu. |
| 24 | 08.04.1979 | Exhibit P24(Marked u/s.294Cr.PC) | Seizure Mahazar |
| 25 | 10.04.1979 | Exhibit P25(Marked u/s.294Cr.PC) | Seizure Mahazar |
| 26 | 11.04.1979 | Exhibit P26(Marked u/s.294Cr.PC) | Seizure Mahazar |
| 27 | ----- | Exhibit P27(Marked u/s.294Cr.PC) | Forwarding Note |
| 28 | 12.07.1979 | Exhibit P28(Marked u/s.294Cr.PC) | Chemical Report |
| 29 | 24.09.1979 | Exhibit P29(Marked u/s.294Cr.PC) | Chemical Report(Forensic Lab TVM) |
| 30 | ----- | Exhibit P30(Marked u/s.294Cr.PC) | Forwarding Note. |
| 31 | 04.06.1979 | Exhibit P31(Marked u/s.294Cr.PC) | Office copy of letter |
| 32 | 05.07.1979 | Exhibit P32(Marked u/s.294Cr.PC) | Chemical Report |
| 33 | 09.05.1979 | Exhibit P33(Marked u/s.294Cr.PC) | Property list. |
| 34 | 06.04.1979 | Exhibit P34(Marked u/s.294Cr.PC) | TR/FIR |

| | | | |
|----|------------|----------------------------------|-----------------------------------|
| 35 | ----- | Exhibit P35(Marked u/s.294Cr.PC) | Report of SI of police, Panoor PS |
| 36 | ----- | Exhibit P36(Marked u/s.294Cr.PC) | Prosecution sanction |
| 37 | 15.05.1979 | Exhibit P37(Marked u/s.294Cr.PC) | Plan |

WITNESSES FOR THE DEFENCE

-NONE-

EXHIBITS FOR THE DEFENCE

-NIL-

COURT EXHIBITS

| Sl. No. | Date | Exhibit number | Description |
|---------|------------|----------------|-------------------------------|
| 1 | 29.06.1987 | Exhibit C1 | Omission in deposition of PW1 |

MATERIAL OBJECTS

-NIL-

sd/-

ADDITIONAL SESSIONS JUDGE- IV

**IN THE COURT OF SESSIONS,
THALASSERY**

SESSIONS CASE NO.2512021

J U D G M E N T

DATED :01.04.2026

To

1. Addl. Chief Judicial Magistrate,
Thalassery
2. The Public Prosecutor, Thalassery.
3. Accused.
