

**IN THE COURT OF THE SPECIAL JUDGE FOR THE TRIAL OF  
OFFENCES UNDER ACT 33 OF 1989 AT THALASSERY**

Present: Sri. K.T. Nisar Ahammed, Special Judge/Sessions Judge.

Friday, the 13<sup>th</sup> day of March, 2026/ 22<sup>nd</sup> Phalguna, 1947

**SESSIONS CASE No. 954 OF 2023**

(Crime No. 1073/2023 of Peringome Police Station)

Complainant	] State: S.H.O., Peringome Police Station. ] (Prosecution conducted by ] Sri. K.Ajith Kumar, Public Prosecutor, ] Thalassery)
Accused	] 1. Sibi Abraham, S/o. Abraham, ] Aged 47/23, Thundathil House, ] Kissan Nagar, Peringome, Kannur. ] 2. Babu Thadathil, S/o. Ulahannan, ] Aged 48/23, Thadathil House, ] Kakkadavu, Cheemeni, Kasargode. ] 3. Joyichan.O.V. S/o. Varkey, ] Aged 47/23, Orappankal House, ] Kissan Nagar, Peringome, Kannur. ] 4. Jayarajan P.P. S/o. Janardanan, ] Aged 42/23, Puthiya Purayii, ] Kissan Nagar, Peringome, ] Mudikkanam, Kannur. ] 5. Prajeesh K.V, S/o. Padmanabhan, ] Aged 33/23, Kanna Veettil House, ] Kissan Nagar, Peringome, Kannur. ] (Accused defended by ] S/Sri. Vinod Kumar.P. and Josna Naveen, ] Advocates)
Charge	] U/ss.447 and 427 IPC against the 5 <sup>th</sup> ] accused, Sec.294(b) , 506(i) r/w.34 IPC ] against the accused (A1 to A5), Sec.341 ] IPC and Se.3(1)(s) against the 3 <sup>rd</sup> accused ] and Sec.3(2)(va) of Scheduled Castes and ] Scheduled Tribes (Prevention of Atrocities) ] Act against accused Nos.1 to 5.

Plea of the accused. ] Not guilty.  
 Finding of the Judge. ] Not guilty.  
 Sentence/Order ] The accused (A1 to A5) are found not guilty  
 ] for the offences punishable u/ss.447, 427,  
 ] 294(b), 506(i), 341 r/w. 34 of IPC and  
 ] Sec.3(1)(s) & 3(2)(va) of Scheduled Castes  
 ] and Scheduled Tribes (Prevention of  
 ] Atrocities) Act and they are acquitted  
 ] u/s.235(1) of Cr.P.C ,for all those offences.  
 ] Bail bonds cancelled and they are set at  
 ] liberty.

### **J U D G M E N T**

Accused are charge-sheeted by the Deputy Superintendent of Police, Payyannur for the offences punishable u/ss.341, 447, 427, 294(b), 506(i) r/w 34 of IPC and Sec.3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act in Crime No.1073/2023 of Peringome Police Station.

2. The prosecution case in brief is as follows:

That, on one day in the last week of November 2022, at 7.p.m, the 5<sup>th</sup> accused trespassed into the house compound of the de facto complainant, a member of Kuruva Community, a Scheduled Caste at Ambedkar Settlement Unnathi at Mudikkanam, Peringome because of the grudge against him for not selling his property. It is alleged that the accused destroyed the fence of gliricidia (ശീമക്കൊന്ന) for about two meters and caused a loss of Rs.2000/-. Then, on the same day at 9p.m, the accused (A1 to A5) together, in furtherance of their common intention of committing the offence, with the knowledge that the de facto complainant is a member of Kuruva Community, a Scheduled Caste, from the public road in front of the house, uttered obscene words and also threatened him that he will be killed. Then, on 02.12.2022 at 6a.m, while the de facto complainant was proceeding to distribute newspaper and when reached at the public road in front of

the house of the 3<sup>rd</sup> accused, the 3<sup>rd</sup> accused wrongfully restrained and called his caste name. Thereby, the accused have committed the above offences.

3. On completion of the investigation, charge sheet was filed before this court and taken on file as SC.954/2023.

4. In pursuance of the summons issued, the accused have appeared and copies of records furnished to them. Then, after hearing the prosecution and the defence, charge was framed u/ss.447 and 427 IPC against the 5<sup>th</sup> accused, Sec.294(b) , 506(i) r/w.34 IPC against the accused (A1 to A5), Sec.341 IPC and Se.3(1)(s) against the 3<sup>rd</sup> accused and Sec.3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act against accused Nos.1 to 5, read over and explained to them in Malayalam. They pleaded not guilty.

5. The prosecution has examined PWs.1 to 9 and marked Exts.P1 to P11. When the prosecution evidence was over, the accused were examined u/s.313(1)(b) of Cr.P.C. They have denied the incriminating evidence brought out by the prosecution. The prosecution and the defence were heard u/s.232 of Cr.P.C. As there was no scope for an acquittal u/s.232 of Cr.P.C, the accused were called upon to enter on their defence. They did not adduce any evidence. Thereafter the prosecution and the defence were again heard.

6. Now, the points that arise for consideration are:

1. Whether the 5<sup>th</sup> accused had trespassed into the house compound of PW.1 and committed mischief, as alleged?
2. Whether the 3<sup>rd</sup> accused wrongfully restrained and called the caste name of PW.1 from a public place , as alleged?

3. Whether the accused (A1 to A5) uttered obscene words and threatened PW.1 with the knowledge that PW.1 is a member of Kuruva Community, a Scheduled Caste, as alleged?
4. Whether the accused are guilty u/ss.447, 427, 294(b), 506(i), 341 r/w. 34 of IPC and Sec.3(1)(s) & 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act ?
5. If so, what should be the sentence or order?

7. **Point Nos.1 to 3** :- For the sake of convenience, the above three points are considered together. The learned Public Prosecutor has submitted that, the prosecution has proved the offences alleged beyond reasonable doubt. The evidence of PW.1/de facto complainant is corroborated by the evidence of PW.5. There is nothing to disbelieve them. Hence, the learned Public Prosecutor prays for a conviction.

8. The learned defence counsel has submitted that the prosecution has utterly failed to prove the offences alleged. The evidence of PW.1 is contradictory and cannot be believed at all. PW.5 has not witnessed the incidents. There is inordinate unexplained delay in Ext.P1. The caste of PW.1 was not proved. There is no evidence to show that the accused were aware of the caste of PW.1. Hence, the learned counsel prays for an acquittal.

9. PW.1 has deposed that he is residing at Peringome and he belongs to Kuruva Community, a Scheduled Caste. He knew all the accused as they are from the same locality. The 3<sup>rd</sup> accused is conducting a petty shop in front of the house of PW.1. There was nuisance from the shop as people gathered in the evening, taking liquor, smoking and leaving cigarette stump and liquor bottle in his property. The shop is unauthorized and the officials already directed

the 3<sup>rd</sup> accused to remove the shop. The 4<sup>th</sup> accused called his caste name. The accused destroyed the fence and also destroyed the arecanut plant. They had dishonestly taken away granite powder kept in his property. It was taken by the 3<sup>rd</sup> accused. The fence was destroyed by 5<sup>th</sup> accused. One Mr. Shibu intervened and conducted mediation and accordingly, the issue was solved. Thereafter, the 5<sup>th</sup> accused again came and threatened him and accordingly, he had given Exr.P1 petition. The 4<sup>th</sup> accused uttered obscene words and called his caste name when he demanded the subscription fee of the newspaper. The 4<sup>th</sup> accused had dishonestly taken away cement from his property.

10. PW.2 is the Tahasildar who issued Ext.P2 Caste Certificate of PW.1. As per Ext.P2, PW.1 belongs to Hindu-Kuruva Community, a Scheduled Caste.

11. PW.3 has deposed that she was the Village Officer, Peringome. She prepared Ext.P3 series sketch, Ext.P4 Possession Certificate and also issued Ext.P5 Caste Certificate of accused (A1, A3 to A5).

12. PW.4 has deposed that he was the Village Officer of Chimeni. He had issued Ext.P6 Caste Certificate of the 2<sup>nd</sup> accused.

13. PW.5 has deposed that he is a native of Karakkad and he knew PW.1. He is residing in Ambedkar Unnathi. PW.1 is a native of Trivandrum who came and settled here when he got property from the Government in connection with Chengara strike. PW.1 belongs to Kuruva Community. In front of the house of PW.1, he has got a building with two shop rooms. Near to the building, the 3<sup>rd</sup> accused is conducting a petting shop. PW.1 told him about the incidents. PW.1 told him that there is nuisance from the petty shop of the 3<sup>rd</sup> accused, that every evening people gathers, taking liquor and leaving the liquor bottle in his property. PW.1 was distributing newspaper. The accused refused to pay the subscription fee. The 1<sup>st</sup> accused demanded ten

cents of land from PW.1, but he refused. PW.1 had lost steel kept in his compound for house construction. One day, he found the 2<sup>nd</sup> accused and others cutting steel from his shop by taking electricity unauthorizedly from the shop. He witnessed the 5<sup>th</sup> accused destroying the fence of the house compound of PW.1. He identified all the accused. When the present crime was registered, the accused had assaulted him by alleging that he assisted PW.1 against them.

14. PW.6 has deposed that he is a resident of Karakkad and he knew the accused and PW.1. Once he mediated between them about the destruction of fence.

15. PW.7 has deposed that he had attested Ext.P7 series scene mahazars.

16. PW.8 has deposed that while she was in GD Charge of Peringome Police Station, on 04.10.2023 at 7p.m, received Ext.P1 petition from PW.1. She registered Ext.P8 FIR.

17. PW.9 has deposed that he was the DySP, Payyannur. As per the order of District Police Chief, he did the investigation of the case. He prepared Ext.P7 series scene mahazars, filed Exts.P9 and P10 reports, recorded the arrest of the accused as per Ext.P11 series when they appeared after obtaining anticipatory bail. He collected Exts.P2, P5, P6 ie, sketches, Caste Certificates, Ownership Certificate and recorded the statements of witnesses. After completing the investigation, laid the charge sheet.

18. Going through the entire evidence, on hearing both sides, one can see that there are several contradictions in the case of PW.1. There is inordinate unexplained delay in Ext.P1. First of all, as pointed out by the learned defence counsel, according to the prosecution, the incidents were in the months of November and December 2022. The last incident alleged was on 02.12.2022, but

Ext.P1 petition was given only on 04.10.2023, ie. after about ten months of the alleged incident. There is no specific explanation for the above delay. The delay is fatal, provided it is not explained. Here, there is no specific explanation. So, first of all, the above unexplained delay is fatal.

19. In Ext.P1, PW.1 has got a definite case of theft of granite powder, steel and ten sacks of cement kept for house construction in his house compound. He alleges that the accused dishonestly taken away the granite powder worth Rs.6000/-, steel worth Rs.4000/- and also ten sacks of cement. But, when cross examined before the court, in chief examination itself, he deposed that he lost only one sack of cement, but mistakenly stated before the Police that he lost ten sacks. Ext.P1 is not a statement given before the Police, it is a written petition given by PW.1 before police. Then, in cross examination, he deposed that they did not dishonestly taken away cement, it was voluntarily given by him. So, one can see that he has made false allegation against the accused in Ext.P1. He had voluntarily given cement to the 4<sup>th</sup> accused, but stated in Ext.P1 that A4 committed theft of cement and that too ten sacks. Such a person cannot be believed. In cross examination, he has further deposed that the incident of theft of granite powder was in 2020, but Ext.P1 was in 2023.

20. Another aspect pointed out by the learned defence counsel was that on 10.09.2022 at 6a.m, the 4<sup>th</sup> accused called his caste name from a public place and it was heard by third parties. Again, on another day, from the public road in front of the house of the 4<sup>th</sup> accused, the 4<sup>th</sup> accused and his mother called his caste name. So, in Ext.P1, he has got a definite case of calling his caste name from the public place in the presence of others. But, before the court, PW.1 has conceded that nobody has witnessed the incident of calling caste name. It is pertinent to note that it was volunteered by the witness in

cross examination that nobody heard the accused calling his caste name. So, one can see that in Ext.P1, he has made false allegation that the accused called his caste name in the presence of others.

21. Another aspect is that according to PW.1, the 5<sup>th</sup> accused trespassed into his property and committed mischief by destroying the fence. PW.5 has deposed that he had seen the 5<sup>th</sup> accused destroying the fence. PW.6 has deposed that he mediated the incident. Here, apart from the allegation of destruction of fence, going by Ext.P1, PW.1 has got a definite case that the accused cut and removed arecanut plants. But, on going by Ext.P7 scene mahazar, one can see that there was no damage to the fence. There was no damage to the plantation. Of-course, it was prepared after about one year of the incident as the crime was registered after 10 months. But, still there is no evidence to show that the fence was destroyed and plantation was also damaged.

22. Regarding the evidence of PW.5, the learned counsel has submitted that he is in inimical terms with the accused. PW.5 has deposed that the accused had assaulted him by alleging that he assisted PW.1. So, I find merit in the submission of the learned counsel that he has got interest in the case of PW.1 against the accused.

23. Another aspect pointed out by the learned counsel was that admittedly, PW.1 is a native of Trivandrum. The accused are local people. There is no chance of them aware of the caste of PW.1. So, by considering the above aspect, I am of the opinion that PW.1 is not a believable witness. He had made grave allegation of theft against the accused without any basis. He made the false allegation of calling his caste name in the presence of public. There is unexplained delay of more than ten months. So, for the above reasons, I am not inclined to believe the prosecution case. Therefore, I am constrained to hold that the prosecution has failed to prove that the 5<sup>th</sup> accused trespassed into the compound of PW.1 and committed mischief, the 3<sup>rd</sup> accused

wrongfully restrained and called the caste name of PW.1 and accused (A1 to A5) together uttered obscene words and threatened PW.1, with the knowledge that PW.1 is a member of Kuruva Community, a Scheduled Caste. So, the points are answered against the prosecution.

24. **Point Nos.4 & 5** :- In view of my findings on Point Nos.1 to 3, the accused (A1 to A5) are found not guilty for the offences punishable u/ss.447, 427, 294(b), 506(i), 341 r/w. 34 of IPC and Sec.3(1)(s) & 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and they are acquitted u/s.235(1) of Cr.P.C ,for all those offences. Bail bonds cancelled and they are set at liberty.

(Dictated to the Confidential Assistant transcribed and typed by her, corrected and pronounced by me in open Court, this the 13<sup>th</sup> day of March, 2026).

Sd/-

SPECIAL JUDGE/  
SESSIONS JUDGE

**WITNESSES FOR THE PROSECUTION:**

Rank	Name	Whether eye witness, Police witness, Expert witness, Medical witness, other witness
PW1	Sri.K. Bhaskaran	Eye Witness
PW2	Sri. Manoj Kumar.M.K Tahsildar, Payyannur	Other Witness
PW3	Smt.Kalpana.A, Village Officer, Peringome.	Other Witness
PW4	Sri. Rajan.P.V, Village Officer, Cheemeni.	Other Witness
PW5	Sri.Sabu Paul	Other Witness
PW6	Sri.C.Padmanabhan	Other Witness
PW7	Sri.Bijo Xavier	Other Witness
PW8	Smt. Shyla.P.P	Police Witness
PW9	Sri.Premachandran.K.E DySP, Payyannur.	Police Witness

EXHIBITS FOR THE PROSECUTION:

Sl. No.	Date	Exhibit Number	Description
1.	04.10.2023	P1/PW1	Complaint filed by Sri.K.Bhaskaran before SHO, Peringome Police Station.
2.	07.11.2023	P2/PW2	Caste Certificate of PW1.
3.	28.10.2023	P3/PW3	Site Plan.
4.	28.10.2023	P3(a)/PW3	Site Plan.
5.	28.10.2023	P3(b)/PW3	Site Plan.
6.	21.11.2023	P4/PW3	Possession Certificate.
7.	01.11.2023	P5/PW3	Caste Certificate of A1, A3, A4 and A5.
8.	31.10.2023	P6/PW4	Caste Certificate of A2.
9.	05.10.2023	P7/PW7	Scene mahazar.
10.	05.10.2023	P7(a)/PW7	Additional scene mahazar.
11.	05.10.2023	P7(b)/PW7	Additional scene mahazar.
12.	04.10.2023	P8/PW8	FIR
13.	08.10.2023	P9/PW9	Accused name and address adding report
14.	08.10.2023	P10/PW9	Section alteration report.
15.	16.11.2023	P11/PW9	Arrest memo of A1.
16.	16.11.2023	P11(a)/PW9	Arrest memo of A2.
17.	16.11.2023	P11(b)/PW9	Arrest memo of A3.
18.	16.11.2023	P11(c)/PW9	Arrest memo of A4.
19.	16.11.2023	P11(d)/PW9	Arrest memo of A5.

WITNESSES FOR THE DEFENCE: Nil

EXHIBITS FOR THE DEFENCE: Nil

MATERIAL OBJECTS: Nil

Sd/-

SPECIAL JUDGE/  
SESSIONS JUDGE

**T A B U L A R F O R M**

1.	Serial Number	]	Sessions Case No. 954 of 2023
2.	Name of Police Station and Crime No. of the offence	]	Peringome Police Station Crime No. 1073/2023

**DESCRIPTION OF THE ACCUSED**

3. Name	4. Father's Name	5. Occupation	6. Residence	7. Age
1. Sibi Abraham	Abraham	Agriculture	Thundathil House, Kissan Nagar, Peringome, Kannur.	47/23
2. Babu Thadathil	Ulahannan	Concrete	Thadathil House, Kakkadavu, Cheemeni, Kasargode.	48/23
3. Joyichan O.V.	Varkey	Coolie	Orappankal House, Kissan Nagar, Peringome, Kannur.	47/23
4. Jayarajan P.P.	Janardanan	Driver	Puthiya Purayil, Kissan Nagar, Peringome, Mudikkanam, Kannur.	42/23
5. Prajeesh K.V,	Padmanabhan	Welding	Kanna Veettil House, Kissan Nagar, Peringome, Kannur.	33/23

**DATE OF**

8.	Occurrence	:	Between 10.09.22-02.12.22
9.	Complaint	:	04.10.2023
10.	Apprehension of the accused	:	16.11.2023 (A1 to A5)
11.	Release on bail	:	16.11.2023 (A1 to A5)
12.	Commitment	:	----
13.	Commencement of trial	:	18.12.2024
13A.	Commencement of evidence	:	16.06.2025
14.	Close of trial	:	05.03.2026
15.	Sentence/Order	:	13.03.2026

16.	Service of copy of judgment or finding on accused	:	13.03.2026
17.	Explanation for delay	:	Vide separate sheet attached
18.	Period of detention undergone during investigation, inquiry or trial for the purpose of Section 428 Cr.P.C.	:	--

Sessions Court, Thalassery,  
Dated: 13.03.2026

Sd/-  
SPECIAL JUDGE/  
SESSIONS JUDGE

**IN THE COURT OF THE SESSIONS,  
THALASSERY**

SESSIONS CASE No. 954 OF 2023

J U D G M E N T

DATED : 13.03.2026

To

1. The Registrar, High Court of Kerala,  
Ernakulam, Kochi - 682 031.
2. The District Collector, Kannur.
3. The Public Prosecutor, Thalassery.
4. The Accused

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