

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE -III
KANNUR**

Present:- Smt. Jomy Anu Isaac,
Judicial First Class Magistrate-III, Kannur

Dated this the Tuesday, the 28th day of April, 2026
(8th day of Vaisakha, 1948 S.E)

CC. 1086/24

Complainant	: State rep. by Sub Inspector of Police, Chakkarakkal Police Station Cr. No. 1033/14 <i>(By Sri. Sujith Kumar K, APP Gr-II)</i>
Accused	P. Shamith, Aged. 28/15 : S/o Valsan, Punchayil House, Valiyannur amsom, Varam. <i>(by Adv. M. V. Hareendran)</i>
Offence	: u/s 323 and 447 of IPC.
Pleading	: Not Guilty.
Finding	: Not Guilty.
Sentence or Order	: The accused is found not guilty of the offences punishable u/s 323 and 447 of IPC and he is acquitted u/s.255 (1) of Cr.P.C and his bail bond stands cancelled and he is set at liberty.

Description of Accused

Sl. No	Name	Father's Name	Occupation	Residence	Age
1.	P. Shamith	Valsan	--	Varam	28/15

Date of:-	
Offence	: 07.12.2014
Complaint	: 09.12.2014
Apprehension	: 06.05.2025
Release on bail	: 13.06.2025
Commencement of trial	: 13.06.2025
Close of trial	: 27.04.2026
Sentence/Order	: 28.04.2026
Service copy of judgment	: ----

JUDGMENT

The accused was put on trial for the offences punishable under Sec. 323 and 447 of IPC, on the basis of Final Report filed in Cr. No. 1033/14 by the Sub Inspector of Police, Chakkarakkal Police Station.

2. The prosecution case, in brief, is as follows: - On 09.12.2014 at 15.00 hours at Varam Laksham Veedu Colony at Valiyannur amsom Varam desom, the accused criminally trespassed into the property of Nani and verbally abused CW1 in obscene language and voluntarily caused hurt to her by pushing her to the ground and kicked at her back. Thereby the accused is alleged to have been committed offences u/s 323 and 447 of IPC.

3. This case was originally taken on file as CC. 514/15 on the file of Honourable Chief Judicial Magistrate Court, Thalassery. The accused was absconding. Hence, the case was transferred to the register of Long Pending Cases as LPC. No.51/18. On 22.12.2018 the accused was

surrendered before the Court and case was refiled as CC. 1222/18. On appearance of accused, particulars of offence under Section 341 and 323 of IPC were read over to the accused and he pleaded not guilty and claimed to be tried. Thereafter CW1, CW5, CW6, CW2, CW7, CW8 and CW9 were examined as PW1 to PW7 and Exhibit P1 to P7 were marked. Subsequently, the case was transferred to this court and the case was taken on file as above. After transferring the case to this court, CW10 was examined as PW8.

4. After closing the prosecution evidence, accused was questioned u/s 313(1)(b) of Cr.P.C. The accused denied all the incriminating circumstance that appeared in evidence against him. No defence evidence adduced from the side of the accused.

5. Both sides were heard.

6. The points that arise for consideration are: -

1. Whether the accused criminally trespassed into the courtyard of Nani as alleged?
2. Whether the accused voluntarily caused hurt to PW1 by beating with hands as alleged?
3. If the offences are proved, what is the order or sentence?

7. **Points No.1 and 2:** - On 09.12.2014 at 15.00 hours at Varam Laksham Veedu Colony at Valiyannur amsom Varam desom, the accused

criminally trespassed into the property of Nani and verbally abused CW1 in obscene language and voluntarily caused hurt to her by pushing her to the ground and kicked at her back.

8. CW1 lodged Ext P1 FIS and she was examined as PW1. PW2 and PW4 are the occurrence witnesses and PW3 is the Doctor who examined PW1 and issued Ext. P2 wound certificate. PW5 is the Village Officer who issued Ext P3 certificate. PW6 is the official who recorded Ext P1 FIS and registered Ext P4 FIR. PW7 conducted preliminary investigation, prepared Ext P5 Scene Mahazar arrested the accused by preparing Ext P6 arrest memo and filed Ext P7 address report of the accused. PW8 is the investigation Officer who laid down Final Report against accused.

9. PW1 gave the Ext P1 FIS on 11.12.2014. She stated that she is residing in the Laksham veedu Colony near Sasthamkotta Temple along with her husband, mother -in -law, sister-in law and husband of Sister-in law. She stated that on 09.12.2014 at about 03.00 pm, their neighbour Shamith trespassed into their property and verbally abused her husband. When she interfered accused verbally abused her by uttering obscene words, pushed her and kicked at her back. It is stated that she fell down to the courtyard of the house from the mud wall (കിള) it is stated that Shamith ran away when she fell down and she was taken to the Kannur

Govt. Hospital. It is further stated in the Ext P1 that due to the reception after the wedding of her sister-in-law, she failed to lodge the complaint on the same date. It is further submitted that it was due to the enmity towards her husband accused had acted like this.

10. PW2 the occurrence witness turned hostile to the prosecution. He deposed that he didn't see any incident. PW3 the doctor deposed that he had examined PW1 on 9/12/2014 at 4:40 PM at Casualty of Kannur District Hospital. He stated that PW1 was allegedly assaulted by her neighbour named Shamith when she obstructs the argument between him and her husband. As per Ext P2 wound certificate it is noted that PW1 had complained of pain over right shoulder and lower back area. PW4 occurrence witness also turned hostile to prosecution. PW5 Village Officer deposed that she issued Ext P3 ownership certificate of the property.

11. Learned counsel for the accused argued that only available evidence to convict accused is the oral evidence of PW1. He submitted that the occurrence witnesses turned hostile and place of occurrence is not proved. It is submitted that as per the Ext P1 FIS, accused had allegedly trespassed to her property. But the Ext P3 ownership is not with respect to the property of PW1.

12. It is to be noted that to prove the offence under S.447 IPC, the prosecution has to prove the possession of the property. As per the prosecution case and Ext P5 scene mahazar and Ext P3 ownership certificate, the property is in the ownership and possession of Nani. She was not examined as a witness to prove the possession. In the cross examination PW1 deposed that the incident happened at the property of her husband. There is no evidence to show that accused trespassed to the property of PW1's husband. There are no witnesses to support the version of PW1 that accused had trespassed to the property of Nani and assaulted PW1. As per the prosecution case, the accused criminally trespassed to property of Nani and verbally abused and assaulted PW1. But in FIS, the case of PW1 is that accused criminally trespassed to their property and altercation occurred with her husband and when she interferes, accused verbally abused her and assaulted her. Thus, the husband of PW1 should be an eye witness. He was examined as PW4 and turned hostile to the prosecution.

13. Further, in oral evidence, PW1 deposed that accused beat at her neck with hand and kicked at her waist and she has pain over the shoulder and waist. But in Ext P1 FIS, it is stated by PW1 that when she interfered in the argument between accused and her husband, accused verbally

abused her by uttering obscene words, pushed her and kicked at her back and she fell down to the courtyard of the house from the mud wall. In Ext P2 wound certificate also it is only stated by PW1 that the accused pushed her to the ground. Thus, it is found that PW1 has given an exaggerated version in the oral evidence. The oral evidence of PW1 and Ext P1 and P2 are inconsistent. In this circumstance, the evidence of PW1 cannot be solely relied to convict the accused. Hence it is found that prosecution failed to prove the case beyond reasonable doubt. Hence these points are found against the prosecution.

14. **Point No.3:** - In view of finding on points No.1 and 2, accused is found not guilty of the offence punishable u/ss. 323 and 447 of IPC.

In the result, the accused is found not guilty of the offences punishable u/ss. 323 and 447 of IPC and he is acquitted u/s.255 (1) of Cr.P.C and his bail bond stands cancelled and he is set at liberty.

(Dictated to the Confidential Assistant, typed by her, corrected and pronounced by me in open court, this the 28th day of April, 2026)

Sd/-
Judicial First Class Magistrate-III
Kannur

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

Rank	Name	Whether Eye witness, Police witness, Expert witness, Medical witness, Other witness
PW1	Jessy K. J	Eye witness
PW2	Abdul Rahman C	Eye witness
PW3	Dr. Ismail	Medical witness
PW4	Prajeesh T	Other witness
PW5	Rajani	Other witness
PW6	Balan	Police witness
PW7	K. Saseendran	Police witness
PW8	T. V Pradeesh	Police witness

B. Defence Witnesses

Nil

C. Court Witnesses

Nil

List of Prosecution/Defence/Court Exhibits**A. Prosecution Exhibits**

Sl.No.	Exhibit number	Description
1.	Ext.P1/PW1	FIS, dated. 11.12.2014
2.	Ext.P2/PW3	Wound Certificate, dated. 09.12.2014
3.	Ext.P3/PW5	Certificate, dated. 20.05.2015
4.	Ext.P4/PW6	FIR inCr. 1033/14, dated. 11.12.2014
5.	Ext.P5/PW7	Scene Mahazer, dated. 12.12.2014
6.	Ext.P6/PW7	Arrest Memo, dated. 21.01.2015
7.	Ext.P7/PW7	Name and address furnishing report, dated. Nil.

B. Defence Exhibits

Nil

C. Court Exhibits

Nil

D. Material Objects

Nil

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