

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE, PAYYANNUR**

Present: Kum. Lakshmipriya. T. K.,  
Judicial First Class Magistrate.

Monday, the 16<sup>th</sup> day of March, 2026/25<sup>th</sup> day of Phalguna, 1947

**CALENDER CASE NO.1276/2015**

Complainant : The SHO, Peringome Police Station,  
Crime No.550/15,  
  
(By APP Grade – I, Payyannur)

Accused : 1. P V Sooraj, S/o Sreedharan,  
Aged 28/15, Perumkunnam  
Puthukkudi House, Peringome  
amsom desom.  
  
2. Rajamani, S/o Sreedharan,  
Aged 45/15, Idathatta (H),  
Peringome amsom desom.  
  
3. Sreedharan Nambiar, Aged 60/15,  
S/o Chandran, Perumkunnam  
Puthukkudi House, Peringome  
amsom desom.  
  
(By Adv. Sri. K Vijayakumar, Adv.  
Sri. Anuroop M & Adv. Sri. M V  
Vinod)

Offence : U/s 332, 353 r/w 34 of IPC

Plea : Not Guilty.

Finding : Not Guilty.

Sentence or Order : (i) Accused Nos.1 & 2 are acquitted  
u/s 248(1) of Cr.P.C.  
  
(ii) Accused No.3 is no more and  
charge against A3 stands abated.

- (iii) MO1 (RP No. 731/15), uniform of CW1, being valueless shall be destroyed after the expiry of appeal period.

### DESCRIPTION OF ACCUSED

Sl. No.	Name of the P.S.& Cr. of offence	Name	Father's Name	Occupation	Residence	Age
1.	Peringome, Cr.no. 550/15	P V Sooraj	Sreedharan	.....	Peringome	28/15
2.	Peringome, Cr.no. 550/15	Rajamani	Sreedharan	.....	Peringome	45/15
3.	Peringome, Cr.no. 550/15	Sreedharan Nbr.	Chandran	.....	Peringome	60/15

### Date of:

1. Occurrence	: 20.06.2015
2. Complaint	: 20.06.2015
3. Apprehension	: 20.06.2015
4. Release on bail	: 25.06.2015
5. Commitment	: ...
6. Commencement of trial	: 04.10.2017
7. Commencement of evidence	: 10.11.2021
8. Close of trial	: 12.03.2026
9. Sentence or order	: 16.03.2026
10. Service copy of judgment	: Copy is ready
11. Explanation for delay	: No delay
12. Period of detention undergone during investigation, inquiry or trial for the purpose of section 428 CrPC	: ...

This case came up for consideration during today's proceedings and the court delivered the following:

## J U D G M E N T

This is a case instituted upon final report filed by Sub Inspector of police Peringome PS in Cr. No.550/15 for the offence punishable u/s 332, 353 r/w 34 of IPC.

2. **Prosecution case in brief is as follows:** On 20.06.2015 at 08.45 hours at Karimthadam, in Peringome amsom, accused Nos.1 to 3 in furtherance of their common intention, the 1<sup>st</sup> accused attacked CW1, the Addl. SI of Peringome PS and pulled the uniform of him and damaged the shoulder flap of uniform while the police officials came there on the enquiry about the criminal trespass of the house of CW6. Further the accused pushed CW2 to down, the Junior SI while he was preventing the attack to CW1 and the 2<sup>nd</sup> accused beat CW3, the woman civil police officer in her face with hand and twisted her left hand and thereby caused injury to her. Further the accused No.1 & 2 prevented the police officers with the help of accused No.3 from discharging their official duty as a public servant. Thereby the accused persons said to have been committed the above said offences.

3. The court took cognizance of offence and issued process against the accused persons. On appearance of accused No.1 & 2, copies of all relevant prosecution records are furnished to them. After hearing both sides, charge u/s 332, 353 r/w 34 of IPC was framed and read over and explained to accused to which they pleaded not guilty and claimed to be tried. Accused

No.3 is reported no more and death certificate is produced and charge abated against him.

4. On the side of prosecution PW1 to PW10 are examined and Ext. P1 to P9 and MO1 are marked. CW5 & CW8 were given up by learned Asst. Public Prosecutor and the prosecution evidence closed. After examining the witnesses for the prosecution, accused Nos.1 & 2 were questioned u/s 313(1) (b) of Cr.PC. Accused Nos.1 & 2 denied all the incriminating circumstances that appeared in evidence against them. Thereafter both the accused are called upon to enter their evidence, but no defence evidence was adduced on behalf of the accused.

5. Heard both sides.

**6. Point arise for consideration:**

1) Whether the accused persons in furtherance of their common intention voluntarily caused hurt to Police Officials of Peringome police Station and prevented them from discharging their duty as a public servant and thereby committed an offence punishable under section 332 r/w 34 of IPC?

2) Whether the accused in furtherance of their common intention assaulted or used criminal force against the police officials while they were discharging their official duties as a public servant and also caused to prevent discharging of the official duties of PW1, PW4 & PW5 as public servants and thereby committed the offence under section 353 r/w 34 of IPC?

3) If the offence is proved, what is the order as to sentence?

7. **Point Nos. 1 & 2:** These points are considered together for the sake of convenience. Prosecution has examined PW1 to PW10 and Ext. P1 to P9 and MO1 are marked. PW1, Additional Sub-Inspector of Peringome Police Station, stated that on 20.06.2015 at 7:30 a.m., Radhakrishnan reported that his sister, her husband, and son threatened to destroy his house. SCPO Manoj was sent to inquire and asked both parties to come to the station. At 8:15 a.m., Radhakrishnan again called, saying the three had trespassed and damaged his house. PW1, along with other officers, went to the spot and found the windows, doors, and furniture destroyed. Further Radhakrishnan identified the culprits as his sister, her husband, and son. When questioned, they quarreled again, and the third accused resisted arrest, claiming police should not interfere in family matters. During the scuffle, Sooraj tore PW1's uniform and pushed Jr. SI Sreekanth Misra, while Rajamani struck WCPO Ajitha and injured her.

8. Further deposed that all three accused were arrested at 09:15 a.m. and taken to the station. PW1 testified that the accused obstructed police duties, leading to Crime No. 550/15 under Sections 353 and 332 r/w 34 IPC. The FIS and FIR were marked as Ext.P1 and Ext.P2, arrest and inspection memos as Ext.P3 series, and arrest intimation memo as Ext.P4. Another case, Crime No. 551/15, was registered based on Radhakrishnan's complaint, with

investigation handed over to ASI Sukumaran (CW12). PW1 produced his damaged uniform (MO1) and identified Accused No.1 in court.

9. PW2, SCPO of Peringome Police Station, testified in tune with prosecution case that on 20.06.2015 at 08:15 a.m., he accompanied CW1, CW2, CW3, and CW5 to Radhakrishnan's house at Karinthadam, Peringome. They saw a woman and two men standing outside with a car parked nearby. Radhakrishnan identified them as his sister, her husband, and son, stating that they had a property dispute and had damaged the windows, doors, and furniture. Further on enquiry, the accused gave their names and addresses, but the third accused told PW1, "If you are SI, I am DYSP, police should not interfere in family matters," and instructed the others not to surrender. During the attempt to take them into custody, Accused No.1 tore CW1's uniform strap and pushed CW2, while Accused No.2 struck CW3 on the face and twisted her hand. The accused were arrested, Crime No.550/15 was registered, and investigation was handed over to CW12. PW2 confirmed that MO1 was CW1's damaged uniform and stated that CW12 inspected the scene

10. PW3 is the eyewitness to the incident who deposed that he saw the incident as alleged by the prosecution and on 20.06.2025 at 07.30 am, his sister Rajamani and her husband and son were came to his house asking the deed of the property and destroyed the window glasses and other articles inside the house. He called police and the police came there and when the

police asked about the address of the accused persons, they again started to quarrel with me, police tried to arrest them and at that time accused no. 3 told to police not to interfere with their family matter and told other accused not to surrender with the police. Then he deposed that when police asked the accused to get into the vehicle, they refused, so they were forcibly made to enter. Meanwhile Sreedharan caught hold on the uniform. Further woman CPO forcefully hold Rajamani to put her in jeep and they took all accused into jeep. He identified the MO1 uniform.

11. PW4, WCPO of Peringome Police Station, stated that on 20.06.2015 at 08:15 a.m., she accompanied the SI, Junior SI, and other officers to Radhakrishnan's house at Karimthadam after receiving information about damage caused there. She saw a woman and two men near a car, and the house windows were broken. On enquiry, the accused gave their details, but the first accused told PW1, "If you are SI, I am DYSP," and instructed the others not to surrender. During the attempt to arrest them, Sooraj tore the SI's uniform strap and pushed the Junior SI, while Rajamani struck PW4 on the face and twisted her thumb, obstructing her duty. PW4 received treatment at the hospital for her injuries, as did the Junior SI. She identified Accused No.1 in court.

12. PW5, Junior SI of Peringome Police Station, stated that on 20.06.2015 he went to Radhakrishnan's house at Karimthadam along with

CW1, WCPO Ajitha, Prakasan and others. They saw a car parked outside with a woman and two men nearby. Radhakrishnan identified them as his sister, her husband, and son, and said they had a property dispute and had broken the glass of his house. He deposed that the third accused quarreled with the SI, while Accused No.1 tore the SI's uniform strap and pushed PW5 down when he tried to intervene. Rajamani struck WCPO Ajitha on the face and twisted her hand, causing injuries to both PW5 and Ajitha. They received treatment at the Taluk Hospital, Peringome. PW5 confirmed that the accused obstructed their official duties and identified MO1, the SI's damaged uniform

13. PW6 is the wife of Radhakrishnan who deposed that on 20.06.2015 her sister and son and husband of her sister came to the house owned by her husband and damaged the house. A property dispute was between them. She further deposed that her husband calls the police and they came there at 08.10. Before the arrival of the police the accused persons destroyed the house and the furniture. It is further stated that it was Sooraj and Rajamani who assaulted the police. But later she turned hostile to the prosecution. During her cross examination she categorically deposed that she was inside the house at the time of incident.

14. PW7 is the attestor of scene mahazar who deposed that he has witnessed the preparation of scene mahazar and he signed in the scene mahazar as a witness which is marked as Ext.P5.

15. PW8 is the SrCPO of Peringome PS who deposed that he has witnessed PW1 had produced the MO1 uniform to the IO, and the seizure mahazar is marked as Ext.P6 and he identified MO1.

16. PW9 is the Asst. Surgeon of Peringome Taluk Hospital who deposed that on 20.06.15 at 09.30 he examined one Srikanth Misra on the alleged history of assault by Sreedharan, Sooraj and Rajamani at Karimthadam and he treated as outpatient. He issued wound certificate which is marked as Ext.P7. He further deposed that on the same day at 10.30 hours he examined one Ajitha on the alleged history of assault by one Rajamani and not found to be serious injury and contusion was found at her left hand and he referred to Orthopedic surgeon and he issued a certificate which is marked as Ext.P8.

17. PW10 is the additional SI of Peringome PS who deposed that on 20.06.2015 he took over the investigation and at 10.30 am he proceeded to the place of occurrence and prepared Ext.P5 scene mahazar as shown by the eyewitness Gangadharan and the place of occurrence is building No. IX/84 Peringome panchayath and premises. He further deposed that he has seized the MO1 uniform of PW1 produced by him as per Ext.P6 seizure mahazar and he produced the Ext.P7 and P8 wound certificates of CW2 & CW3 collected from the doctor and he identified the same. He further deposed that he has

recorded the statement of CW1 to CW11 and he has completed the investigation and filed charge sheet against the accused. He further deposed that he produced the MO1 uniform before the court as per property list which is marked as Ext.P9.

18. However, it is pertinent to note that during recording of prosecution evidence, which continued over a period of several years, accused Sreedharan expired and proceedings were abated with respect to him.

19. The case of the prosecution is that accused Nos. 1 to 3 obstructed police officers during an enquiry into a criminal trespass at CW6's house. The 1<sup>st</sup> accused assaulted CW1, the Additional SI, by pulling and damaging his uniform. When CW2, the Junior SI, tried to intervene, he was pushed down. The 2<sup>nd</sup> accused struck CW3, a woman civil police officer, on the face and twisted her left arm, causing injury. Together, accused Nos. 1 and 2, aided by accused No. 3, prevented the officers from performing their official duties. According to PW1 to PW5 the assailants were standing outside the house of PW3 and when PW5 told them to disburse from that place they caused hurt to PW1, PW4 and PW5.

20. The learned counsel for the accused contended that the prosecution failed to establish that the alleged incident occurred. It was argued that despite receiving information over the phone, the police did not register an FIR immediately. Although damage to the windows was alleged,

no material evidence was seized from the house. Counsel further pointed out that the wound certificates (Ext.P7 and Ext.P8) show no injuries, and the arrest of Accused No.1 was improper as the arrest memo does not specify the exact place of arrest.

21. It was also submitted that no GD entry was made regarding the phone call, nor was any duty certificate produced before the court. Moreover, the prosecution did not examine any independent witnesses to corroborate the incident. According to the defence, the testimonies of PW1, PW2, PW4, PW5, and PW10 who all are police officers cannot be relied upon without independent supporting evidence.

22. On the other hand, learned Asst. Public Prosecutor submitted that the prosecution has proved the case beyond reasonable doubt. Furthermore, an eye witnesses was also examined and he stated about the incident as well. According to him, the evidence of PW1,2,4 and PW5, being the injured witnesses, coupled with medical evidence along with MO1 would prove the prosecution case beyond reasonable doubt.

23. In order to attract offence punishable under Section 353 IPC, the prosecution has to prove that the accused has (a) assaulted or used criminal force to any person (b) the person assaulted is a public servant in the execution of his duty as such public servant or (c) such assault or criminal force is committed i) with intent to prevent or deter that person from

discharging his duty as such public servant or, ii) in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant. Further, to attract an offence under Section 332 of IPC, the prosecution has to prove (a) the accused voluntarily caused bodily pain, disease or infirmity to the victim as provided under section 321 of Indian Penal Code, (b) the victim of the hurt is a public servant and (c) at the time of causing of hurt, the public servant concerned was discharging his duties of a public servant.

24. I have carefully gone through the evidence on record. In order to prove the incident, prosecution relied on the evidence of PW1 to PW5. According to prosecution PW1, PW2, PW4 and PW5 are official witness among whom PW1, PW4 and PW5 are the injured witnesses. PW3 is the independent witness. The evidence of PW1 is that on 20/6/2015, he was additional SI of Peringome police station and he was entrusted with GD charge as well. PW2 was the SCPO at Peringome police station and PW4 was the WCPO at the same police station. PW5 was the junior SI of that station. According to their evidence on getting information of trespass and mischief being committed in the house of PW3, they proceeded to the place of occurrence.

25. The common basic ingredients of S.332 and 353 IPC are that in both cases victim must be a public servant and he must be in the execution of his duty at the time of the commission of offence. So, first of all, prosecution

wants to prove that the above PW1, PW2, PW4 and PW5 are the public servants and they were on official duty and was doing duty in the official vehicle. The evidence on record clearly shows that PW1, PW2, PW4 and PW5 are the police officers who proceeded to the place of occurrence on getting the information of commission of an offence. Moreover, the evidence of PW3, the owner of the house also corroborates the testimony of the official witnesses that they reached the place of incident on getting the phone call of PW3. Further they were in uniform as per the testimony of these witnesses. It is the duty of police to enquire cognizable offence and can proceed into the place of occurrence on getting the information of cognizable.

26. The common ingredients under sections 353 and 332 IPC is that the accused obstructed duty of public officer in discharge of his duty. It is true that the police had not seized any document such as GD or duty notebook showing the allocation of the duty of the injured police personnel on the place of occurrence. However, the oral evidence of the injured policemen and the eye witness/owner of the house clearly shows that police officers were proceeded to the place of occurrence on getting information of commission of cognizable offence. Both sections 353 and 332 IPC do not require documentary proof to show that the injured public servant was on duty. The oral evidence of PW1 to PW5, along with MO1 and medical certificates would prove that they were on duty and were present at the place of occurrence at

that relevant point of time. The defence has no case that the accused persons were falsely implicated due to ill-will or previous enmity. From the above analysis of the evidence of PW1 to 5, I find that their evidence to the extent that they were public servant and they were in excise of their official duty is believable. Here at this juncture it is pertinent to note that the learned counsel for the accused argued that though it is claimed that PW3 called to the police at 7:30 am and complained of threatening by the accused persons and SCPO manoj was assigned to proceed to the place of occurrence, neither that witness was examined nor any GD entry was produced to show that PW3 called the police station at 07:30 am and that SCPO Manoj went to the place of occurrence. This casts doubt on the prosecution case. Because the prosecution could have produced best evidences such as GD entry, duty roaster, Etc. However the prosecution has not produced and marked those document for the best reasons known to them. Hence I find that the prosecution has not succeeded to prove that SCPO Manoj went to the place of occurrence.

27. Further the learned counsel for the accused argued that though they got information of a cognizable offence FIR was not registered immediately and GD entry was not made. It is true that the police Officer is bound to register First Information Report (FIR) upon receiving any information relating to commission of a cognizable offence. Reliance placed on *Lalita Kumari v. Govt. of U.P. and Others* 2013 (4) KHC 552. It was further

held that if information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted to ascertain whether cognizable offence is disclosed or not. Here the information is received through phone twice and the officers have immediately rushed to the place of occurrence to ensure the commission of a cognizable offence twice and the evidence shows that after returning to the police station only the FIR is registered on the complaint of the PW3. On perusal of records it is seen that crime no. 551/15 is being lodged specifically against the same accused based on the complaint given by PW3 by going to police station for trespassing and committing mischief in this property. But the prosecution has not given any plausible explanation for non-registration of FIR on two occasion even after getting the information of cognizable offence. It is well settled principle that the police can lodge an FIR based on telephonic information regarding a cognizable offence, provided the information is not cryptic, is recorded by the officer-in-charge, and discloses a clear offense. But here the FIR is seen lodged only after a written complaint was given by PW3 after the whole series of incidents. This cast doubt in the prosecution case.

28. The learned counsel for the accused argued that evidence of official witness cannot be relied unless and until it is corroborated by independent witness. But there can be no prohibition to the effect that a policeman cannot be a witness or that his deposition cannot be relied upon if

it inspires confidence. In *Girija Prasad V. State of Madhya Pradesh*, 2007, the Hon'ble Supreme Court held that "It is well-settled that credibility of witness has to be tested on the touchstone of truthfulness and trustworthiness. It is quite possible that in a given case, a Court of Law may not base conviction solely on the evidence of Complainant or a Police Official but it is not the law that police witnesses should not be relied upon and their evidence cannot be accepted unless it is corroborated in material particulars by other independent evidence. The presumption that every person acts honestly applies as much in favour of a Police Official as any other person. No infirmity attaches to the testimony of Police Officials merely because they belong to Police Force. There is no rule of law which lays down that no conviction can be recorded on the testimony of Police Officials even if such evidence is otherwise reliable and trustworthy. The rule of prudence may require more careful scrutiny of their evidence. But, if the Court is convinced that what was stated by a witness has a ring of truth, conviction can be based on such evidence."

29. It is noteworthy that PW1, PW4 and PW5 are the injured police officers. The law is settled that the evidence of an injured witness must be given due weightage and therefore their presence cannot be doubted. But it requires careful scrutiny of their evidence. Hence not let's examine the evidence of these witnesses along with the eye witness in detail.

30. The learned counsel for the accused submitted that there are several contradictions and inconsistency in the evidence of these material witnesses. It is pertinent to note that all the officers who came to the place have categorically deposed that the house belongs to Radhakrishanan and he and his wife was present in the house. Radhakrishan is examined as PW3 and his wife is examined as PW6. The accused persons and PW3 are relatives and it is admitted by PW3 and PW6 and all the officers who were examined. The case of the accused made through the suggestion is there were property dispute pending between the accused persons and PW3. The accused persons came to the house of PW3 for getting the deed of their father and the police came to the spot and unwantedly interfered with their family matter under the influence of a police officer who is the relative of PW3. The official witnesses have also admitted that there exist property disputes between the parties but they denied the suggestion that one of the officers in that police station is the relative of PW3. The case put forth by PW1 and PW2 is that the 3<sup>rd</sup> accused told to PW1 that " If you are SI, I am DYSP and police should not interfere with their family matters" and the 3<sup>rd</sup> accused told to his wife and son not to surrender before the police. 1st accused assaulted CW1, the Additional SI, by pulling and damaging his uniform. When CW2, the Junior SI, tried to intervene, he was pushed down. The 2<sup>nd</sup> accused struck CW3, a woman civil police officer, on the face and twisted her left arm, causing injury. Thus PW1

and PW2 categorically deposed the same thing. But when it comes to the evidence of PW4, she deposed that it is first accused who told that “If you are SI, I am DYSP”.

31. Most importantly the PW6 the eye witness to the incident has turned hostile to the prosecution and she stated that she has not seen that the accused persons holding the uniform and tearing it. In her cross examination she stated that she didn't see anything after the arrival of the police as she was searching her mobile phone and therefore she was inside the house.

32. Turning now to the testimony of another material eyewitness, PW3, who is both the informant and the owner of the house. His evidence is that he called the police, who then arrived at his residence. After speaking with him, the police officer proceeded to question the accused persons, and PW3 accompanied them. When the police asked the accused for their names and addresses, they responded, but then turned towards PW3. At that point, the police attempted to restrain them. The third accused then told PW1, ‘If you are SI, I am DYSP,’ and instructed the other accused not to surrender to the police. Subsequently, the police forcefully placed them into the police jeep. Meanwhile, the third accused grabbed PW1's uniform, and the women police officers used force to place the second accused into the jeep. Thus from the evidence of PW3, it is third accused who grabbed the uniform of PW1. Further he has not mentioned about the assault allegedly done by the first and second

accused to PW1 and PW4. As it is already stated the accused persons are his relative, more precisely speaking, PW2 is his sister and third accused is the husband of second accused and first accused is the son of second and third accused. Thus PW3 is very much familiar with faces of the accused but he deposed that it was third accused who grabbed the shirt of PW1. It is also pertinent to note that he is the informant himself. Further, in his cross examination he stated, initially he called the police through phone and later the written complaint was given by 9:30. He further admitted that the police reach the house by 08:15 am and inquired the name and address of the accused and the police forcefully taken the accused persons into the jeep. He further stated that at the time of destroying the window glass police were not present. It is further stated that the police talked to him first and then to the accused. Since they were standing 30 meters away he could not hear clearly. But later he came to that place. He further stated that there is no specific identifying feature to that uniform and it is commonly used by all police. He further stated that he was unsure whether the uniform had torn. It is further stated that the property belongs to him but he didn't produce any document to the police. It is further stated that the accused came there for getting deed of another property of their father. Thus his evidence is inconsistent with the evidence of other witness as he has not stated the alleged assault committed by the accused persons though he was present in the place of incident.

33. During cross-examination of PW1, it was stated that the GD entry began at 07.00 p.m., and he took charge of the SHO, as his superior had gone to attend a course. He admitted this handover would be reflected in the GD. He further stated that before the alleged incident, he received a call from Radhakrishnan complaining that his sister, her husband, and her son were threatening him. However, this call was not recorded in the station records. A CPO named Mahesh was sent to the scene, but this too was not noted in the GD. Mahesh later reported back, and informed that he asked the parties to come to the station, but this was also not recorded and was recalled only from memory of PW1. No case was registered at that time. Further deposed that at 8:30 a.m. the following day, Radhakrishnan again called, alleging that the accused trespassed into his house and broke window panes. No FIR was registered before leaving the station. By the time police arrived, the damage had already occurred, and PW1 did not witness it. CW6 claimed the accused were responsible, but no complaint was filed immediately. Later, after Ext.P1 FIS was lodged, when CW6 submitted a written complaint. The suggestion that CW6's complaint was fabricated was denied.

34. Further PW1 admitted that CW6 claimed ownership of the property but no documents were examined. He denied knowledge of any property dispute between CW6 and the accused. He also denied that the third accused claimed to be a retired DYSP or that CW6's relative worked at the

station. PW1 stated that although five officers were present, the accused resisted arrest and force was used. He denied abusing the accused during the arrest. The accused were released on bail the same day. He further stated that the first and second accused attacked the police, while the third accused instigated them not to surrender. He admitted that there were no nearby houses, though some people gathered at the scene. But their names were not recorded, nor was their presence mentioned in Ext.P1 FIS. Most importantly from the evidence of PW1 it is clear some people came to the place of incident but their name was not mentioned anywhere and they were not even examined before the court. Moreover, it is admitted that it is not stated in Ext.P1 FIS that the people gathered in the place of incident.

35. The cross-examination of PW1 highlights significant procedural lapses and inconsistencies. Key events such as initial complaints, deployment of officers, and witness reports were not recorded in the GD or FIR. The officer relied heavily on memory rather than documented evidence, weakening the reliability of his testimony. The absence of immediate complaints, lack of property verification, and omission of witness details raise doubts about the thoroughness and credibility of the investigation. Overall, the testimony suggests that the case may have been poorly documented, leaving room for challenges to its authenticity and accuracy.

36. During cross-examination of PW2, it was stated that the GD entry and notebook would show that PW1 accompanied the witness to the incident site, but these documents were not produced before the investigating officer. They went to the spot at 08:15 a.m. in a police jeep, and the jeep's logbook would confirm this. The case was registered only after returning to the station. Further stated that the third accused was elderly, the second accused a middle-aged woman, and the first accused initiated the attack, tearing PW1's uniform flap. He was not taken into custody immediately. Later, he pushed CW2, while the second accused assaulted CW3. After these events, all accused were taken into custody. The defense counsel suggested that Radhakrishnan's relative worked at the station, but the witness denied knowledge of this and also admitted ignorance about whether any officer visited Radhakrishnan's house at 07:30 a.m. that day.

37. Further during cross-examination of PW4, she admitted they did not see the accused committing mischief. She recalled that Sajjevan was the SHO but could not remember who held GD charge, though PW1 was entrusted with it. She could not recollect distances between the police station, the place of occurrence, and PW3's house. She stated five persons were present, but she did not recall the driver's name or know if PW3's relative worked at the station. She explained that after asking the accused their names, the arrest attempt led to resistance, during which PW1's uniform flap was torn. She

added that the house owner lodged another complaint (Crime No. 551/15). She testified that the second accused slapped her and twisted her finger, causing swelling and facial pain, which she showed to a doctor. She noted that although she told police her left hand was twisted, it was not recorded in her statement. She denied the suggestion that they did not go to Radhakrishnan's house, stating its front faces north.

38. Her testimony reveals uncertainty about key details (distances, personnel, documents) but confirms that resistance occurred during the attempted arrest, resulting in physical assault and injury. Further PW4 stated that it was the first accused who threatened the police whereas all other police witnesses stated that it was third accused who threatened the police official by stating that 'If you are SI, I am DYSP'. The omissions in her recorded statement and lack of corroborating documents weaken the reliability of her account, though she consistently maintains that the accused resisted arrest and caused harm.

39. Thus in the absence of the independent witness this court cannot rely the evidence of the official witnesses especially because there is no case to the eye witness that such and such offences were committed by the accused. The crucial evidence before the court is MO1 uniform of PW1 which he and other witnesses correctly identified except PW3. But the evidence of PW10 undermines the credibility of this piece of evidence as well because he stated

that he had taken charge on 20/06/15 but the alleged uniform was seized on 26/6/15. During cross examination of PW10, he admitted that CPO who was deputed to go the house of Radhkrishnan on receiving his first call was not arrayed as witness and was not examined. Further admitted that nothing was seized from the scene of occurrence. Further admitted that he took charge of the investigation on 20/06/15 and the uniform was seized on 26/06/15. Further stated that the delay in seizing the uniform occurred as he was busy with the investigation. He further admitted that he could not state meanwhile where the uniform was kept. He denied the suggestion that the old uniform was seized. Thus after a gap of 6 days the uniform was seized and most importantly he admitted that he didn't even know that where was the uniform kept till it was seized by PW10. Thus after excluding the crucial pieces of evidence that is of PW3 and PW6, the only available witnesses are police official. There was some significant inconsistency in the evidence of these police witnesses as well.

40. In the present case, although all police officials have categorically deposed about the incident, it is significant to note that the offence alleged is directed against police officers themselves. The witnesses who corroborated the version of the injured witnesses are also police officers. This raises a legitimate concern about impartiality, since their testimony may be influenced by institutional loyalty or bias.

41. Furthermore, one of the independent witnesses has turned hostile, thereby weakening the prosecution's case. The other independent eyewitness has not clearly attributed the alleged assault to the accused persons, nor has he convincingly stated that the accused obstructed the official duty of the police officers. His inability to properly recollect the events during cross-examination further diminishes the reliability of his testimony.

42. In criminal jurisprudence, it is a well-established principle that the prosecution bears the burden of proving its case beyond reasonable doubt. When the evidence presented is primarily from interested witnesses (in this case, police officers who are themselves the alleged victims), and when independent witnesses either fail to support the prosecution or provide inconsistent testimony, a reasonable shadow of doubt is created.

43. The court cannot convict merely on suspicion or on the basis of testimony that lacks credibility and consistency. The benefit of doubt must always go to the accused. Therefore, in light of the contradictions, the hostile witness, and the doubtful recollection of the independent eyewitness, I am not inclined to accept the version of the police officers as sufficient proof. The prosecution has failed to discharge its duty of establishing guilt beyond reasonable doubt, and consequently, the accused are entitled to acquittal.

44. From the evidence of PW2 and PW5, it emerges that the third accused was an elderly man, while the second accused was a middle-aged

woman. The testimony indicates that it was primarily the first accused who initiated the alleged attack. It is also relevant to note that the third accused passed away during the pendency of the case, which further reduces the scope of allegations against him. Thus, among the three accused, two were elderly individuals, and the prosecution admits that there were five police officers present at the scene.

45. It strains credulity to accept that such elderly persons could have overpowered and obstructed the official duties of five trained police officers, or that they had to be forcefully taken to the police station. The prosecution's version that these accused persons resisted custody and obstructed duty appears improbable in light of their age and physical condition.

46. Moreover, PW1's evidence reveals that the accused were released on bail on the very same day. Although PW1 could not explain the reasons for such immediate enlargement on bail, the defense counsel has argued that this was due to the poor health condition of the accused. This explanation gains plausibility when considered alongside the fact that two of the accused were aged individuals and one of them later died during the trial.

47. Taken together, these circumstances cast serious doubt on the prosecution's narrative. The improbability of elderly persons obstructing multiple police officers, coupled with the immediate grant of bail, supports the defense contention that the allegations are exaggerated and not sufficiently

substantiated. In criminal law, suspicion, however strong, cannot substitute proof. The prosecution must establish guilt beyond reasonable doubt, and in the present case, the evidence falls short of that standard.

48. Further it is submitted that there are no injuries noted in Ext.P7 and P8 wound certificate. Even though PW9 deposed that PW4 was referred to orthopedic, no certificate was produced before the court to show that she consulted that doctor. During cross examination of PW9 it is stated that there were no complaints of pain noted and further admitted that the PW4 not stated where she was beaten by the accused.

49. Further the investigation officer has not seized any of the documents from the police station though it was in their custody. PW1 to 5 though deposed that a car was there with the accused, it was not seized by the investigating officer. Thus the investigating Officer has not produced either the vehicle diary or the seizure Mahazar before the court. At this juncture, it is pertinent to note that the prosecution has not taken any steps to produce the documents from the police station.

50. The only evidence before the court is of the official witness that too have much discrepancies and is not corroborated by other ocular or documentary evidence. Therefore, this court is not inspired to go with the prosecution case.

51. Ongoing through the entire evidence, I find that the prosecution has not succeeded to connect the accused persons with this incident and the prosecution could not prove the case against the accused persons beyond reasonable doubt. Hence, I answered all the points against the prosecution and I find that the accused persons are not guilty of the offence alleged against him.

52. **Point No.3:** In view of my finding on point Nos. 1 & 2, accused Nos.1 & 2 are found not guilty of the offences punishable u/s 332, 353 r/w 34 of IPC.

**In the result,**

(i) Accused Nos.1 & 2 are acquitted u/s 248(1) of CrPC of the offences punishable u/s 332, 353 r/w 34 of IPC and their bail bonds stand cancelled and they are set at liberty.

(ii) Accused No.3 is no more and charge against A3 stands abated.

(iii) MO1 (RP No. 731/15), uniform of CW1, being valueless shall be destroyed after the expiry of appeal period.

(Dictated to Confidential Assistant, transcribed and typed her, corrected and pronounced by me, in open court this on the 16<sup>th</sup> day of March, 2026.)

Sd/-  
Judicial First Class Magistrate,  
Payyannur.

**APPENDIX:****WITNESSES FOR THE PROSECUTION**

:

PW1	V. Ramachandra Warriier	Defacto complainant
PW2	Gangadharan	Police witness
PW3	E. Radhakrishnan	Police witness
PW4	Ajitha	Injured witness
PW5	Srikanth Misra	Injured witness
PW6	Narayani	Eyewitness
PW7	Manoj	Scene mahazar witness
PW8	Manoharan	Police witness
PW9	Dr. Arun Gokul	Doctor
PW10	P K Sukumaran	Investigating officer

**EXHIBITS FOR THE PROSECUTION:**

Ext.P1/PW1	FI Statement dtd. 20.06.15
Ext.P2/PW1	F I Report dtd. 20.06.15
Ext.P3(a)/PW1	Arrest and inspection memo of A1 dtd.20.06.15
Ext.P3(b)/PW1	Arrest and inspection memo of A2 dtd.20.06.15
Ext.P3(c)/PW1	Arrest and inspection memo of A3 dtd.20.06.15
Ext.P4/PW1	Arrest intimation dtd.20.06.15
Ext.P5/PW7	Scene Mahazar dtd. 20.06.15
Ext.P6/PW8	Seizure mahazar dtd. Nil.
Ext.P7/PW9	Wound certificate of CW2 dtd. 22.06.15
Ext.P8/PW9	Wound certificate of CW3 dtd. 22.06.15
Ext.P9/PW10	Property list dtd. Nil.

**MATERIAL OBJECTS MARKED** :

MO1 : Uniform of PW1

**WITNESSES FOR THE DEFENCE** : Nil

**EXHIBITS FOR THE DEFENCE** : Nil

**MATERIAL OBJECTS MARKED** : Nil

Sd/-  
Judicial First Class Magistrate,  
Payyannur.

//True copy//

Judicial First Class Magistrate,  
Payyannur.