

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE
KUTHUPARAMBA**

Present:- Sri Pradheep K U
Judicial First Class Magistrate, Kuthuparamba

Dated this the, 05th day of May, 2026
(18th day of Vaishakha, 1948 S.E)

CC 353/2022

Complainant	:	State of Kerala Rep. by Sub Inspector of Police, Mattannur Police Station (Cr. No. 125/2020) (By Smt. Diya Deepthi C, APP-Gr.II, Kuthuparamba)
Accused	:	Sabu Varghese, S/o Varghese, Aged 52/20, Vithupurayil (H), Vallithodu, Kannothuparamba, Kiliyanthara (PO), Mattannur, Kannur. (By Adv. Sunil Kumar C P)
Offence	:	U/s. 448, 353, 354D, 509, 506, 228 of IPC & 119 (a), 120(o) of KP Act
Pleading	:	Not Guilty
Finding	:	Not Guilty
Sentence or Order	:	Accused is found not guilty of the offences punishable U/s. 448, 353, 354D, 509, 506, 228 of IPC & 119 (a), 120(o) of KP Act and he is acquitted U/s. 248(1) of Cr.PC.

Description of Accused

Sl.No.	Name	Father's Name	Occupation	Residence	Age
1	Sabu Varghese	Varghese	Nil	Mattannur	52/20

Date of:-

Offence	:	From 01-09-2019 to 28-02-2020
Complaint	:	29-02-2020
Apprehension	:	01-03-2020
Release on bail	:	10-06-2020

Commencement of trial	:	22-10-2025
Close of trial	:	27-04-2026
Sentence/Order	:	05-05-2026
Service copy of judgment	:

This case, having been finally heard on 27-04-2026, stood over for consideration on this day, and the Court delivered the following:

J U D G M E N T

This is a case instituted based on the final report filed by the SHO of Police, Mattannur Police Station, in Crime No. 125/2020, alleging offences punishable U/s. 448, 353, 354D, 509, 506, and 228 of the Indian Penal Code and Sections 119(a) and 120(o) of the Kerala Police Act.

2. **The prosecution's case in brief is as follows:-** The accused is a practicing lawyer and a member of the Mattannur Bar Association. During the period from 01.09.2019 to 28.02.2020, while the de facto complainant was working as the Judicial First Class Magistrate, Mattannur, the accused is alleged to have repeatedly followed her and tried to contact her in person and through phone, messages, and social media, even after she showed no interest. He also sent her letters and gifts. It is further alleged that he made obscene gestures, including gestures with his eyes and giving flying kisses, both inside the court and from nearby public places, intending to insult her dignity. The prosecution also alleges that on several occasions he used intimidating gestures to prevent her from doing her official duties and threatened her with harm to her person, reputation, and official position. On 20.02.2020 at about 4.00 p.m., it is alleged that the accused entered her chamber without permission while she was doing official work. It is also alleged that on one occasion, during court proceedings, he made obscene gestures in open court, which interrupted the proceedings. By these acts, the accused is alleged to have committed offences punishable under Sections 448, 353, 354D, 509, 506, and 228 of the Indian Penal Code and Sections 119(a) and 120(o) of the Kerala Police Act.

3. The accused appeared before the Court and was enlarged on bail. Copies of relevant prosecution records were furnished to him in compliance with Sec. 207 Cr.PC. After hearing both sides and perusing the materials available before the Court, a charge was framed against the accused for the offences punishable U/s. 448, 353, 354D, 509, 506, 228 of IPC & 119 (a), 120(o) of KP Act. When the charge was read over to him in Malayalam, he pleaded not guilty and claimed to be tried. Then, the case was posted for evidence.

4. On the side of the prosecution PW1 to PW6 were examined and Ext P1 was marked. Since material witnesses did not support the prosecution's case, the learned APP rightly gave up the examination of the remaining witnesses. Since no incriminating circumstances appear in the evidence against this accused, his examination u/s. 313(1) (b) of Cr.PC. is dispensed with. No evidence has been adduced from the side of the accused.

5. Heard both sides and perused the records.

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

1. Whether the accused trespassed into the chamber of the PW1, who was then working as Judicial First Class Magistrate, Mattannur, on 20.02.2020, without permission?
2. Whether the accused used criminal force or made intimidating gestures towards the PW1, who was then working as Judicial First Class Magistrate, Mattannur, to prevent her from discharging her official duties?
3. Whether the accused repeatedly followed and contacted the PW1, who was then working as Judicial First Class Magistrate, Mattannur, against her will?
4. Whether the accused made obscene gestures with the intent to insult the modesty of the PW1, who was then working as Judicial First Class Magistrate, Mattannur?
5. Whether the accused threatened the PW1, who was then working

as Judicial First Class Magistrate, Mattannur, with injury to her person, reputation, or position?

6. Whether the accused intentionally insulted and interrupted the PW1, who was then working as Judicial First Class Magistrate, Mattannur, during judicial proceedings?
7. Whether the accused made indecent gestures in a public place affecting the PW1, who was then working as Judicial First Class Magistrate, Mattannur?
8. Whether the accused caused nuisance through repeated unwanted communications to the PW1, who was then working as Judicial First Class Magistrate, Mattannur?
9. What offence, if any, was committed by the accused?
10. What sentence or order to be passed?

7. **Points No. 1 to 9:-** All these points are discussed together for convenience and to ensure brevity. The crucial witness in this case is the de facto complainant, who was examined as PW1. PW1 deposed that she was working as the Judicial First Class Magistrate at Mattannur during the period from 2018 to 2021. During that time, she received several letters, flowers, and greeting cards at her official address, allegedly in the name of an advocate. She further stated that on one occasion, an advocate made certain gestures in open court, allegedly causing obstruction to court proceedings, and that she had also received an abusive message on her phone. PW1 stated that she had lodged a complaint before the Mattannur Police Station through email, which was marked as Exhibit P1. She was on a journey for training on that day. Subsequently, she handed over the original complaint to the police, which was marked as Exhibit P2.

8. However, in her evidence before the Court, PW1 significantly diluted the prosecution's case. She stated that after her transfer from the JFCM Court, Mattannur, she had worked in four other courts and had interacted with several lawyers. Due to this, she was unable to identify the advocate involved in

the alleged incidents and could not identify the accused present in court as the person who committed the alleged acts. She was also unable to state the exact dates of the incidents. PW1 further stated that the letters and gifts were received at her official address through the Junior Superintendent, and therefore, she could not identify the sender. She also stated that she could not recollect the exact nature of the alleged gestures due to the lapse of time. Regarding the allegation of trespass into her chamber, PW1 clarified that, though she had initially stated that a lawyer had trespassed into her chamber, she later understood that the said person had entered the chamber with prior permission from the staff. Hence, the earlier allegation of trespass was due to a misunderstanding. Similarly, with respect to the allegation of intimidation, PW1 stated that she later understood that the lawyer had entered her chamber to raise a complaint regarding the behaviour of the staff in connection with a case, and there was no occasion of intimidation. She admitted that the earlier statement regarding intimidation was also due to a misunderstanding. PW1 further stated that none of her official duties were obstructed due to the alleged acts. She also deposed that she had no knowledge of any defamatory content posted on social media and that such statements in her complaint were made under a misconception.

9. Since PW1 did not support the prosecution's case, the learned Assistant Public Prosecutor sought permission of the Court under Section 154 of the Indian Evidence Act (corresponding to Section 159 of the Bharatiya Sakshya Adhinyam) to examine her by putting the questions permissible as in cross-examination. During such examination, PW1 stated that she did not wish to pursue the case against the accused and had no subsisting complaint. She further stated that the case had been settled through the intervention of friends and family members. She also admitted that she had mentioned the name of the accused to the police based on information provided by members of the Mattannur Bar Association and on mere suspicion. She further stated that she did not know all the members of the Bar Association and could not identify the

person who had allegedly caused disturbance. PW1 also stated that she was unaware whether any material objects were seized in connection with the case and did not remember handing over any letters or gifts to the police. She categorically deposed that all statements in Exhibit P1 were made due to a misunderstanding or a misconception. Though she denied that she had changed her version to help the accused, her testimony clearly shows a complete departure from her earlier allegations.

10. PW2, a practicing lawyer and member of the Mattannur Bar Association, deposed that he knew PW1 as the then Magistrate. However, he had no direct knowledge of the incident and came to know about it only through colleagues. He stated that a general body meeting of the Bar Association was conducted, and the accused was suspended, but his knowledge about the allegations was purely hearsay.

11. PW3, who was working as a Bench Clerk at the JFCM Court, Mattannur at the relevant time, deposed that he came to know that PW1 had lodged a complaint alleging trespass and obstruction. However, he had no direct knowledge of the incident, and his evidence is also based on hearsay. He could not state the exact date or time, though he vaguely remembered it as having occurred in February 2020.

12. PW4, an office assistant at the said court, also deposed that he came to know about the incident only after PW1 lodged the complaint. He was not present at the time of the alleged occurrence and had no direct knowledge of the facts. His evidence is purely hearsay.

13. PW5, who was working as a Confidential Assistant at the JFCM Court, Mattannur, deposed that she had heard about the incident in the last week of February 2020. However, she was not present inside the chamber at the relevant time and did not witness any trespass or misbehaviour. She also admitted that she had only hearsay knowledge and had not seen the accused committing any act as alleged.

14. PW6, who is a practising lawyer at Mattannur, also testified that he

has only hearsay knowledge about the facts of the case. He heard that someone had made some gestures towards the then Magistrate. But he did not know who did such acts. He affirmed that he has only hearsay knowledge about the allegations.

15. All of the witnesses examined on the side of the prosecution have turned hostile to the prosecution's version. When PW1 to PW6 gave hostile testimony in the witness box, the learned Assistant Public Prosecutor sought the permission of the court to put the questions permissible as in cross-examination as per Section 154 of the Indian Evidence Act. This Court has granted permission to the learned Assistant Public Prosecutor, and after such questioning by the learned Assistant Public Prosecutor, nothing could be elicited from the mouth of the witnesses to incriminate the accused. As the material witnesses are turned hostile to the case of prosecution, the learned Assistant Public Prosecutor has rightly given up the examination of other witnesses. This Court is also satisfied that the examination of other witnesses would not improve the case of the prosecution, or otherwise, it would only be a futile exercise.

16. In the present case, the crucial witness is PW1, who was the Judicial First Class Magistrate at the JFCM Court, Mattannur, at the relevant time. Though she initially deposed that she had received letters, greeting cards, flowers, and other items allegedly sent by an advocate, and that she had been followed, she failed to identify the accused before the Court as the person responsible for such acts. While she stated that someone had made gestures towards her while she was presiding over court proceedings, she could not recollect the nature of such gestures and did not identify the accused as the person who made them.

17. Further, though PW1 stated that she had received letters, greeting cards, and gifts, she admitted that all such items were received at her official address and were initially handled by the Junior Superintendent. Hence, she

was unable to identify the sender of those items. With respect to the allegation of trespass into her chamber, PW1 did not identify the accused as the assailant. Rather, she clarified that the concerned person had entered her chamber with prior permission from the staff. Similarly, though she had earlier alleged that the said lawyer had spoken to her in an indecent manner and had intimidated her, she retracted from that version and stated that the said person had come to her chamber to make a complaint regarding the conduct of a staff member, and that there was no intimidation. She further deposed that the complaint lodged before the police was the result of a misunderstanding, which was later clarified upon discussion with her staff.

18. All other witnesses examined on the side of the prosecution have not supported the prosecution's case. Their testimonies are entirely hearsay in nature, and none of them has deposed to any fact within their direct knowledge. No positive evidence has been adduced through these witnesses to substantiate the allegations raised by the prosecution.

19. In fact, there is absolutely no evidence before this Court identifying the accused as the assailant or as the person who allegedly made gestures, behaved indecently, or committed any of the acts complained of. At the time of the examination of PW1 through video conference, the accused was present in the dock. However, PW1 specifically denied that the accused present was the one who had committed the alleged acts. Thus, even assuming that any such incident had occurred, as alleged, the evidence of PW1 fails to establish the identity of the accused as the perpetrator. Upon a careful consideration of the entire evidence available on record, this Court is of the considered view that the prosecution has failed to establish the offences alleged against the accused. The evidence adduced is wholly insufficient to bring home the guilt of the accused or to establish the charges against him.

20. It appears that the matter has been resolved through the intervention of friends and family, and PW1 has chosen not to pursue the matter further. In such circumstances, this court finds that the prosecution has miserably failed to

prove the guilt of the accused beyond a reasonable doubt. Consequently, the accused is entitled to the benefit of doubt and to be acquitted. Accordingly, these points are found against the prosecution.

21. **Point No. 10:-** In view of the findings on points no. 1 to 9, the accused is found not guilty of the offences punishable U/ss. 448, 353, 354D, 509, 506, 228 of IPC & 119 (a), 120(o) of KP Act. Hence, this point does not require further discussion.

In the result, the accused is acquitted u/s 248(1) of Cr.PC for the offences punishable U/ss. 448, 353, 354D, 509, 506, 228 of IPC & 119 (a), 120(o) of KP Act and he is set at liberty. His bail bond stands cancelled.

Properties produced before this court as RP 109/2020, being valueless, shall be destroyed as per the rules after the appeal period or after the disposal of the appeal if preferred.

(Dictated to the Confidential Assistant, typed by her, corrected and pronounced by me in open court, this the 05th day of May, 2026).

Sd/-
Judicial First Class Magistrate
Kuthuparamba

APPENDIX

WITNESS EXAMINED FOR THE PROSECUTION

Prosecution Witness No.	Name of Witness	Description
PW1 (CW1)	Arunima V A	Informant
PW2 (CW5)	Adv. Ramesan	Occurrence witness
PW3 (CW2)	Prajeesh K K	Occurrence witness
PW4 (CW3)	A P Chandran	Occurrence witness
PW5 (CW4)	Dhanisha	Occurrence witness
PW6 (CW6)	Adv. C P Rajeevan	Occurrence witness

EXHIBITS MARKED FOR THE PROSECUTION

Exhibit No.	Description of the Exhibit	Proved by/ Attested by
Ext.P1	Complaint filed through email dated 29-02-2020	PW1
Ext.P2	Original complaint dated 29-02-2020	PW1

WITNESS EXAMINED FOR THE DEFENCE

Nil

EXHIBITS MARKED FOR THE DEFENCE

Nil

MATERIAL OBJECTS

Nil

Sd/-
Judicial First Class Magistrate
Kuthuparamba

//True Copy//

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Kuthuparamba