

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

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

Dated this the, 27th day of April, 2026
(10th day of Vaishaka, 1948 S.E)

CC 331/2019

Complainant	:	State of Kerala Rep. by Sub Inspector of Police, Kuthuparamba Police Station (Cr. No. 349/2019) (By Smt. Diya Deepthi C, APP-Gr.II, Kuthuparamba)
Accused	:	1. Rithin C P, S/o Raveendran, Aged 18/19, Oravukund (H), Vengad (PO), Kuryode, Kannur 2. Shinoj M K, S/o Mohanan, Aged 32/19, Puthiyavalappil (H), Vengad (PO), Kuryode, Kannur. (By Adv. V Sijimol)
Offence	:	U/s. 448, 323, 324 r/w 34 IPC
Pleading	:	Not Guilty
Finding	:	Not Guilty
Sentence or Order	:	Accused persons found not guilty of the offences punishable U/s. 448, 323, 324, r/w 34 IPC, and they are acquitted u/s 248(1) of Cr.PC.

Description of Accused

Sl. No.	Name	Father's Name	Occupation	Residence	Age
1	Rithin C P	Raveendran	Coolie	Vengad	18/19
2	Shinoj M K	Mohanan	Coolie	Vengad	32/19

Date of:-		
Offence	:	15-04-2019
Complaint	:	20-04-2019
Apprehension	:	27-04-2019
Release on bail	:	27-04-2019
Commencement of trial	:	18-02-2021
Close of trial	:	24-04-2026
Sentence/Order	:	27-04-2026
Service copy of judgment	:

This case, having been finally heard on 24-04-2026, stood over for consideration on this day, and the Court delivered the following:

J U D G M E N T

This case is instituted based on the final report filed by the officer in charge of Kuthuparamba Police Station in Crime No. 349 of 2019, alleging offences punishable under Section 448, 323, 324 r/w Section 34 of IPC.

2. **The prosecution's case in brief is as follows:** On 15.04.2019 at around 23.30 hours, the accused persons, in furtherance of their common intention, trespassed onto the courtyard of the house wherein PW1 is residing along with her family. Thereafter, the accused Nos. 1 and 2 pushed PW1 and caused hurt to her by slapping her with their hands. When the father of PW1 questioned them, they caused hurt to him by beating him with a torch on the head. As a result of the incident, PW1 and PW2 sustained injuries, and thus the accused persons are alleged to have committed the offence punishable under Section 448, 323, 324, read with Section 34 of the IPC.

3. Accused persons appeared before the Court and were enlarged on bail. Copies of relevant prosecution records were furnished to them. 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, 323, 324 r/w Section 34 of IPC. When the charge was read over and explained in Malayalam, they pleaded not guilty and claimed to be tried. Then, the case was posted for evidence of prosecution.

4. On the side of the prosecution, PW1 to PW9 were examined and Ext P1 to P8 were marked. MO1 torch were identified and marked. After the closure of prosecution evidence, the accused persons were examined u/s 313(1) (b) of Cr.PC. They denied all the incriminating circumstances appearing in the evidence against them when it was put to their notice. Thereafter, the accused persons were called upon to enter into defence and to adduce evidence, if any. However, no oral or documentary evidence has been adduced from the defence side.

5. Heard both sides and perused the records.

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

1. Whether the accused persons, in furtherance of their common intention, committed house trespass into the courtyard of PW1's residence, thereby attracting the offence punishable under Section 448 read with Section 34 of the IPC?
2. Whether the accused persons, in furtherance of a common intention, voluntarily caused hurt to PW1 by pushing and slapping her, and thereby committed the offence punishable under Section 323 read with Section 34 of the IPC.
3. Whether the accused persons, in furtherance of a common intention, voluntarily caused hurt to the father of PW1 by beating him with a torch, a dangerous weapon, and thereby committed the offence punishable under Section 324 read with Section 34 of the IPC.

4. What offence, if any, was committed by the accused persons?

5. What sentence or order is to be passed?

7. **Points No. 1 to 4:-** All these points are discussed together for convenience and to ensure brevity. PW1 is the de facto complainant. She made an Exhibit P1 complaint before the police. PW2 is the mother of PW1. PW3 is a witness to Exhibit P2 scene mahazar. PW4 is the police officer on GD charge duty at Kuthuparamba Police Station, who recorded Exhibit P1, the First Information Statement of PW1. PW5 is a consultant in paediatrics at Taluk Hospital, Kuthuparamba, who examined PW1 and issued Exhibit P3 wound certificate. PW6 was a Special Village Officer at Paduvilayi Village Office. He issued Exhibit P4 ownership certificate pertaining to the place of occurrence property. PW7 was a Senior Civil Police Officer at Kuthuparamba Police Station. He registered Exhibit P5 FIR in this case based on Exhibit P1 complaint. PW8 was a Senior Civil Police Officer at Kuthuparamba Police Station who conducted preliminary investigation in this case. He prepared Exhibit P2 scene mahasar and also seized MO1 torch. He produced the same as per Exhibit P3 property list. He questioned witnesses. He collected Exhibit P4 wound certificate. He arrested the accused persons as per Exhibit P7 series arrest memos. He filed Exhibit P8 address report. He handed over the investigation to PW9. PW9 concluded the investigation. After verifying the prior investigation, he has collected Exhibit P4 possession certificate and questioned some of the witnesses. He laid the final report against both the accused.

8. The offences alleged in this case are under Section 448, 323, 324 and Section 34 of the IPC. The allegation of the prosecution is that the accused persons, in furtherance of their common intention, caused trespass onto the courtyard of the house of PW1, caused simple hurt to PW1, and caused simple hurt to the father of PW1, by striking with a torch, which is a dangerous

weapon. The father of PW1 was cited in the final report as CW3. However, CW3 did not turn up for examination despite issuing repeated and coercive steps. It has to be mentioned that the prosecution has miserably failed to secure the presence of CW3 despite reasonable opportunities being granted.

9. PW1 and PW2 are the witnesses supported in the case of prosecution. PW1 is the de facto complainant, and PW2 is the mother of PW1. The version of PW1 is that the incident occurred on 14.05.2019 at 11.30 p.m. in the courtyard of her house. She would testify that an altercation took place pertaining to the dispute relating to the blasting of firecrackers, and her father questioned the same. At that Time. Accused no. 1 caught hold of her hand, and accused no. 2 caused hurt on her head by striking her with the torch. PW2 has materially supported this version. She testified that the accused no. 1 caused hurt to the hand of PW1, and when her father questioned her about the act. Accused no. 2 caused hurt on the head of PW1.

10. The learned counsel for the accused argued that the version testified to by the witnesses in the witness box is utterly false. It is argued that, according to the version of the prosecution, in Exhibit P1, as well as the statement recorded during the investigation, the First accused caused hurt on the hand of PW1, and the Second accused no. 2 caused hurt on the head of the father of PW1 by striking with the torch. This version is apparently contradictory to the evidence given in the witness box and demolishes the evidence of PW1 and PW2.

11. As per their version before the court, accused no. 1 has caused hurt on the head of PW1 and accused no. 2 has caused hurt on the head of PW1 by using a torch, which is a dangerous weapon. This version appears to be contradictory to the prosecution's allegation. Because there was no allegation in the prior statement of PW1 that any of the accused had caused hurt to her head using a torch. In order to establish the fact that PW1 has sustained hurt

following the incident, the prosecution has examined PW5, who was a consultant in paediatrics at Taluk Hospital, Kuthuparamba. As per the version of PW1, she has examined PW1 on 16.04.2019 at 01.10 p.m. As per the injury stated to her by PW1, 4 named persons, namely Arun, Rithin, Raveendran and Shinootty, have caused hurt to her using a torch and also twisted her hand. She has noted a complaint of pain and a condition in the left forearm. But she did not note any injury on the head of PW1. Which would nullify the version of PW1 regarding causing hurt on her head using the torch. Apparently, the evidence of the medical witness does not go together with the evidence of PW1, as the injury or the version regarding hurt does not tally with each other. Further, the version about the assailants also appears in consistent and contradictory.

12. I have gone through the Exhibit P1 FI statement lodged by PW1. Even as per the case of PW1, in Exhibit P1, the attack using a torch by accused no. 2 was on the father of PW1. PW1 has no case in the Exhibit P1 that the accused no. 2 has caused hurt to her head. The absence of any injury on the head of PW1 noted by PW6 doctor and the absence of such a history or version in Exhibit P1, this Court finds that the version of PW1 and PW2 regarding the attack using a torch on the head of PW1 is apparently unbelievable. During cross-examination, it was elicited that the accused No.2 had caused a severe injury or severe strike using a torch on the head of PW1. PW1 even added that there had been a contusion and injury to the head. If that is the case, it should have been reflected in the wound certificate, or the victim should have spoken about it to the doctor who consulted and the doctor who treated PW1 about it. The absence of such evidence would indicate that PW1 and PW2 are lying about the principal allegation of causing hurt by using a torch, which is a dangerous weapon. If that is so, the evidence of PW1 and PW2 would become unbelievable.

13. Therefore, having considered the totality of the circumstances, this Court finds that the evidence adduced is suspicious and not believable and would prove the alleged offences beyond doubt. The evidence of PW1 and PW2 is apparently inconsistent and unbelievable, and does not withstand the touchstone of truthfulness after cross-examination. Therefore, this Court finds that the prosecution has miserably failed to establish the charges against the accused persons. If so, all accused persons are entitled to be acquitted. These points are found against prosecution.

14. **Point No. 5** :- In view of the findings on points no. 1 to 4, the accused persons are found not guilty of the offences punishable U/ss. 448, 323, 324, r/w 34 IPC. Hence, this point does not require further discussion.

In the result, accused persons are acquitted U/s. 248(1) of Cr.PC for the offences punishable U/ss. 448, 323, 324, r/w 34 IPC, and they are set at liberty. Their bail bonds stand cancelled.

Property produced before this court as MO1 (Torch) as RP No. 135/2019, being valueless, shall be destroyed as per 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 27th day of April, 2026).

Sd/-
Judicial First Class Magistrate
Kuthuparamba

APPENDIX
WITNESS EXAMINED FOR THE PROSECUTION

Prosecution Witness No.	Name of Witness	Description
PW1 (CW1)	Sanjana C P	Informant

PW2	(CW2)	Beena	Occurrence witness
PW3	(CW4)	Muhammed Rishan	Mahazar witness
PW4	(CW6)	Pushpavalli T	Police witness
PW5	(CW7)	Dr. Suresh Babu C	Medical witness
PW6	(CW8)	Padmanabhan	Official witness
PW7	(CW9)	Sunil Kumar V	Official witness
PW8	(CW10)	Abdul Nasar	Police witness
PW9	(CW11)	Sreeja P	Police witness

EXHIBITS MARKED FOR THE PROSECUTION

Exhibit No.	Description of the Exhibit	Proved by/ Attested by
Ext.P1	FIS dated 20-04-2019	PW1
Ext.P2	Scene mahazar dated 21-04-2019	PW3
Ext.P3	Wound certificate dated 16-04-2019	PW5
Ext.P4	Affidavit of Village Officer dated 08-05-2019	PW6
Ext.P5	FIR dated 20-04-2019	PW7
Ext.P6	Property list dated 03-05-2019	PW8
Ext.P7 (Series a)	Arrest memo dated 27-04-2019	PW8
Ext.P7 (Series b)	Arrest memo dated 27-04-2019	PW8
Ext.P8	Address report dated nil	PW8

WITNESS EXAMINED FOR THE DEFENCE

Nil

EXHIBITS MARKED FOR THE DEFENCE

Nil

MATERIAL OBJECTS

MO1 : Torch

Sd/-
Judicial First Class Magistrate
Kuthuparamba

//True Copy//

Judicial First Class Magistrate
Kuthuparamba