

<b>IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE KUTHUPARAMBA</b>	
Present:- Sri. Pradheep K U Judicial First Class Magistrate, Kuthuparamba	
Dated this the, 24 <sup>th</sup> day of March, 2026 (05 <sup>th</sup> day of Chaitra, 1947 S.E)	
<b><u>CC 1059/2023</u></b>	
Complainant	: State of Kerala Rep. by Sub Inspector of Police, Kelakam Police Station (Cr. No. 547/2023)  (By Smt. Diya Deepthi C, APP-Gr.II, Kuthuparamba)
Accused	: 1. Madona, D/o Thomas, Grace Villa, Aged 32/23, Calicut University (PO), Chenkkal, Tenhipalam, Malappuram.  2. Thankamma, W/o Thomas, Aged 56/23, Grace Villa, Calicut University (PO), Chenkkal, Tenhipalam, Malappuram.  (By Adv. Ashaly T A)
Offence	: U/s. 341, 323, 294(b) r/w 34 IPC
Pleading	: Not Guilty
Finding	: Not Guilty
Sentence or Order	: Accused persons found not guilty of the offences punishable U/s. 341, 323, 294(b) r/w 34 IPC and they are acquitted u/s 248(1) of Cr.PC (Section 271(1) of BNSS).

<u>Description of Accused</u>					
Sl.No	Name	Father's Name	Occupation	Residence	Age
1	Madona	Thomas	Nil	Chenkkal	32/23

2	Thankamma	W/o Thomas	Nil	Chenkkal	56/23
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Date of:-	
Offence	: 13-06-2023
Complaint	: 13-06-2023
Apprehension	: 22-12-2023
Release on bail	: 22-12-2023
Commencement of trial	: 14-01-2025
Close of trial	: 21-03-2026
Sentence/Order	: 24-03-2026
Service copy of judgment	: .....

This case, having been finally heard on 21-03-2026, stood over for consideration on this day, and this court delivered the following :

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

This case is instituted based on the final report filed by the SHO of Police, Kelakam Police Station, in Crime No. 547/2023, alleging the offences punishable U/s. 341, 323, 294(b) r/w 34 IPC.

2. **The prosecution's case, in brief, is as follows:** On 06.06.2023, at 09:00 a.m., at the public road at Kanichar Amsom Kolakkad, the accused persons in furtherance of their common intention and on account of some family issues, wrongfully restrained PW2 and voluntarily caused hurt to him by hitting him with hand on the back and slapping on the face. It is also alleged that in the same transaction, the accused persons also dragged the child of PW1 and caused hurt, and they uttered obscene words towards PW2. Thus, the

accused persons are alleged to have committed the offences punishable U/s. 341, 323, 294(b) r/w 34 IPC.

3. The accused persons appeared before the Court and were enlarged on bail. Copies of relevant prosecution records were furnished to them in compliance with Sec. 207 Cr.PC. After hearing both sides and perusing the materials available before the Court, particulars of the offences punishable U/s. 341, 323, 294(b) r/w 34 IPC were read over and explained to the accused persons in Malayalam. They 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 the material witnesses examined before this court did not support the case of the prosecution, the learned APP rightly gave up the remaining witnesses. Since no incriminating circumstances appear in the evidence against the accused, their 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 persons, in furtherance of their common intention, wrongfully restrained and caused hurt to PW2 and the child of PW1 as alleged?

2. Did the accused persons utter obscene words towards PW2 at a public place, as alleged?
3. What offence, if any, was committed by the accused persons?
4. Sentence or order?

7. **Point Nos. 1 to 3:** All these points are discussed together for convenience. PW1 stated that this incident occurred on 13-06-2023 at 9.00 am, on the road in front of his house in Kanichar Kulakkad. Two people poured some solution on the face of his father and took his youngest child, Isa Mariyam, who was with his father and grabbed the hand of the eldest child, Keitlyn Mariya, and pulled her down, injuring her hand and knee. When his father tried to stop them, they uttered filthy language and slapped him in the face with their hands. He made an Ext P1 complaint before the police. But he did not witness the incident. He has only hearsay knowledge. He has no idea about the assailants. The things he mentioned in the complaint were said due to a misunderstanding. One of the accused in this case is his wife, and the other is his wife's mother. Now all the matters of this case have been settled after talking. PW2 stated that on 13-06-2023 at 09.00 am, two people restrained him in front of his house and slapped him in the face and shouted abusive words. They also tried to take away his son's children. He could not identify the assailants. PW3 to PW6 categorically stated that they did not witness the alleged occurrence.

8. When the material witnesses examined before this court as PW1 to PW6, turned hostile, the learned Assistant Public Prosecutor sought the permission of the court under section 154 of the Indian Evidence Act (S. 157 of BSA) to put the questions permissible as in cross-examination. But nothing could be brought out in evidence to find the guilt of the accused. The learned APP rightly gave up examining the remaining witnesses since the material witnesses turned hostile. This court is also satisfied that the examination of the remaining witnesses would be a futile exercise since material witnesses are deposed against the prosecution's case.

9. The de facto complainant and the other material witnesses cited and examined by the prosecution deposed against the case of the prosecution. Though PW1 and PW2 testified about the incident, PW1 is not an eyewitness, and PW2 did not identify the assailants. Other witnesses did not support the prosecution's case. In fact, the prosecution did not produce any reliable and acceptable evidence to show that the accused persons are guilty of the offences as alleged. In these circumstances, it can be seen that the prosecution has miserably failed to prove the guilt of the accused persons as alleged. This point is found against the prosecution.

10. **Point No. 4** :- In view of the findings on points no. 1 to 3, the accused persons were found not guilty of the offences punishable U/ss. 341, 323, 294(b) r/w 34 IPC. Hence, this point does not require further discussion.

In the result, the accused persons are acquitted u/s 248(1) of Cr.PC (Section 271(1) of BNSS) for the offences punishable U/ss. 341, 323, 294(b) r/w 34 IPC and they are set at liberty. Their bail bonds stand cancelled.

(Dictated to the Confidential Assistant, typed by her, corrected and pronounced by me in open court, this the 24<sup>th</sup> day of March, 2026).

Sd/-  
Judicial First Class Magistrate  
Kuthuparamba

## **APPENDIX**

### **WITNESS EXAMINED FOR THE PROSECUTION**

<b>Prosecution Witness No.</b>	<b>Name of Witness</b>	<b>Description</b>
PW1 (CW1)	Ebin John	Informant
PW2 (CW2)	Johny	Occurrence witness
PW3 (CW3)	Kuriakose	Occurrence witness
PW4 (CW4)	Thankamma	Occurrence witness
PW5 (CW5)	James	Occurrence witness
PW6 (CW6)	Midhun	Occurrence witness

### **EXHIBITS MARKED FOR THE PROSECUTION**

<b>Exhibit No.</b>	<b>Description of the Exhibit</b>	<b>Proved by/ Attested by</b>
Ext.P1	FIS dated 18-10-2019	PW1

**WITNESS EXAMINED FOR THE DEFENCE**

Nil

**EXHIBITS MARKED FOR THE DEFENCE**

Nil

**MATERIAL OBJECTS**

Nil

Sd/-  
Judicial First Class Magistrate  
Kuthuparamba

//True Copy//

Judicial First Class Magistrate  
Kuthuparamba