

IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE,
MATTANNUR

Present:- Smt.Shahina.N.V,
Judicial First Class Magistrate

Dated this the 13th day of April 2026 / 23rd day of Chaithra 1948

CC.No.4445/2016

- Complainant : State, Sub Inspector of Police,
Iritty Police station (Crime No.1099/2012)
*(Represented by Beena Sreehari, Assistant Public
Prosecutor, Mattannur(i/c))*
- Accused : A1. Muhammed Farook, S/o.Abdulla, Darul
Rehma, Keezhur Amsam, Keezhur, Iritty.
A2. Abdul Rasheed, S/o.Abdul Haji, Kalarikkandy
House, Payam Amsam, Kallumutty.
A3. K.V. Sajeer, S/o.Hussain, Kadassery Valappi
House, St.Judge Nagar, Vallithode,
P.O.Kiliyanthara.
: *(Represented by Adv.A.M.Jayakumar)*
- Offence : Punishable under Sections 143, 145, 283 and 153A
r/w 149 of IPC.
- Pleading : Not guilty
- Finding : Guilty of the offences punishable under Sections
143 and 283 read with Section 149 IPC and not
guilty of the offences punishable under Sections
145 and 153A read with Section 149 IPC.
- Sentence or Order : The accused No.1 to Accused No.3 are convicted
for the offences punishable under Sections 143 and
283 read with Section 149 of the Indian Penal Code

under Section 248(2) of the Code of Criminal Procedure and are sentenced to pay a fine of ₹3,000/- (Rupees Three Thousand only) each for the offence punishable under section 143 r/w 149 of IPC; in default of payment of fine, they shall undergo simple imprisonment for a period of three months and are also sentenced to pay a fine of ₹200/- (Rupees Two Hundred only) each for the offence punishable under section 283 r/w 149 of IPC; in default of payment of fine, they shall undergo simple imprisonment for a period of one month.

The accused No.1 to Accused No.3 are acquitted of the offences punishable under Sections 145 and 153A read with Section 149 IPC under Section 248(1) Cr.P.C.

Sl. No.	Name of Police station and Crime No. of the offence	Description of accused.				
		Name	Father's name	Occupation	Residence	Age
1.	Iritty Cr.No.1099/12	Muhammed Farook	Abdulla	Business	Keezhur	41/12
2.		Abdul Rashsed	Abdul Haji	- -	Kallumutty	48/1
3.		K.V.Sajeer	Hussain	Business	Vallithode	27/12

Date of:				
Occurrence	Complaint	Apprehension	Release on bail	Commitment
24-08-2012	07-09-2016	07-02-2013	07-02-2013	- -
Commencement of trial	Commencement of evidence	Close of trial	Sentence or order	Service of copy of judgment or finding on accused
17-05-2022	02-07-2024	10-04-2026	13-04-2026	- -

Explanation of delay	Period of detention undergone during investigation, inquiry or trial for the purpose of Section 428 Cr.PC.
No delay	--

This case having been finally heard on this, the 10th day of April, 2026, the Court on the 13th day of April, 2026, delivered the following:

J U D G M E N T

1. This is a case charge-sheeted by the Sub Inspector of Police, Iritty Police Station, against the accused in Crime No.1099/2012, alleging commission of offences punishable under Sections 143, 145, 283 and 153A read with Section 149 of the Indian Penal Code (hereinafter referred to as “IPC”).

2. The prosecution case, in brief, is as follows: On 24th August, 2012, at about 19:30 hours, at Keezhur Amsom, Iritty Town, the accused persons, in furtherance of their common intention, formed themselves into an unlawful assembly and conducted a procession through a public road. It is alleged that, despite a lawful command issued by the police to disperse, they continued the said procession, thereby causing obstruction to vehicular traffic and inconvenience to the general public. It is further alleged that, during the course of the procession, they raised provocative slogans promoting enmity between different religious groups. Hence, the accused are alleged to have committed the offences as charged above.

3. The accused persons were enlarged on bail. Copies of all relevant prosecution records were furnished to them. Upon hearing both sides and on perusal of the records, this Court framed charge against the accused for the offences punishable under Sections 143, 145, 283 and 153A read with Section 149 of the Indian Penal Code. The particulars of the charges were read over and explained to the accused, to which they pleaded not guilty and claimed to be tried.

4. From the side of prosecution, PW1 to PW11 were examined and Exhibit P1 to Exhibit P13 were marked. After the closure of prosecution evidence, the accused were examined under Section 313 of the Cr.PC regarding incriminating circumstances made out against them. They denied those circumstances and maintained a plea of innocence. They also claimed that they have been falsely implicated in this case.

5. Thereafter, the defence was called upon to enter upon its evidence; however, no evidence was adduced from the defence side.

6. Heard both sides and perused the records.

7. The points that arise for consideration are: -

(1) Whether the accused, being members of an unlawful assembly, formed themselves into such an assembly and thereby committed

an offence punishable under Section 143 read with Section 149 of the Indian Penal Code, as alleged by the prosecution?

- (2) Whether the accused, being members of an unlawful assembly, caused obstruction or danger to the public by conducting a procession through a public way at Iritty Town, and thereby committed an offence punishable under Section 283 read with Section 149 of the Indian Penal Code, as alleged by the prosecution?*
- (3) Whether the accused, being members of an unlawful assembly, continued therein knowing that it had been lawfully commanded to disperse, and thereby committed an offence punishable under Section 145 read with Section 149 of the Indian Penal Code, as alleged by the prosecution?*
- (4) Whether the accused, being members of an unlawful assembly, by raising provocative slogans, promoted or attempted to promote enmity between different groups, and thereby committed an offence punishable under Section 153A read with Section 149 of the Indian Penal Code, as alleged by the prosecution?*

(5) Sentence or order?

8. **Points No.1 and 2:** In order to avoid repetition of the discussion of facts and evidence and for brevity, this Court considers Points Nos. 1 and 2 together. To prove the case, the prosecution called 13 witnesses, of whom PW1 to PW11 were examined. PW1 was cited as the de facto complainant as well as the detecting police officer who registered the crime. PW2 and PW4 are the accompanying police officials of PW1 and are cited as eyewitnesses to the incident. PW3 and PW5 are the attesting witnesses to the Exhibit P4 scene mahazar. PW6 is a hearsay witness. PW7 is the Village Officer. PW8 to PW10 are the police officials who conducted the investigation in this case. PW11 is the police officer who completed the investigation and filed the final report.

9. PW1 deposed before this Court that on 24.08.2012, while he was on duty as a member of the Flying Squad along with PW2, he noticed about ten persons, led by a Popular Front Activist, namely Farooq (Accused No.1), proceeding in a procession at Iritty New Bus Stand towards the Mele Bus Stand. According to him, the said persons assembled with the intention of creating communal unrest and raised slogans against CPM and RSS, as well as against “Assam rioters”, and also raised slogans such as referring to Hindus as “dogs”. He further stated that they obstructed the road and conducted the procession in a

manner causing inconvenience to the public and vehicular traffic. PW1 deposed that, despite being directed to disperse and not to conduct such a procession without permission, the said persons continued the procession. He further deposed that the accused were not arrested at the spot, as such arrest might have led to law and order issues and, owing to insufficient police strength, the arrest was not effected. He also stated that the procession proceeded towards the old bus stand through the Mele stand. Thereafter, after clearing the obstruction on the road, he reached the Police Station and registered Crime No. 1099/2012 with Iritty Police Station against the said Farooq and other known accused. The First Information Statement is marked as Exhibit P1, and the First Information Report is marked as Exhibit P2.

10. PW1 also stated that he would be able to identify the accused if he saw them. He further stated that the person standing first in the dock is Farooq, and that he did not remember the names of the other two persons standing, though they were participants in the procession.

11. During cross-examination, PW1 stated that he received information regarding the incident over the telephone while he was on patrolling duty near Payancheri town. He deposed that he reached the place of occurrence in a police vehicle, though he could not recollect its registration number. He further stated

that he witnessed the procession proceeding from the old bus stand towards the 'Mele stand' from a distance of about 75 metres from the bridge. PW1 initially stated that he attempted to restrain the procession; however, he later stated that he did not attempt to restrain them, but only informed them that their act amounted to an offence and intimated the matter to the Police Station, directing that sufficient force be sent.

12. PW1 further stated that Accused No.1 is a political leader of the Popular Front, but he did not know his father's name or address. He deposed that he had prior acquaintance with Accused No.1, having seen him in earlier processions. He also stated that he would be able to identify the other accused upon seeing them. It was further stated that the investigating officer had shown the arrested accused to him.

13. PW1 further stated that he did not know whether a prior sanction of the Central Government is required to register a case under Section 153A of the Indian Penal Code, and that no such sanction was obtained in this case. He also stated that he did not know whether the other persons, apart from the three accused, who allegedly participated in the procession, were proceeded against in this case. He deposed that he did not see the other persons thereafter, but had seen only the three accused. He further admitted that he detected the crime and

registered the case, and that no person had lodged any formal complaint before him, stating that the procession had obstructed vehicular traffic; however, he later stated that some persons had orally informed him about such obstruction.

14. The learned counsel for the accused suggested to PW1 that he had not visited the place of occurrence, that the case was registered based on hearsay information, and that no such procession had taken place as alleged. PW1 denied all such suggestions.

15. PW2 deposed before this Court that on 24.08.2012, while he was on duty at Iritty Police Station as part of the Flying Squad along with PW1, on receiving information regarding a procession being conducted in Iritty Town under the leadership of members of the Popular Front, he reached the Mele stand area of Iritty Town and noticed about ten persons, led by one Mohammed Farooq (Accused No.1), proceeding in a procession from the old bus stand towards the Mele stand area.

16. He further deposed that, during the said procession, the participants raised slogans, such as referring to Hindus as “dogs”, and also raised slogans against CPM and RSS, as well as against “Assam rioters”, with the intention of creating communal unrest. He also stated that they caused obstruction on the road, thereby causing inconvenience to the public and vehicular traffic. He further

stated that, despite a lawful command from PW1 to disperse, the persons continued the procession, and that the procession ultimately proceeded towards the old bus stand. He further stated that he knew Mohammed Farooq and the other accused and identified them as the persons present before the Court on that day.

17. During cross-examination, PW2 stated that he could identify the persons who had conducted the procession, but did not know their names. He further stated that he did not know the father's name and address of Accused No.1 and had only hearsay information regarding him. PW2 deposed that the persons were instructed not to conduct the procession at 'Mele stand'. He further stated that, before their vehicle reached the spot, the procession was returning from 'Mele stand', and that no person had complained about any obstruction caused by the procession.

18. He also stated that the police vehicle was driven by one Santhosh; however, his previous statement did not disclose that the said Santhosh was accompanying him and PW1 in the vehicle. He further stated that he did not know the registration number of the vehicle and had no knowledge as to whether the procession had commenced half an hour before their arrival. He further stated that his knowledge regarding the procession having started from 'Thazhe bus

stand' was based on hearsay. PW2 admitted that he had not produced any document to establish that he was on duty at the time of the incident.

19. The defence suggested to PW2 that no such procession was conducted by the accused, that the case was falsely registered against them, and that PW2 was not on duty on the date of the incident. PW2 denied all such suggestions.

20. PW3 and PW5 were cited as attesting witnesses to the Exhibit P4 scene mahazar prepared in this case. However, both of them denied having affixed their signatures on the said mahazar and turned hostile to the prosecution. The defence did not cross-examine PW3 and PW5.

21. PW4 deposed before this Court that on 24.08.2012, while he was working as the driver of the Flying Squad vehicle at Iritty Police Station, he, along with PW1 and PW2, proceeded in the said vehicle from the new bus stand at Iritty upon receiving information that a procession was being conducted without permission. He stated that about ten members of a Popular Front group were proceeding in a manner causing obstruction to vehicles and the public, raising communal slogans, such as “ഹിന്ദുക്കളെ ചെറുക്കളെ.”

22. He further deposed that the officer in the vehicle directed them to disperse; however, they did not comply with the said direction and continued to

block vehicles and proceeded along the middle of the road. According to PW4, the incident occurred at about 7:30 p.m., and the place was illuminated by street lights. PW4 also stated that he would be able to identify the persons who participated in the said procession if shown to him. He identified two of the accused in the dock and stated that Accused No.1 was not present before the Court. Thereupon, the learned counsel for the accused submitted that Accused No.1 was not disputing his identity.

23. During cross-examination, PW4 stated that he did not know whether his statement to the police contained the specific allegation that the accused had raised the slogan “ഹിന്ദുക്കളെ പട്ടികളെ”. However, he confirmed before this Court that such a slogan was raised. He also admitted that his previous statement did not mention that the procession was proceeding through the middle of the road.

24. PW4 further stated that Accused No.1 is a socio-political activist, but he did not know his father's name or address. He deposed that, upon receiving information, they proceeded in the vehicle to the Iritty Police Station and reached the Iritty Mele stand. He also admitted that he had not produced any document to establish that he was on duty on the relevant day and that he did not remember the details of the vehicle he drove on that day.

25. The defence suggested to PW4 that he was not on duty on the

relevant day, that no such procession had taken place, and that the accused had no connection with the alleged incident. PW4 denied all such suggestions.

26. PW6, who was cited as a witness and alleged to have given a statement to the police, deposed before this Court that his knowledge regarding the incident was only hearsay and that he does not know who conducted the procession. The defence did not cross-examine PW6.

27. PW7 deposed before this Court that on 19.12.2013, she was working as the Village Officer of Keezhoor and, on the request of the police, she prepared the location sketch of the place of occurrence in connection with this case. She stated that she visited the scene of the occurrence and prepared the sketch, which bears her signature and office seal. The said location sketch is marked as Exhibit P3.

28. During cross-examination, PW7 deposed that she had gone to the place of occurrence along with the Village Assistant, namely Srijith, and that Exhibit P3 sketch was prepared by the said Village Assistant in her presence. She further admitted that this fact was not stated in her previous statement. PW7 also deposed that she had visited the place of occurrence; however, she did not clearly remember the exact location in Iritty Town, though she stated that she had gone to the old bus stand and that there were several shops in the locality.

29. The defence suggested that PW7 had not visited the place of occurrence and that she had merely signed the document prepared by the Village Assistant. PW7 denied the said suggestion. During re-examination, PW7 clarified that the Village Assistant had prepared the sketch as per her instructions and that the same was prepared at the place of occurrence in reference to the police mahazar. During further cross-examination, PW7 stated that the place of occurrence was shown to her by a police officer.

30. PW8 deposed before this Court that on 25.08.2012, while he was working at Iritty Police Station and was entrusted with the investigation of this case, he visited the scene of occurrence and prepared the scene Mahazar in the presence of witnesses. The said Mahazar is marked as Exhibit P4. He further deposed that he submitted the report along with the names and addresses of the accused, which is marked as Exhibit P5. According to PW8, the place of occurrence was a public road at the old bus stand in Iritty Town, and he had recorded the statements of witnesses up to CW7.

31. During cross-examination, PW8 deposed that the alleged procession was conducted over a stretch of about half a kilometer and was not confined to any specific location. He further categorically deposed that no witness had given any statement identifying which of the accused had raised the slogans. He further

stated that, during his period of investigation, no sanction was obtained for prosecuting the offence under Section 153A of the Indian Penal Code. He also admitted that no witness had pointed out the accused before him.

32. PW8 further deposed that the statements recorded during the investigation only disclosed that CW1 had merely stated that the procession was led by one Farooq. He also admitted that no witness had given any statement to the effect that the procession caused obstruction to vehicular traffic.

33. He further stated that the Mahazar prepared in this case pertained to the place of occurrence where the procession was allegedly conducted. According to him, the said place had plants and a divider on the central portion of the road, and the procession was allegedly conducted by blocking the road. He also deposed that the place of occurrence was pointed out to him by the complainant.

34. It was suggested to PW8 that Exhibit P4 is not a genuine document, that no such occurrence had taken place, that the investigation was not conducted in a fair and proper manner, and that the accused have no connection with the alleged incident. PW8 denied all such suggestions. It was further suggested that the statement of the de facto complainant did not disclose that the place of occurrence was pointed out by him; however, PW8 did not give any answer to the said suggestion.

35. PW9 deposed before this Court that, while he was working as the Sub Inspector of Police at Iritty Police Station, he took over the investigation of this case. He further deposed that, in compliance with the order of the Hon'ble High Court dated 07.02.2013, he arrested Accused No.1 to Accused No.3, who were present at the Police Station, in accordance with law, and produced them before the Court. The arrest memos relating to Accused No.1 to Accused No.3 are marked as Exhibits P6 to P8, and the inspection memos are marked as Exhibits P9 to P11.

36. During cross-examination, PW9 stated that the name of Accused No.1, as shown in Exhibit P6, is Mohammed Farooq and not merely Farooq. He further admitted that he had not shown the accused to the de facto complainant and that the complainant had not identified the accused before him. He also admitted that, as per the FIS in this case, there were 10 accused, but he had arrested only three of them and that he had conducted no further investigation. It was suggested by the defence that the accused had been granted anticipatory bail by the Hon'ble High Court on the ground that the case was falsely registered. However, PW9 denied the suggestion.

37. PW10 deposed before this Court that on 06.07.2013, while he was working as the Sub Inspector of Police at Iritty Police Station, he took over the

further investigation of this case, recorded the statement of CW9, collected Exhibit P3 from the Keezhur Village Office and submitted the same before the Court, and thereafter filed Exhibit P12 report deleting the accused.

38. During cross-examination, PW10 deposed that he had not shown the place of occurrence to the Village Officer. He further stated that he had not personally seen the accused in this case. He admitted that he understood that, apart from the accused facing trial, there were several other accused involved in the case, and that he had submitted a report before the Court, deleting seven unidentified accused from the array of accused.

39. PW10 further deposed that Iritty Town is a busy area with a large number of passengers, vehicles, and shops, and that there are several shops on either side of the road at the place of occurrence. He denied the suggestion that the site plan was prepared without anyone pointing out the place of occurrence. He also denied the suggestion that he had deleted the other accused without conducting a proper investigation. He further denied the suggestion that the accused had no connection with the alleged incident.

40. PW11 deposed before this Court that, while he was working as the Sub Inspector of Police at Iritty Police Station, he took over the investigation of this case on 19.08.2016. He further deposed that, after completing the

investigation and obtaining the requisite sanction for prosecution, he filed the final report before the Court against the accused. The prosecution sanction is marked as Exhibit P13.

41. During cross-examination, PW11 deposed that he had not produced before this Court any document to show that an application for sanction for prosecution had been submitted. He further stated that he was unable to state the period during which such an application was submitted. He also admitted that he had not personally seen the accused who are facing trial in this case.

42. PW11 further deposed that the names and addresses of the accused mentioned in the application for sanction were collected by the previous investigating officer, and that he had only verified the same. He admitted that he had not conducted any independent enquiry by visiting the residences of the accused to ascertain whether the addresses were correct.

43. He, however, denied the suggestion that he had filed the final report without conducting a proper investigation. He also denied the suggestions that the accused had no connection with the incident and that they were not present at the place of occurrence.

44. The learned Assistant Public Prosecutor contended that the prosecution has successfully proved its case against the accused beyond

reasonable doubt through the oral testimony of PW1 to PW11 and the documentary evidence marked in the case.

45. Per contra, the learned counsel for the accused contended that the prosecution case is inconsistent and suffers from serious infirmities. It was argued that there is no valid sanction for prosecuting the accused under Section 153A of the Indian Penal Code. It was further contended that the mere raising of slogans would not attract Section 153A IPC in the absence of material to show promotion of enmity or ill-will between communities or any provocation caused to any person. In support of his contentions, the learned counsel for the defence relied on the decisions in *Pushpa Kumari v. State of Kerala :2016 KHC 209*, *Joy Cherian v. Sub-Inspector of Police, Thambanoor Police Station, and Rajasingh Thakur v. State of Karnataka*.

46. The learned counsel also pointed out that, despite the place of occurrence being a busy locality with several shops and members of the public, no independent witness was examined, and the witnesses cited as independent witnesses turned hostile.

47. It was also contended that there are material contradictions in the evidence of the prosecution witnesses regarding the source of information and the manner of occurrence. The investigating officer admitted that the accused were

not identified by the complainant in his presence. It was further pointed out that, though the FIR mentioned ten accused, only three were arrested, and the remaining accused were deleted without a proper basis. On these grounds, the learned counsel for the accused submitted that the prosecution has failed to prove the case beyond reasonable doubt and that the accused are entitled to an honourable acquittal.

48. The case of the prosecution, in substance, is that on 24.08.2012 at about 7:30 p.m., at Keezhur Amsom in Iritty Town, the accused, numbering more than ten, in furtherance of their common object, formed themselves into an unlawful assembly and conducted an unauthorised procession under the leadership of Accused No.1 through a public road and, despite a lawful command issued by PW1 to disperse, continued the same, thereby causing obstruction to vehicular traffic and inconvenience to the public, and, in the course of such procession, raised communal slogans including “ഹിന്ദുക്കളെ പട്ടികളെ” and “ഹിന്ദുക്കളെ ചെറുക്കളെ”, thereby promoting enmity between different groups.

49. According to Exhibit P1 First Information Statement, PW1 received information regarding the incident while he was on duty along with PW2. Evidence of PW1, PW2 and PW4 shows that PW4 was the driver of the police vehicle in which PW1 and PW2 were on duty at the time of getting information

regarding the procession. Therefore, the prosecution predominantly relies on the testimony of PW1, PW2 and PW4.

50. At the outset, it is pertinent to note that the foundational requirement for the offences alleged under Sections 143, 145 and 149 IPC is the proof of the existence of an unlawful assembly. Unless it is established that five or more persons formed an assembly with a common object as contemplated under Section 141 IPC, the question of invoking Sections 145 and 149 IPC does not arise.

51. It is a settled position of law that '*Unlawful assembly charges can stand if evidence indicates more than five participants, even when only some are named.*' Reliance Placed on **Shaji George V State of Kerala: 2019 Supreme (Online)(KER) 13742**. However, the existence of an unlawful assembly requires five or more persons sharing a common object, which was essential.

52. In the instant case, Exhibit P2 FIR was registered against Accused No.1, a Popular Front worker, and about ten other PFI activists, for offences punishable under Sections 143, 145, 283 and 153A read with Section 149 IPC. However, as per Exhibit P12 report submitted by PW10, seven of the accused were later deleted from the array of accused on the ground that they remained unidentified. Even though seven accused were later deleted, the evidence of PW1,

PW2 and PW4, coupled with Exhibits P1 and P2, consistently establishes that more than five persons had participated in the procession.

53. Though the defence elicited in cross-examination that PW1, PW2 and PW4 did not know the father's name or the address of Accused No.1, such omission is not of any material consequence so as to discredit their evidence regarding identification. PW1 has categorically deposed that he had prior acquaintance with Accused No.1 and has identified him before the Court. PW2 has also identified Accused No.1 and the other accused as participants in the procession. PW4 identified two of the accused in the dock and stated that Accused No.1 was not present before the Court, whereupon the learned counsel for the accused submitted that Accused No.1 was not disputing his identity.

54. Though the learned counsel for the accused pointed out minor discrepancies in the cross-examination of PW7 regarding the exact location of the place of occurrence and contended that the non-examination of independent witnesses is fatal, it has come out in evidence that the alleged procession was conducted in a public place in Iritty Town, which is a busy locality with shops and regular public movement. The very nature of the place of occurrence, as spoken to by PW1, PW2 and PW4 coupled with Exbt.P4 scene mahazar, establishes the prosecution case that the procession was conducted on a public

road. The discrepancies pointed out by the defence regarding the manner of occurrence, source of information, and other minor omissions, such as lack of personal details of Accused No.1, non-production of duty notebooks, and non-mentioning of the registration number of the police vehicle are only minor in nature and not of such magnitude as to discredit the consistent and cogent evidence of the prosecution witnesses. Such inconsistencies are natural in the testimony of witnesses deposing after a lapse of time and do not go to the root of the matter or affect the credibility of the core prosecution version.

55. The next aspect to be considered is whether the accused caused obstruction in a public way so as to attract Section 283 IPC. The prosecution case is that the accused conducted the procession through a public road and caused obstruction to vehicular traffic and inconvenience to the public. It is not disputed that the place of occurrence is a public road in Iritty Town.

56. Though no independent witness has spoken about the obstruction and no complaint was received from the public, the evidence of PW1 shows that there was obstruction on the road and that the same was cleared before he proceeded to the Police Station and registered the crime. The evidence of PW4 also shows that, despite directions to disperse, the persons in the procession continued to block vehicles and proceeded along the middle of the road. Hence, this Court is

satisfied that the ingredients of Section 283 IPC are proved.

57. Admittedly, no independent witness has supported the prosecution case. However, it is well settled that the evidence of official witnesses cannot be discarded merely on that ground.

58. In Govindaraju @ Govinda v. State by Srirampuram P. S. and Another: 2012 KHC 4174:2012 Supreme(SC) 231, Honble Supreme Court of India held that

“ It cannot be stated as a rule that a police officer can or cannot be a sole eye-witness in a criminal case. It will always depend upon the facts of a given case. If the testimony of such a witness is reliable, trustworthy, cogent and duly corroborated by other witnesses or admissible evidences, then the statement of such witness cannot be discarded only on the ground that he is a police officer and may have some interest in success of the case. It is only when his interest in the success of the case is motivated by overzealousness to an extent of his involving innocent people; in that event, no credibility can be attached to the statement of such witness. Wherever, the evidence of the police officer, after careful scrutiny, inspires confidence and is found to be trustworthy and reliable, it can form the basis of conviction and the absence of some independent witness of the locality

does not in any way affect the creditworthiness of the prosecution case. The Courts have also expressed the view that no infirmity attaches to the testimony of the police officers merely because they belong to the police force and there is no rule of law or evidence which lays down that conviction cannot be recorded on the evidence of the police officials, if found reliable, unless corroborated by some independent evidence. Such reliable and trustworthy statement can form the basis of conviction. ”

59. In *Aher Raja Khima Vs State of Saurashtra: 1955 Supreme(SC) 122*, the Hon’ble Apex Court held that

“ The presumption that a person acts honestly applies as much in favour of a police officer as of other persons, and it is not a judicial approach to distrust and suspect him without good grounds therefor. Such an attitude could do neither credit to the magistrate nor good to the public. It can only run down the prestige of the police administration.”

60. In the present case, the evidence of PW1, PW2 and PW4 is cogent, consistent and inspires confidence with respect to the occurrence of the procession and the participation of the accused therein.

61. The next question is whether the assembly had a common object as contemplated under Section 141 IPC. In order to bring home an offence under

Section 143 IPC, it is not sufficient to prove mere assembly of five or more persons. The prosecution must further establish that such assembly had a common object falling within the ambit of Section 141 IPC, and that the accused were members of such assembly with knowledge of the said object. The common object must be one of those specified under Section 141 IPC, such as committing an offence, resisting execution of law, or doing any act which is likely to cause disturbance to public peace.

62. The conduct of the assembly, as spoken to by the prosecution witnesses, namely proceeding in a procession on a public road without permission, and causing obstruction to vehicular traffic would indicate that the assembly had the common object of acting in a manner likely to cause obstruction and disturbance to public order.

63. It is well settled that the common object of an unlawful assembly need not be the result of prior concert, and it may be formed on the spur of the moment. It can be inferred from the conduct of the members, the nature of the assembly, and the surrounding circumstances.

64. In the present case, from the consistent evidence of PW1, PW2 and PW4 regarding the manner in which the procession was conducted under the leadership of Accused No.1 and with the participation of other accused, this Court

is of the view that the assembly had a common object falling within the scope of Section 141 IPC. It has also come out in evidence that the procession was conducted by causing obstruction to the public way without obtaining prior permission from the competent authority. Significantly, the defence has no specific case that the accused were not members or activists of the Popular Front or that the procession was conducted with due permission; except for vague and evasive suggestions in cross-examination that no such procession was held and that the accused had no connection with the alleged incident, no material has been brought on record to probalilise such a defence.

65. In view of the above discussion, this Court finds that the prosecution has proved beyond reasonable doubt (i) the existence of an unlawful assembly, (ii) the participation of the accused therein, (iii) the common object of such assembly, and (iv) obstruction caused in a public way. Accordingly, the offences punishable under Sections 143 and 283 read with Section 149 of the Indian Penal Code are proved against the accused. Hence, Points Nos. 1 and 2 are found in favour of the prosecution.

66. **Point No.3:** The next aspect to be considered is whether the prosecution has succeeded in establishing the offence under Section 145 IPC. For an offence under Section 145 IPC, it must be proved that:

- I. There was an unlawful assembly,
- II. A lawful command to disperse was given by a competent authority, and
- III. The accused knowingly continued in such assembly despite such command.

67. In the present case, the existence of an assembly has already been found proved. The evidence of PW2 and PW4 indicates that PW1, or the officer in the vehicle, directed the persons in the procession to disperse; however, they did not comply with the said direction. At the same time, the evidence of PW1 shows that, though he stated in chief-examination that he had directed the persons to disperse and not to conduct such procession without permission, in cross-examination he admitted that he did not attempt to restrain the procession, but only informed them that their act amounted to an offence and intimated the matter to the Police Station for further action.

68. Further, it has also come out in evidence that the accused were not arrested at the spot due to apprehension of law and order issues and lack of sufficient police force, and that the FIR was registered only after reaching the Police Station. These aspects create some ambiguity as to whether a clear, definite and effective lawful command to disperse was issued and communicated

to the members of the assembly. In this scenario, this Court is of the view that the prosecution has failed to establish the offence under Section 145 IPC beyond reasonable doubt. Hence point No.3 is found against the prosecution.

69. **Point No. 4:** The major offence alleged against the accused is under Section 153A of the Indian Penal Code. As per Section 196 Cr.P.C., a valid sanction is a condition precedent for taking cognizance of an offence under Section 153A IPC. In the present case, PW11 has deposed that, after completing the investigation, he obtained sanction for prosecution and filed the final report. The said sanction order has been marked as Exhibit P13. The production and marking of Exhibit P13 indicate that sanction was obtained prior to the filing of the final report, as well as taking cognizance.

70. During cross-examination, PW11 admitted that he had not produced any document to show when and how the sanction was applied for, and that he was unable to state the period during which such application was submitted. The learned counsel for the accused has contended that the prosecution has failed to establish that a valid sanction was obtained in accordance with law, and that the absence of material regarding the process of obtaining sanction indicates non-application of mind by the sanctioning authority. It is further contended that, in the absence of proper sanction, the prosecution under Section 153A IPC is

vitiating.

71. However, Exhibit P13 sanction order has been duly produced and marked in evidence. No material has been elicited in cross-examination to show that the sanction was granted mechanically or without application of mind. Mere absence of details regarding the procedural steps leading to sanction is not sufficient to invalidate it. In the absence of any convincing material to discredit Exhibit P13, this Court finds that the requirement under Section 196 Cr.P.C. has been duly complied with.

72. In **Shiv Prasad Semwal v. State of Uttarakhand (2024 (7) SCC 555)**, the Hon'ble Supreme Court of India held that,

“ From a bare reading of the language of S.153A IPC, it is clear that in order to constitute such offence, the prosecution must come out with a case that the words 'spoken' or 'written' attributed to the accused, created enmity or bad blood between different groups on the ground of religion, race, place of birth, residence, language, etc., or that the acts so alleged were prejudicial to the maintenance of harmony.

73. In the case of **Manzar Sayeed Khan v. State of Maharashtra and Anr., 2007 (5) SCC 1**, the Hon'ble Apex Court held that for applying S.153A IPC, the presence of two or more groups or communities is essential.

74. In the instant case, the prosecution must prove that the accused, by words (spoken or otherwise), promoted or attempted to promote enmity or hatred between different religious groups, and that such acts were intentional and likely to disturb public tranquillity. The allegation here is that slogans such as “ഹിന്ദുക്കളെ പട്ടികളെ” and “ഹിന്ദുക്കളെ ചെറുക്കളെ”, along with slogans against CPM, RSS, and “Assam rioters”, were raised.

75. It is undoubtedly derogatory and offensive to refer to a particular religious group using expressions such as “dogs.” However, to attract an offence under Section 153A IPC, it must be specifically proved as to who raised such slogans, whether the accused shared the requisite intention, and whether the essential ingredients of the offence are satisfied.

76. “Mens rea is a necessary ingredient of the offence under Section 153A I.P.C. It is necessary that at least two groups or communities should be involved. Merely inciting the feelings of one community or group without any reference to any other community or group cannot attract the offence.” Relied on **Biju Mon V The State of Kerala, Represented By Public Prosecutor: 2018 Supreme(Ker) 458: Bilal Ahmed Kaloo v. State of A.P : AIR 1997 SC 3483.**

77. In the present case, though there are allegations regarding slogans such as “ഹിന്ദുക്കളെ പട്ടികളെ” and “ഹിന്ദുക്കളെ ചെറുക്കളെ”, the prosecution has

failed to establish who among the accused raised such slogans. This omission is fatal. PW8, the investigating officer, has categorically admitted that no witness has stated as to which of the accused uttered the alleged slogans. In the absence of such specific attribution, it cannot be presumed that all members of the assembly shared the intention to promote enmity.

78. Further, though it has come out in evidence that the accused are alleged to be members or activists of the Popular Front and that the slogans attributed are against Hindus, CPM, RSS, and “Assam rioters”, there is no satisfactory evidence to establish the existence of two identifiable groups in the context of the occurrence or that the alleged acts were directed in a manner so as to promote enmity between such groups. In the light of the above discussion, the court find that, the essential ingredients required to constitute an offence under Section 153A IPC are not made out. Hence point No.4 is found against the prosecution.

79. **Point No.5:** In view of the findings on Points Nos.1 to 4, this Court finds that the prosecution has succeeded in proving the offences punishable under Sections 143 and 283 read with Section 149 of the Indian Penal Code against the accused. However, the prosecution has failed to establish the offences punishable under Sections 145 and 153A read with Section 149 IPC beyond reasonable

doubt.

80. Accordingly, the accused Nos.1 to 3 are found guilty of the offences punishable under Sections 143 and 283 read with Section 149 IPC and are hereby convicted for the said offences. The accused Nos.1 to 3 are acquitted of the offences punishable under Sections 145 and 153A read with Section 149 IPC under Section 248(1) of the Code of Criminal Procedure.

(Dictated to the Confidential Assistant, transcribed and typed by him, corrected and pronounced by me in open court, this the 13th day of April 2026).

Sd/-
Judicial First Class Magistrate,
Mattannur

81. Heard the accused on the question of sentence. They pleaded for leniency.

82. Considering the nature of the offence, the circumstances of the case, and the fact that the incident pertains to the year 2012, this Court is of the view that imposition of a fine would meet the ends of justice.

83. ***In the result,***

The accused No.1 to Accused No.3 are convicted for the offence punishable under Section 143 read with Section 149

of the Indian Penal Code under Section 248(2) of the Code of Criminal Procedure and are sentenced to pay a fine of ₹3,000/- (Rupees Three Thousand only) each;

In default of payment of the fine, they shall undergo simple imprisonment for a period of three months.

The accused No.1 to Accused No.3 are convicted for the offence punishable under Section 283 read with Section 149 of the Indian Penal Code under Section 248(2) of the Code of Criminal Procedure and are sentenced to pay a fine of ₹200/- (Rupees Two Hundred only) each;

In default of payment of the fine, they shall undergo simple imprisonment for a period of one month.

(Dictated to the Confidential Assistant, transcribed and typed by him, corrected and pronounced by me in open court, this the 13th day of April 2026).

Sd/-
Judicial First Class Magistrate,
Mattannur

APPENDIX

PROSECUTION WITNESSES:

Rank	Name	Whether Eyewitness, Police witness, Expert
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		<i>witness, Medical witness, Other witness</i>
PW1	Damodharan	De facto complainant
PW2	Sajir	Eyewitness (<i>Police witness</i>)
PW3	T.K.Pareeth	Other witness – attester in scene mahazar
PW4	Santhoshkumar	Eyewitness (<i>Police witness</i>)
PW5	Sivankutty	Other witness – attester in scene mahazar
PW6	Nisar.K.V	Other witness
PW7	Seenath.M.C	Other witness - Village officer
PW8	Pavithran	Police witness – investigating officer
PW9	Manoj.P.R	Police witness – investigating officer
PW10	Vinoy.K.J	Police witness – investigating officer
PW11	Sudheer.K	Police witness – investigating officer

DEFENCE WITNESSES: Nil

COURT WITNESSES: Nil

PROSECUTION EXHIBITS :

<i>Sl.No.</i>	<i>Exhibit Number</i>	<i>Description</i>
1.	Exhibit P1 / PW1	FI Statement
2.	Exhibit P2 / PW1	FIR
3.	Exhibit P3 / PW7	Location sketch
4.	Exhibit P4 / PW8	Scene mahazar
5.	Exhibit P5 / PW8	Name and address adding report

6.	Exhibit P6 / PW9	Arrest memo of accused No.1
7.	Exhibit P7 / PW9	Arrest memo of accused No.2
8.	Exhibit P8 / PW9	Arrest memo of accused No.3
9.	Exhibit P9 / PW9	Inspection memo of accused No.1
10.	Exhibit P10 / PW9	Inspection memo of accused No.2
11.	Exhibit P11 / PW9	Inspection memo of accused No.3
12.	Exhibit P12 / PW10	Accused deleting report
13.	Exhibit P13 / PW11	Prosecution sanction

DEFENCE EXHIBITS : Nil

COURT EXHIBITS : Nil

MATERIAL OBJECTS : Nil

Sd/-
Judicial First Class Magistrate,
Mattannur

-/True copy/-

Judicial First Class Magistrate,
Mattannur

/vt