

IN THE COURT OF SESSION KOTTAYAM DIVISION

Present: Sri. Manoj M., Sessions Judge

Saturday, the 18th day of April, 2026
28th day of Chaithra, 1948

SESSIONS CASE NO. 342/2022

(Crime No.64/2022 of Kidangoor Police Station)

Complainant:-

State of Kerala represented by
Deputy Superintendent of Police,
Pala.

By Public Prosecutor Sri. Agi Joseph

Accused:

- 1 Raju Joseph, aged 56 years, S/o. Joseph,
Pallikkara House, Punnathura East P.O.,
Ayarkunnam Village, Kottayam District.
- 2 Akhil Raju, aged 25 years, S/o. Raju Joseph,
Pallikkara House, Punnathura East P.O.,
Ayarkunnam Village, Kottayam District.

A1 & A2 by Adv. Shiby Alex &
Adv. Albin J. Thomas

Charge	: Under Secs.352 and 323 r/w.34 of the Indian Penal Code and Sec.3(2)(va) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Amendment Act.
Plea	: Not Guilty
Findings	: Not Guilty
Sentence/ Order	: The accused persons are found not guilty of the offences under Secs.352

and 323 r/w.34 of the Indian Penal Code and Sec.3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and acquitted under Sec.258(1) of the B.N.S.S.

The accused persons are set at liberty. The bail bonds executed by them stand cancelled.

Dates of Trial : 15.01.2026, 20.01.2026, 23.01.2026, 24.01.2026, 30.01.2026, 11.02.2026, 25.02.2026, 16.03.2026.

Date of Hearing : 10.04.2026

Date of Judgment : 18.04.2026

JUDGMENT

The above numbered prosecution originates from a private complaint, Crl.M.P. No.693/2020, filed at the instance of the defacto complainants, Nirmala and Sasikumar, which was forwarded for investigation under Sec.156(3) of the Code of Criminal Procedure. Thereafter, the First Information Report was registered as Crime No.64/2022 of Kidangoor Police Station. After completion of investigation, the final report was filed by the Deputy Superintendent of Police, Pala, against the accused persons, two in number, under Secs.352, 294(b) and 323 r/w.34 of the Indian Penal Code and Sec.3(2)(va) of the

Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act.

2. The prosecution case, in brief, is as follows : The accused persons, who are father and son, belong to the Christian Community and they were on inimical terms with Joy Joseph, since deceased, who was the brother of first accused and husband of PW8 and father of PW7 in connection with partition of their ancestral property. PW1 Nirmala, PW2 Sasikumar, with whom she was living together and PW3 Sanalkumar, the son of PW2 in his earlier marriage were residing in the residence of late Joy Joseph at Kizhunadu in Kidangoor Grama Panchayat and they were engaged as his labourers. Due to the property dispute, the parties were on inimical terms. On 03.04.2020, while PW3 was working in the paddy land situated at Kizhunadupadasekaram belonging to late Joy Joseph, the accused persons, who are on inimical terms with PW1 to PW3, came there and the second accused asked PW3, who had tied tightly his buffalo and hurled abusive words at PW3. When PW3 retaliated, the second accused hurled abusive and obscene words at him, grabbed him by his neck, hit him and pushed him down to the ground and kicked him. When PW2,

who was also working in the paddy field and PW1 intervened, the accused persons assaulted them and the first accused hit PW1 on her back and along with second accused assaulted PW3. When PW7 and PW8 intervened to dissuade both parties, there arose a scuffle between all of them. Consequent to which, PW1 sustained mental strain and PW3 sustained abrasion on his left chest area. The accused persons have thus committed the above said offences.

3. On the basis of Ext.P1 complaint, PW11, Inspector of Police, Kidangoor Police Station registered Ext.P13 F.I.R. PW12, the Deputy Superintendent of Police, Pala conducted the investigation and filed the final report before this court.

4. When the accused appeared in court on receipt of summons, they were released on bail in continuation of the earlier bail. They were furnished with the copies of the prosecution case records under Sec.207 Cr.P.C.

5. The second accused was granted permanent exemption from appearance in court and he was permitted to appear through his counsel. Thereafter, the prosecution and the defence were heard and charge under Secs.352 and 323 r/w.34 of the

Indian Penal Code and Sec.3(2)(va) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Amendment Act were framed and read over and explained in Malayalam, to the first accused and the counsel for the second accused, to which they pleaded not guilty. (As the ingredients of the offence under Sec.294(b) of the I.P.C. was not attracted, the charge was not framed under the said section.)

6. To prove the case, the prosecution examined PW1 to PW13 and marked Exts.P1 to P20. Exts.D1 to D3 series contradictions in the previous statements of witnesses and Ext.D4 to D8 documents were marked.

7. When questioned under Sec.351(1)(b) of the B.N.S.S., the first accused and counsel for the second accused denied all the incriminating circumstances appearing in evidence against them and stated that they are innocent. The first accused filed separate written statement contending that he is innocent. It was contended that PW2 was a dependent of his brother late Joy Joseph and he was residing in the house of the latter. On the date of occurrence, there was a verbal altercation between his son (A2) and PW7, the son of Joy Joseph at the paddy field. Thereafter, PW2 and PW3, who were working in the paddy field

of Joy Joseph came there and attacked his children. Then others intervened and in the ensuing scuffle, his child sustained injury and the police registered a case against PW2 for assaulting his child. Since he stated to the Investigating Officer that he was not interested to prosecute the matter, as the child would have to be taken to the court, the police referred the case. However, his brother's family attempted to take advantage of this incident and filed several complaints before various authorities, alleging false and fabricated facts. Himself and his son, the second accused are innocent in this case.

8. The counsel for the second accused denied all the incriminating circumstances against the second accused and supported the version of the first accused. Both accused prayed that they may be acquitted.

9. Both sides were heard under Sec.255 of the B.N.S.S. As the case is not a case of no evidence, the accused were called upon to enter on their defence. No defence evidence was adduced.

10. The points which arise for consideration are :

1. Whether PW3 belongs to Hindu Pulaya / Cheramar, a Scheduled Caste Community and the accused belong to Christian Community, which is a higher caste ?
2. Whether on 03.04.2020, at Kizhunadu Padasekharam in Kidangoor Village, the accused voluntarily caused hurt to PW1 and PW3 and thereby committed an offence punishable under Sec.323 r/w.34 of the I.P.C.?
3. Whether on the above date, time and place, the accused used criminal force on PW1 and PW3 and thereby committed an offence punishable under Sec.352 r/w.34 of the I.P.C.?
4. Whether on the above date, time and place, the accused, knowing that PW3 to be a member of the Scheduled Caste Community, committed Scheduled offence under Sec.323 of the I.P.C. and thereby committed an offence punishable under Sec.3(2)(va) of the SC and ST (PoA) Act?
5. What if any are the offences committed by the accused ?
6. If found guilty, what is the proper order as to sentence ?

11. Point No.1 :- PW1 and PW2 deposed that PW2, the father of PW3 belongs to Hindu Pulaya, which is a Scheduled

Caste Community. PW3 deposed that he belongs to Hindu Cheramar, a Scheduled Caste Community. PW5 Sreejith, who was working as Tahsildar, Meenachil testified that he had issued Ext.P4 Community Certificate of PW3, on the basis of the enquiry report of Village Officer, Kidangoor stating that PW3 is a member of the Hindu Cheramar Community, a Scheduled Caste. In cross-examination, PW5 deposed that PW3 and his father PW2 were originally members of Christian Cheramar Community and that, pursuant to a Gazette notification, they were subsequently converted to the Hindu Cheramar community. PW10 Singily Thomas deposed that while working as the Village Officer of Ayarkunnam, he conducted a local enquiry and verified the relevant documents and issued Exts.P11 and P12 caste certificates of accused Nos.1 and 2, which show that they belong to the Christian Community. PW13 Roshan J. George deposed that while working as the Village Officer, Kidangoor, she conducted a local enquiry, verified the documents and issued Ext.P20 Community Certificate, which shows that PW1 belongs to Hindu Velan Community, which is not a Scheduled Caste Community.

12. The defence has not disputed the fact that PW3 is a member of the Scheduled Caste Community and the accused is a member of a higher caste. In the said circumstances, it is held that the prosecution has proved that PW3 is a member of the Hindu Chermamar Community, a Scheduled Caste and the accused is not a member of the Scheduled Caste or Scheduled Tribe. Point is thus found in favour of the prosecution.

13. Point Nos.2 to 4 :- Since the evidence and the legal aspects to be considered in these points are intertwined, these points are considered together. PW1 Nirmala, the mother of PW3, testified that she has given Ext.P1 complaint to the court. During the relevant period, she was residing in the residence of Joy Joseph, who was also known as Kochettan. On 03.04.2020 while PW2, her husband and PW3 were working in the paddy field, she went there to give them lunch. When she reached the scene of occurrence, PW2, her husband was standing in the paddy field and PW3 was standing by the side of the road. PW7 and PW8, the son and wife of Joy Joseph were also present there. While she was having a conversation with them, the second accused came there and hurled abusive words. When PW3 asked whom he was abusing, the second

accused hurled abuses at PW3 and exhorted that it was him who had tied their buffalo and assaulted PW3. Thereupon, the first accused also rushed to the scene of occurrence and assaulted PW3, by hitting on his face and eye. When she attempted to intervene, the first accused hit on her back and kicked on her stomach. The neck portion of her son, PW3 was scratched with fingernails and caused bruises. When PW7 and PW8 intervened, they were also assaulted by the accused. Thereupon, her husband came to scene of occurrence and separated both the parties. Thereafter she was taken to the Pala Government Hospital and Kottayam Medical College Hospital.

14. In cross examination, she admitted that from 2016 onwards, herself and family are residing in the shed owned by Joy Joseph. She denied filing criminal complaints with regard to the very same incident before the District Court, Kottayam and Scheduled Castes and Scheduled Tribes Welfare Department. The suggestion that when she was called by the District Police Chief, she was adamant to settle the matter and stated that if only the civil case between the first accused and his brother are settled, she would withdraw this criminal case

was denied. However, she admitted that she has filed another case against the daughter of the first accused. She denied that there was a criminal case in which the allegation was that PW2 had assaulted the child of the first accused. She also admitted that a complaint lodged by her in the year 2016 against the first accused and his family alleging offences under the Schedule Castes and Schedule Tribe Atrocities Act was rejected after enquiry. She denied her previous statement to the Investigating Officer that the accused persons came there in a scooter and such contradiction was marked as Ext.D1 subject to proof.

15. PW2 Sasikumar @ Sunny stated that he is living together with PW1 and residing in the dwelling house of Joy Joseph. On 03.04.2020, while he was working in the paddy field of Joy Joseph, at about 02.00 p.m., he found the accused persons assaulting PW1 and PW3. According to him, the accused Nos.1 and 2 were stamping PW3, who was lying on the floor. When he reached the scene of occurrence, the first accused pushed PW1 to the ground. His son (PW3) sustained injury to his eye and neck and he was taken to the Pala Government Hospital and

from there, he was referred to the Kottayam Medical College Hospital.

16. In cross-examination, he admitted that a complaint was filed against him by the accused. He denied his statement to the police that during the incident, the younger son of the first accused came to the scene of occurrence. Ext.D2 statement in his previous statement was marked as a contradiction, subject to proof. In re-examination, he admitted his signature in Ext.P2 scene mahazar.

17. PW3, Sanalkumar stated that on 03.04.2020 at about 01.30 - 02 p.m. near the paddy land at Kizhunad, the incident occurred. PW2, his father was working in the paddy field and he was resting by the side of the road situated nearby. Thereupon, accused Nos.1 and 2 came there in a car and hurled obscene words against him and his mother. Then, the second accused grabbed him by his neck and the first accused caught hold of him from behind. Then, the second accused punched him on his eye, causing redness in his eye. When PW1 attempted to intervene, the first accused kicked her on her stomach, after pulling her to the ground. In the meanwhile, the

accused Nos.1 and 2 had stamped on his body, after pulling him down. He obtained treatment at the hospital.

18. In cross-examination, he admitted that he has lodged a complaint before the District Police Chief, Kottayam and Scheduled Castes and Scheduled Tribe Commission and also filed a complaint before the District Court. The police has recorded his statement several times. He admitted that he does not know the exact location of the paddy field owned by the first accused. He denied his previous statement to the police that accused Nos.1 and 2 came to scene of occurrence in a scooter and such statement was marked as Ext.D3, subject to proof. He also denied the previous statements to the effect that both the accused assaulted him and such contradictions were marked as Exts.D3(a) and Ext.D3(b).

19. PW4 Santhosh deposed that he had witnessed the incident in this case and that the police had questioned him. He identified the accused persons in the dock. He testified that on 03.04.2020 at about 2 p.m., near the Panchayat road at Kizhunadu Padasekharam, there arose a verbal altercation

between A2 and PW7. Then the younger son of A1 came riding a bicycle and PW2 grabbed the bicycle and flung it in the paddy field. He turned hostile to the prosecution and prosecutor was permitted to put questions permissible in cross examination. Ext P3 contradiction in his previous statement was marked subject to proof. In cross-examination, PW4 deposed that he is a witness in the case in which it is alleged that PW2 had assaulted the son of A1.

20. PW6, Dr.Lidiya George testified that at about 02.47 p.m. on 03.04.2020, while working as Casualty Medical Officer in General Hospital, Pala, she examined one Nirmala (PW1), who stated the alleged history as “ഇന്ന് ഏകദേശം 2.15 P.M. നു കിടങ്ങൂർ പാടത്തു വച്ച് കൊയ്ത്തു നടക്കുന്നതിനിടയിൽ വഴക്കുണ്ടാകുകയും അറിയാവുന്ന മൂന്ന് ആൾക്കാർ ചേർന്ന് മർദ്ദിക്കുകയും ചെയ്തു.” She stated that she issued Ext.P5 wound certificate, which contains her signature and seal of the hospital. She stated that she had not noted any external injuries and on physical examination, it was revealed as follows : “patient was conscious, oriented, chest compression test negative, pelvic compression test negative, air entry bilaterally equal clear, cardio vascular system S1, S2 normal. No murmur, per abdomen soft, non tender”.

21. PW6 further deposed that on the same day at about 02.44 p.m., she examined one Sanal (PW3), who stated the alleged history as “ഇന്ന് ഏകദേശം 2.15 P.M. ന് കിടങ്ങൂർ പാടത്തു വച്ച് കൊയ്ത്തു നടക്കുന്നതിനിടയിൽ വഴക്കുണ്ടാകുകയും അറിയാവുന്ന മൂന്ന് ആൾക്കാർ ചേർന്ന് മർദ്ദിക്കുകയും ചെയ്തു.” She stated that she issued Ext.P6 wound certificate, which contains her signature and seal of the hospital. She stated that she had noted the following injuries *“3x0.6 cm abrasion, left front of chest wall, 25 cm below top of shoulder, 18 cm outer to midline towards left, injuries appeared fresh”*. On physical examination, it was revealed as follows : “patient was conscious, oriented, chest compression test positive, air entry bilaterally equal clear, cardio vascular system S1, S2 normal”. She opined that the injuries on the patient (PW3) could be caused by an assault with bare hands.

22. In cross-examination, PW6 stated that the injured have not mentioned the name of the assailants. She kept Nirmala under observation. She deposed that in both the wound certificates, she omitted to note the IP number or OP number. The injury noted in Ext.P6 wound certificate is minor nature, is possible, if a person who is running has a fall.

23. PW7 Jose Joy @ Unni stated that PW2 is the father of PW3. He does not remember about the date of incident. PW2 is residing in his family property. On the date of occurrence, himself and his mother PW8 were in their paddy field in connection with the harvesting of paddy. The first accused also owns paddy field nearby. According to him, the first accused and PW2 engaged in a wordy altercation and then, PW3 intervened in the same, there arose a scuffle between the parties. He did not see anybody assaulting anyone else. He turned hostile to the prosecution and Ext.P7 series statements in his previous statement were marked as contradictions, subject to proof. In cross-examination, PW7 admitted that there was a civil case between his father and the first accused regarding the partition of property.

24. PW8 Jessy Joy, the mother of PW7 stated that the first accused is her brother-in-law and the second accused is the son of the first accused. According to her, she witnessed the incident in this case. However, she gave a different version regarding the incident. According to her, the first accused came and asked PW3 regarding the tying of his cattle and PW3

replied that he had not tied any of his cattle. Thereupon, PW7 stated that it was in fact he who had tied the cattle of the first accused. Thereafter, a scuffle ensued between PW3 and accused Nos.1 and 2. All of them intervened and the rival parties were separated. She turned hostile and in cross-examination, Ext.P8 series contradictory statements in her previous statement were marked subject to proof.

25. PW9, Dr.Tom Thomas testified that while working as Assistant Professor, Department of General Surgery, Government Medical College Hospital, Kottayam, he had perused the treatment records of one Nirmala, aged 50 years, having casualty No.36519 and issued Ext.P9 treatment certificate on 05.03.2022. The patient complained about an alleged history of assault and complained of chest pain. On examination, no external injuries were noted.

26. PW9 further deposed that on 05.03.2022, he had perused treatment records of one Sanal and issued Ext.P10 treatment certificate noting a soft tissue injury. The patient complained of assault. In cross-examination, PW9 deposed that he had not personally examined these patients. He had issued Exts.P9 and P10 after perusing the available treatment records at the

hospital. These certificates are issued after two years of the examination of the patients.

27. PW11 Biju K.R., Inspector of Police, Kidangoor Police Station deposed that he received the complaint filed by the defacto complainant before the court and on the basis of that complaint, he registered Ext.P13 F.I.R.

28. PW12, Shaju Jose was the Dy.S.P., Pala during the relevant period. He stated that, as per Ext.P14 order dated 22.01.2022 of the District Police Chief, he took over the investigation of this case and forwarded Ext.P15 report to the court to that effect. Thereafter, he visited the scene of occurrence and prepared Ext.P2 scene mahazar. According to him, the scene of occurrence is the portion of the mud road situated near the kizhunad paddy field. He conducted investigation, obtained the community and caste certificates, prepared scene plan, and produced them before the court. After questioning witnesses and others, the investigation was completed and the charge sheet was submitted to the court.

29. In cross-examination, PW12 deposed that in CrI.M.P. No.693/2020 forwarded from the court, the accused were

Anajana and Akhil. It is alleged in the complaint that Anjana has assaulted the witnesses, but the date of occurrence is different. In investigation, it was not revealed that the accused persons have not used a sword stick. In investigation, it was disclosed that only two persons are involved in the occurrence as accused. He admitted that PW1 to PW3 had given him Exts.D1 to D3 series contradictions.

30. PW13 testified that while working as Village Officer of Kidangoor, he prepared Ext.P18 scene plan.

31. Ext.D4 is a proceedings issued by the Kerala State Scheduled Castes and Scheduled Tribe Commission closing further proceedings in the complaint filed by PW2 against the first accused and his wife. Ext.D5 is the certified copy of the decree in O.S. No.674/2016 filed by the first accused against his brother Joe Joseph and other family members, as per which, the plaint schedule properties were ordered to be partitioned as per a settlement.

32. Ext.D6 is copy of Crl.M.P. No.707/2020 filed before the District Court, Kottayam by PW1 against the accused Nos.1 and 2 and Alice Raju, the wife of the first accused. Ext.D7 is

the certified copy of CMP No.2534/2022 filed by PW1 before District Court, Kottayam against the children of the first accused. Ext.D8 is the certified copy of the Crime No.344/2020 of Kidangoor Police Station registered against PW2 on the allegation that on 03.04.2020 at the scene of occurrence in this case, he had assaulted the minor son of the first accused.

33. The learned Public Prosecutor contended that the prosecution has proved the occurrence by virtue of the oral testimony of PW1 to PW3 and the medical evidence. The fact that PW3 is a member of the Scheduled Caste Community is also proved by the revenue authorities. Thus, it is proved by the prosecution that the accused persons have voluntarily caused bodily hurt to PW3 and also PW1 and used criminal force on them and thereby committed the alleged offences.

34. The learned defence counsel contended that the evidence of PW1 to PW3 are replete with inconsistencies, contradictions and material discrepancies and does not tally with the medical evidence in this case and they are to be discarded. PW7 and PW8 have not supported the prosecution case and turned

hostile. It was contended that though the alleged date of occurrence is on 03.04.2020, the F.I.R. was registered after inordinate delay, i.e. on 21.01.2021. Since the incident was fabricated, the police was not willing to register the case on the statement of PW1 and hence, they filed a false complaint as CrI.M.P. No.693/2020 in court on 28.05.2020, which is after about two months of the incident. The delay is not properly explained. The defence counsel pointed out that as per Ext.P1 complaint, the first accused is Anjana and second accused is Akhil Raju, whereas, as per the charge sheet the first accused is Raju Joseph and second accused is Akhil Raju. There are material inconsistencies in the complaint filed before court and the final report / charge sheet filed in the court. The documents produced as Exts.D6, D7 and D4 reveal that with regard to the very same alleged incident, several complaints were lodged against Anjana and Akhil, both of whom, were engineering students. This itself shows that the motive of filing fabricated complaints is to harass the children of the first accused, who were students. There is also a connected case pending as S.C. No.142/2023, in which Anjana and Akhil are the accused. Altogether four private complaints were filed against the

accused and it discloses that the intention of the prosecution witnesses is only to harass the family of the first accused. In all the complaints, the allegations against different accused are the same. Ext.D7 is a protest complaint filed against a refer charge filed by the police. It was also contended that the sequence of events are different as per the prosecution case and evidence of witnesses. In their evidence in court, PW1 to PW3 stated that the accused No.1 and 2 came to the scene of occurrence in a car. However, in the statements to the police, they stated that accused Nos.1 and 2 came in a scooter to the scene of occurrence. The sequence of events is also materially different in the evidence and the final report. Moreover, there is no corresponding injury noted by the doctors in the persons of PW1 and PW3. Therefore, the evidence of PW1 to PW3 are totally contradictory with the prosecution case. It was contended that PW2 and his family consisting of PW1 and PW3 were workers engaged by Joey Joseph, the brother of the first accused, who was on inimical terms with the latter on account of a property dispute. On the date of occurrence, a crime was registered against PW2 for assaulting the minor son of the first accused. These false cases are fabricated at the instance of

Joey Joseph to wreak vengeance against the family of the first accused to settle the civil dispute.

35 The defence counsel also relied on the decisions of the Hon'ble Supreme Court of India reported in **Tuhin Kumar Biswas alias Bumba v. State of West Bengal** [2025 ICO 3353], **Gulam Mustafa v. State of Karnataka** [2023 ICO 1074] and **B. Venkateswaran v. P. Bakthavatchalam** [2023 ICO 11] in support of his contentions.

36. I have considered the contentions of the learned Public Prosecutor and the learned defence counsel and analysed the testimony of PW1 to PW3.

37. Admittedly, there is inordinate delay in lodging Ext.P1 complaint in court. Though the offence was allegedly committed on 03.04.2020, the complaint is filed only on 28.05.2020. Moreover, as per the complaint, the accused are arraigned as Anjana and Akhil, who are the children of the first accused. The first accused is not arraigned as an accused in Ext.P1.

38. In **Amar Singh v. Balwinder Singh and Others** [2003

(2) SCC 518], it was held by the Hon'ble Apex Court that,

“ There is no hard and fast rule that, any delay in lodging the F.I.R. would automatically render the prosecution case doubtful. It necessarily depends upon the facts and circumstances of each case whether there has been any such delay in lodging the F.I.R, which may cause doubt about the veracity of the prosecution case”.

39. In the decision reported in **Ramachandran KC. V. State of Kerala** [2024 KHC 126], it is held as follows regarding delay in lodging the F.I.R :

“We certainly appreciate the concern of the learned counsel in as much as the importance of registering a First Information Report (FIR) in a criminal case cannot be understated. It is an extremely vital and valuable piece of evidence for the purposes of corroborating the oral evidence adduced at the trial. The object of insisting upon prompt lodging of the report to the police in respect of the commission of an offence is to obtain early information regarding the circumstances under which the crime was committed, the names of the actual culprits and the part played by them, as well as the names of eye - witnesses present at the scene of occurrence. Delay in lodging the FIR quite often results in embellishment, which is a creature of afterthought. On account of the delay, the report not only gets bereft of the

advantage of spontaneity but also there is the danger of the introduction of a coloured version, exaggerated account or concocted story as a result of deliberation and consultation. It is, therefore, essential that the delay, if any, in lodging the FIR is satisfactorily explained (Thulia Kali v. State of TN, 1972 (3) SCC 393; Marudanal Augusti v. State of Kerala, 1980 (4) SCC 425)."

40. In this case, the delay in lodging the Ext.P1 complaint is not satisfactorily explained. No valid reason is proved by the prosecution for the delay of more than fifty days in lodging Ext.P1 complaint. Apart from that, the documents produced by the defence reveals that with regard to the incident, several complaints were filed against the first accused and his family. In Ext.P1 complaint, the first accused is not arraigned as an accused and only his daughter and his son (A2) are the accused. Thus, I am of the view that the above said unexplained delay is fatal to the prosecution case.

41. The Hon'ble Supreme Court has laid down guidelines regarding the appreciation of evidence of eye witnesses in **Vadivelu Thevar vs The State Of Madras** [1957 KHC 404]. The court has categorised the witnesses as wholly reliable, wholly unreliable and neither wholly reliable or unreliable.

42. In Yogesh Singh v. Mahabeer Singh and Others [2016

KHC 6714], the Hon'ble Supreme Court has held as follows :

“29. Discrepancies in Evidence - It is well settled in law that the minor discrepancies are not to be given undue emphasis and the evidence is to be considered from the point of view of trustworthiness. The test is whether the same inspires confidence in the mind of the Court. If the evidence is incredible and cannot be accepted by the test of prudence, then it may create a dent in the prosecution version. If an omission or discrepancy goes to the root of the matter and ushers in incongruities, the defence can take advantage of such inconsistencies. It needs no special emphasis to state that every omission cannot take place of a material omission and, therefore, minor contradictions, inconsistencies or insignificant embellishments do not affect the core of the prosecution case and should not be taken to be a ground to reject the prosecution evidence. The omission should create a serious doubt about the truthfulness or creditworthiness of a witness. It is only the serious contradictions and omissions which materially affect the case of the prosecution but not every contradiction or omission”.

43. In Inder Singh v. State reported in 1978 Cr.Lj 766, the Hon'ble Supreme Court has laid down guidelines to consider

the credibility of witness and held as follows :

“2. Credibility of testimony, oral circumstantial, depends considerably on a judicial evaluation of the totality, not isolated scrutiny. While it is necessary that proof beyond reasonable doubt should be adduced in all criminal cases, it is not necessary that it should be perfect. If a case is proved too perfectly, it is urged that it is artificial; if a case has some flaws, inevitable because human beings are prone to err, it is argued that it is too imperfect. One wonders whether in the meticulous hypersensitivity to eliminate a rare innocent from being punished, many guilty men must be callously allowed to escape. Proof beyond reasonable doubt is a guideline, not a fetish and guilty man cannot get away with it because truth suffers some infirmity when projected through human processes. Judicial quest for perfect proof often accounts for police presentation of fool proof concoction. Why fake up? Because the court asks for manufacture to make truth look true? No, we must be realistic”.

44. There are two kinds of discrepancies, normal discrepancies and material discrepancies. Normal discrepancies are those which are due to normal errors of observation, normal errors of memory due to lapse of time, due

to mental disposition such as shock and horror at the time of occurrence and those are always there however honest and truthful a witness may be. Material discrepancies are those which are not normal, and not expected of a normal person. While appreciating evidence of witnesses the court has to label the category to which a discrepancy may be categorized. While normal discrepancies do not corrode the credibility of a party's case, material discrepancies do so. [**Syed Ibrahim v. State of AP** (2006 (10) SCC 601 : AIR 2006 SC 2908)]. It is apposite to refer to the said decision in which it is held as follows :

"It is the duty of court to separate grain from chaff. Where chaff can be separated from grain, it would be open to the court to convict an accused notwithstanding the fact that evidence has been found to be deficient, or to be not wholly credible. Falsity of material particular would not ruin it from the beginning to end. The maxim "falsus in uno falsus in omnibus" has no application in India and the witness or witnesses cannot be branded as liar (s). The maxim "falsus in uno falsus in omnibus" has not received general acceptance nor has this maxim come to occupy the status of rule of law. It is merely a rule of caution. All that it amounts to, is that in such cases testimony may be disregarded, and not

that it must be disregarded. The doctrine merely involves the question of weight of evidence which a court may apply in a given set of circumstances, but it is not what may be called a mandatory rule of evidence. (See Nisar Ali v. The State of Uttar Pradesh, AIR 1957 SC 366). In a given case, it is always open to a court to differentiate accused who had been acquitted from those who were convicted where there are a number of accused persons. (See Gurucharan Singh and Another v. State of Punjab, AIR 1956 SC 460). The doctrine is a dangerous one specially in India for if a whole body of the testimony were to be rejected, because witness was evidently speaking an untruth in some aspect, it is to be feared that administration of criminal justice would come to a dead stop. Witnesses just cannot help in giving embroidery to a story, however, true in the main. Therefore, it has to be appraised in each case as to what extent the evidence is worthy of acceptance, and merely because in some respects the court considers the same to be insufficient for placing reliance on the testimony of a witness, it does not necessarily follow as a matter of law that it must be disregarded in all respect as well. The evidence has to be shifted with care. The aforesaid dictum is not a sound rule for the reason that one hardly comes across a witness whose evidence does not contain a grain of untruth or at any rate

exaggeration, embroideries or embellishment. (See Sohrab s/o Beli Nayata and Another v. The State of Madhya Pradesh, 1972 (3) SCC 751 and Ugar Ahir and Others v. The State of Bihar, AIR 1965 SC 277. An attempt has to be made to, as noted above, in terms of felicitous metaphor, separate grain from the chaff, truth from falsehood. Where it is not feasible to separate truth from falsehood, because grain and chaff are inextricably mixed up, and in the process of separation an absolutely new case has to be reconstructed by divorcing essential details presented by the prosecution completely from the context and the background against which they are made, the only available course to be made is to discard the evidence in toto. (See Zwinglee Ariel v. State of Madhya Pradesh, AIR 1954 SC 15 and Balaka Singh and Others v. The State of Punjab, 1975 (Supp.) SCR 129. As observed by this Court in State of Rajasthan v. Smt Kalki and Another, 1981 (2) SCC 752, normal discrepancies in evidence are those which are due to normal errors of observation, normal errors of memory due to lapse of time, due to mental disposition such as shock and horror at the time of occurrence and those are always there however honest and truthful a witness may be. Material discrepancies are those which are not normal, and not expected of a normal person.

Courts have to label the category to which a

discrepancy may be categorized. While normal discrepancies do not corrode the credibility of a party's case, material discrepancies do so. These aspects were highlighted in Krishna Mochi and Others v. State of Bihar etc., 2002 (6) SCC 81 and in Sucha Singh v. State of Punjab, 2003 (7) SCC 643. It was further illuminated in the Zahira H. Sheikh v. Stated Gujarat, 2004 (4) SCC 158, Ram Udgar Singh v. Stated Bihar, 2004 (10) SCC 443, Gorle S. Naidu v. State of Andhra Pradesh, 2003 (12) SCC 449 and in Gubbals Venugopalswamy v. State of Andhra Pradesh, 2004 (10) SCC 120.”.

45. In this case, on analysing the evidence of PW1 to PW3 regarding the incident, it is found that there are material discrepancies, contradictions and inconsistencies in their evidence. The sequence of events, the manner of inflicting injury by the accused are at variance in their testimony with the prosecution case. Apart from that, the medical evidence regarding the injuries would not co-relate and corroborate the ocular evidence regarding the injuries alleged to be sustained by PW1 and PW3. According to PW1 to PW3, the accused had stamped PW3 while he was lying down. PW1 stated that PW3 sustained bruises as a result of scratching on his neck. It is

also stated by the witnesses that PW1 was also stamped while she was lying down and PW3 was punched on his eye. However, the medical evidence in this case reveals that PW1 had not sustained any external injuries. Therefore, it is evident that there are material inconsistencies between the ocular evidence and medical evidence.

46. With regard to inconsistency between ocular and medical evidence, it is a settled principle of law that the evidentiary value of medical evidence is only corroborative and not conclusive and, hence, in case of a conflict between oral evidence and medical evidence, the former is to be preferred unless the medical evidence completely rules out the oral evidence. In this regard, **Yogesh Singh v. Mahabeer Singh and Others** [(2017) 11 SCC 195], may be referred to wherein Hon'ble Apex Court has held as follows :

“43. The learned counsel appearing for the respondents has then tried to create a dent in the prosecution story by pointing out inconsistencies between the ocular evidence and the medical evidence. However, we are not persuaded with this submission since both the Courts below have categorically ruled that the medical evidence was

consistent with the ocular evidence and we can safely say that to that extent, it corroborated the direct evidence proffered by the eye - witnesses. We hold that there is no material discrepancy in the medical and ocular evidence and there is no reason to interfere with the judgments of the Courts below on this ground. In any event, it has been consistently held by this Court that the evidentiary value of medical evidence is only corroborative and not conclusive and, hence, in case of a conflict between oral evidence and medical evidence, the former is to be preferred unless the medical evidence completely rules out the oral evidence”.

47. In this case, the evidence of PW1 to PW3 regarding the injuries sustained by PW1 and PW3 are highly exaggerated and totally inconsistent with the medical evidence in this case. The medical evidence completely rules out the probability of the ocular evidence of PW1 to PW3 with reference to the alleged injuries sustained by PW1 and PW3. The above said aspect is a material discrepancy in the evidence of PW1 to PW3, the occurrence witnesses. The above said discrepancy and inconsistency is material and it would not have occurred, if the witnesses were speaking the truth. The said material discrepancy between the ocular evidence of PW1 to PW3

regarding the injuries sustained by PW1 and PW3 and the medical evidence of two doctors, who were examined by the prosecution cuts the very root of the prosecution case and affects the truthfulness and veracity of the evidence of PW1 to PW3.

48. In this case, due to pendency of civil litigation between the family of the first accused and his brother late Joy Joseph, who was the employer of PW2, the possibility of false accusation cannot be ruled out. Hence each and every discrepancy in the evidence deserves to be valued in a judicious manner to separate the chaff from the grain. The possibility for victimisation of the accused, as an afterthought also can be doubted in the backdrop of the unreasonable delay in lodging Ext.P1 complaint. Even while keeping safeguard against the commission of atrocities against the members of the SC/ST communities, the misuse of the provisions of the SC and ST (PoA) Act being rampant, courts are to be vigilant while appreciating the evidence to ensure that, no innocent man is victimised to wreak personal vengeance.

49. On going through the evidence of PW1 to PW3, I am of

the view that there is an element of artificiality in their testimonies. The totality of the evidence adduced by the prosecution as discussed above, reveals that there are material inconsistencies and contradictions, which cuts the root of the prosecution case regarding the occurrence.

50. It is unsafe to rely on the interested testimonies of PW1 to PW3 without sufficient corroboration by independent witnesses. No independent witness has supported the prosecution case regarding the occurrence. Therefore, I am of the considered view that, the prosecution has failed to prove that, the accused persons had committed the alleged offences.

51. As the prosecution has not proved that the accused persons have committed the offence under Sec.323 of the I.P.C., the offence under Sec.3(2)(va) of the SC and ST (PoA) Act is not proved. Hence, the accused persons are found not guilty of the offences under Secs.352 and 323 r/w.34 of the Indian Penal Code and Sec.3(2)(va) of the SC and ST (PoA) Act. Point Nos.2 to 4 are found against the prosecution.

52. Point Nos.5 and 6 : In the result, in view of the findings

in Point Nos.2 to 4, the accused persons are found not guilty of the offences under Secs.352 and 323 r/w.34 of the Indian Penal Code and Sec.3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and acquitted under Sec.258(1) of the B.N.S.S.

The accused persons are set at liberty. The bail bonds executed by them stand cancelled.

Dictated to the Confdl. Asst., transcribed and typed by her, corrected by me and pronounced in the open Court, on this the 18th day of April, 2026.

Sd/-
Manoj M.
Sessions Judge

APPENDIX

A. Prosecution Witness:-

Rank		Date	Name	Description of Witness
PW1	CW1	15.01.26	Nirmala	Complainant / injured
PW2	CW6	15.01.26	Sasikumar @ Sunny	Eye witness scene mahazar witness
PW3	CW2	20.01.26	Sanalkumar	Injured
PW4	CW3	20.01.26	Santhosh	Eye witness
PW5	CW10	23.01.26	Sreejith, Tahsildar (Meenachil)	Issued community certificate of CW2
PW6	CW8	23.01.26	Dr. Lidiya George	Issued wound certificate of PW1 & PW3

PW7	CW4	23.01.26	Jose Joy @ Unni	Eye witness
PW8	CW5	23.01.26	Jessy Joy	Eye witness
PW9	CW9	24.01.26	Dr. Tom Thomas	Issued Treatment certificate of PW1 &PW3
PW10	CW12	24.01.26	Singily Thomas Village Officer, Ayarkunnam	Issued caste certificate of Accused Nos.1 & 2
PW11	CW14	24.01.26	Biju K.R. Inspector of Police	Prepared First Information Report
PW12	CW15	24.01.26	Shaju Jose Dy. Superintendent of Police, Pala	Investigating Officer
PW13	CW11	30.01.26	Roshan J. George Village Officer Kidangoor	Prepared scene plan, issued community certificate of CW1/PW1

B. Defence Witness:- NIL

C. Court Witness:- NIL

List of Prosecution/Defence/Court Exhibits

A. Prosecution Exhibits:-

Sl. No.	Exhibit Number	Date	Description	The witness who proved or attested the Document
1.	Ext.P1/PW1	28.05.20	Complaint (Criminal M.P No. 693/2020)	PW1
2.	Ext.P2/PW2	24.01.22	Scene Mahazar	PW2
3.	Ext.P3/PW4 (subj. to proof)	28.01.22	Portion in the 180 B.N.S.S. statement of CW3/PW4	PW4
4.	Ext.P4/PW5	15.03.22	Community certificate of CW2/PW3	PW5

5.	Ext.P5/PW6	03.04.20	Wound certificate of CW1/PW1	PW6
6.	Ext.P6/PW6	03.04.20	Wound certificate of CW2/PW3	PW6
7.	Ext.P7/PW7 (subj. to proof)	24.01.22	Portion in the 180 B.N.S.S. statement of CW4/PW7	PW7
8.	Ext.P7(a)/PW7 (subj. to proof)	24.01.22	Portion in the 180 B.N.S.S. statement of CW4/PW7	PW7
9.	Ext.P8/PW8 (subj. to proof)	24.01.22	Portion in the 180 B.N.S.S. statement of CW5/PW8	PW8
10.	Ext.P8(a)/PW8 (subj. to proof)	24.01.22	Portion in the 180 B.N.S.S. statement of CW5/PW8	PW8
11.	Ext.P8(b)/PW8 (subj. to proof)	24.01.22	Portion in the 180 B.N.S.S. statement of CW5/PW8	PW8
12.	Ext.P9/PW9	05.03.22	Treatment certificate of CW1/PW1	PW9
13.	Ext.P10/PW9	05.03.22	Treatment certificate of CW2/PW3	PW9
14.	Ext.P11/PW10	08.03.22	Caste Certificate of 1 st Accused	PW10
15.	Ext.P12/PW10	08.03.22	Caste certificate of 2 nd Accused	PW10
16.	Ext.P13/PW11	21.01.22	First Information Report	PW11
17.	Ext.P14/PW12	22.01.22	Copy of Order No. J4/32/DCRB/2022-K, dated 22.01.2022 of the District Police Chief, Kottayam regarding authorisation of investigation	PW12
18.	Ext.P15/PW12	23.01.22	Report regarding taken charge of investigation by Dy.S.P.	PW12
19.	Ext.P16/PW12	09.04.21	Address report of accused	PW12
20.	Ext.P17/PW12	09.04.21	Section altering report	PW12
21.	Ext.P18/PW12	11.03.22	Scene plan	PW12
22.	Ext.P19/PW12	04.04.20	Copy of First Information Report in Crime No. 344/2020 of Kidngoor Police Station	PW12

23.	Ext.P20/PW13	08.03.22	Community certificate of CW1/PW1	PW13
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B. Defence Exhibits:-

Sl. No.	Exhibit Number	Date	Description	The witness who proved or attested the Document
1.	Ext. D1/PW1	24.01.22	Portion in the 180 B.N.S.S. statement of CW1/PW1	PW1
2.	Ext. D2/PW2	25.03.22	Portion in the 180 B.N.S.S. statement of CW6/PW2	PW2
3.	Ext. D3/PW3	NIL	Portion in the 180 B.N.S.S. statement of CW2/PW3	PW3
4.	Ext. D3(a)/PW3	NIL	Portion in the 180 B.N.S.S. statement of CW2/PW3	PW3
5.	Ext. D3(b)/PW3	NIL	Portion in the 180 B.N.S.S. statement of CW2/PW3	PW3
6.	Ext. D4	22.10.22	Order No.1896/A4/2020/KTM/KSCSCST of Kerala State Scheduled Caste/ Scheduled Tribe Commission	Rule 294 Crl. Rules of Practice
7.	Ext. D5	29.08.17	Certified copy of Decree in O.S No. 674/2016 of Munsiff's Court, Kottayam	Rule 294 Crl. Rules of Practice
8.	Ext. D6	03.06.20	Certified copy of complaint (Crl. M.P No.707/2020) in S.C. No.142/2023 of the District and Sessions Court, Kottayam	Rule 294 Crl. Rules of Practice
9.	Ext. D7	29.09.22	Certified copy of complaint (Crl. M.P No.2534/2022) in S.C. No.142/2023 of the District and Sessions Court, Kottayam	Rule 294 Crl. Rules of Practice

10.	Ext. D8	04.04.20	Certified copy of FIR in Crime No.344/2020 of Kidangoor Police Station	Rule 294 Crl. Rules of Practice
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C. Court Exhibits:- NIL

D. Material Objects :- NIL

Id/-
Sessions Judge.

Serial No. of the Case : Sessions Case No.342/2022

Crime Number and : Crime No.64/2022

Name of Police Station : Kidangoor Police Station

DESCRIPTION OF THE ACCUSED

Sl No	Name	Father's Name	Occupation	Residence	Age
1.	Raju Joseph	Joseph	Farmer	Pallikkara House, Punnathura East P.O., Ayarkunnam Village, Kottayam District.	56
2.	Akhil Raju	Raju Joseph	Student	Pallikkara House, Punnathura East P.O., Ayarkunnam Village, Kottayam District.	25

Dates of

Occurrence : 03.04.2020

Complaint : 28.05.2020

Apprehension : NIL

Release on bail	: NIL
Committal	: NIL
Commencement of trial	: 15.01.2026
Close of trial	: 16.03.2026
Date of Hearing	: 10.04.2026
Judgment	: 18.04.2026
Reason for delay	: No delay
Remarks	: NIL

Id/-
Sessions Judge.

//True copy//

Copied by:
Compared by:

By Order,

Sd/-
Sheristadar