

IN THE COURT OF SESSION KOTTAYAM DIVISION

Present: Sri. Manoj M., Sessions Judge

Thursday, the 21th day of May, 2026
31st day of Vaisakha, 1948

SESSIONS CASE NO. 321/2016

(Crime No.1414/2013 of Ettumanoor Police Station)
(C.P. No. 9/2016 of Judicial First Class Magistrate - I,
Ettumanoor)

Complainant:-

State of Kerala, represented by
Deputy Superintendent of Police,
District Crime Branch, Kottayam.

By Public Prosecutor Sri. Agi Joseph

Accused:

- 1 Jinu V.T., Aged 45 years, S/o. Thankappan,
Valacherry House, Shappupady Bhagom,
Kumarakom Village, Kottayam (No more).
- 2 M.S. Vijayan, aged 58 years,
S/o. Sivaraman Pillai, Mulloor House,
Nellikunnu Bhagom, Mattakkara,
Akalakkunnam Village.

A1 Died.

A2 by Adv. C. Praveenkumar &
Adv. Sailaj Ramachandran

Charge : Under Sec.294(b), 465, 466 and 474
r/w.34 of the Indian Penal Code and
Sec.3(1)(x) of the Scheduled Caste
and Scheduled Tribes (Prevention of
Atrocities) Act .

Plea : Not Guilty

- Findings : Not guilty
- Sentence/ Order : The second accused is found not guilty of the offences under Secs.294(b), 465, 466 and 474 r/w.34 of the Indian Penal Code and Sec.3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and acquitted under Sec.235(1) of the Cr.P.C.
- The charge against the first accused, who is no more, is ordered to be abated.
- Dates of Trial : 11.08.2017, 21.07.2025, 06.08.2025, 07.08.2025, 24.09.2025, 06.10.2025, 13.10.2025, 16.10.2025, 22.10.2025, 27.10.2025, 14.11.2025, 15.12.2025
- Date of Hearing : 16.03.2026
- Date of Judgment : 21.05.2026

JUDGMENT

The accused persons stand charged by the Deputy Superintendent of Police, District Crime Branch, Kottayam in Crime No.1414/2013 of Ettumanoor Police Station alleging commission of offences punishable under Secs.294(b), 465, 466 and 474 r/w.34 of the Indian Penal Code and Sec.3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. The prosecution case, in brief, is as follows :- PW1 Sarojini is a member of the Hindu Pulaya Community, which is a Scheduled Caste. The first accused belongs to Hindu Parava, a Scheduled Caste and the second accused belongs to Hindu Veerashaiva, a forward caste. During the relevant period, PW1 was working as L.D. Clerk, the first accused was working as the Head Clerk and the second accused was working as the General Extension Officer at Block Panchayat Office, Ettumanoor. On 07.10.2013 at about 5 p.m., while PW1 was working at her table in Room No.14 of that office, the first accused and the second accused shared common intention and the first accused hurled obscene and abusive words at PW1 and the second accused abused her by calling her caste name in public view. When PW1 complained about this incident, to wreak vengeance, the accused persons spread baseless allegations against PW1 that she had misappropriated amounts from 9 contingent bills (CB bills) and misbehaved to District Panchayat President, consequent to which, PW1 was suspended from service. After one year, PW1 was reinstated in service and till the date of her retirement on 31.05.2015, the accused persons and others socially isolated and harassed her. In order to create an alibi regarding his presence elsewhere, on the date of

occurrence, namely, 07.10.2013, the second accused caused a false document to be created through certain persons, showing that, in the discharge of official duties, he had convened a review meeting at the Block Office at 3 p.m. on that day in connection with the Gram Vikasana Week celebrations and made an entry therein stating that the meeting concluded at 5.15 p.m.; and without the knowledge or consent of the superior officer, kept the said document in his possession for using it as a genuine document. The accused persons have thus committed the above said offences.

3. PW1 filed Ext.P1 complaint before the District Police Chief, Kottayam, which was forwarded for investigation to the Circle Inspector of Police, Ettumanoor Police Station, who in turn forwarded it to PW14, the Sub Inspector of Police, Ettumanoor Police Station, for conducting investigation. On the basis of Ext.P1 complaint, PW14 registered Ext.P17 F.I.R. on 12.10.2013. PW15, the Deputy Superintendent of Police, Kottayam conducted initial investigation and came to a conclusion that there is insufficient evidence to prosecute the accused and submitted a factual report to the District Police Chief, Kottayam seeking permission to file UN report in the court. Thereafter, PW1

approached the Hon'ble High Court of Kerala by filing WP(C) No.7755/14 (T) alleging that the investigation in the crime was not satisfactory and the Hon'ble High Court vide order dated 26.05.2014, directed the District Police Chief to hand over the investigation of the crime to the District Crime Branch. Thereafter, as per the order of the District Police Chief, PW16, Dy.S.P., District Crime Branch, Kottayam took over the investigation and PW17, the successor-in-office to PW16, completed the investigation and filed the final report before this court.

4. The accused persons were granted bail during investigation by this court. 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. Thereafter, the prosecution and the defence were heard and charge under Sec.294(b), 465, 466 and 474 r/w.34 of the Indian Penal Code and Sec.3(1)(x) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act were framed, read over and explained in Malayalam, to which they pleaded not guilty.

6. The first accused was reported to be no more on 23.07.2024 and his death certificate was produced and on 30.08.2024, it was ordered that the charge against the first accused was abated.

7. To prove the case, the prosecution examined PW1 to PW17 and marked Exts.P1 to P30.

8. When questioned under Sec.313(1)(b) of the Cr.P.C., the second accused denied all the incriminating circumstances appearing in evidence against him and stated that he is innocent and filed written statement stating that this case was fabricated pursuant to a conspiracy hatched by PW5 and PW1, along with the aid of PW2 and PW3. PW5 had expended money unauthorisedly for a project violating the guidelines of utilisation of plan funds without including it in the annual plan and getting it approved by the District Planning Committee. When the second accused raised objection regarding the same, PW5, the BDO abused him. Moreover, PW5 and PW1 expended money unauthorisedly vide 9 contingent bills. As a responsible Government servant, the second accused informed the matter to the then Panchayat President and other higher authorities, consequent to which, PW1 and PW2 became inimical towards

him. The verification of accounts reveal that amounts were unauthorisedly spent vide 9 cash bills and it was included in the audit report of 2012 - 2013. On 12.07.2013, the second accused had made a recommendation to terminate PW2, the driver, who was reckless and rash in driving the office vehicle and also made a recommendation to the said effect to the District Panchayat President. PW3 is only a temporary employee and since she was not given permanent employment, she was also on inimical terms with both the accused and hence, she was falsely included as a witness. Though there were 30 permanent employees in the office, no proper investigation was conducted by recording their statements. PW1 was suspended in the year 2008 for raising false allegations of Scheduled Caste atrocities against Ettumanoor AEO and SS. PW5 had initiated a false case alleging atrocities against the driver of Peerumedu Block, which resulted in an acquittal by court. The second accused had not fabricated or forged a false document. As directed by the President, a meeting was held on 07.10.2013 and the participants had signed in the proceedings. Ancy, a Prerak had come to the office on that day. However, in the minutes, the signature and name of Ancy and P.M. Leela are seen put by the same person. The convenor,

joint convenor and himself had signed in the minutes and the President had certified the same on 08.10.2013. The said minutes is not a forged document. In the report submitted by the Project Director to the District Collector, it was stated that this allegation is fabricated. He was transferred from that office on 20.06.2014 and hence the allegation that till 31.05.2015, he harassed PW1 is a concocted version. He had submitted the bills and vouchers to the BDO on 21.05.2013 and 05.09.2013 and those were approved by the finance standing committee.

9. Both sides were heard under Sec.232 of the Cr.P.C. As the case is not a case of no evidence, the second accused was called upon to enter on his defence. DW1 and DW2 were examined and Exts.D1 to D16 were marked.

10. The points which arise for consideration are :

1. Whether PW1 belongs to Hindu Pulaya, a Scheduled Caste Community and the second accused belongs to Hindu Veerashaiva, which is a higher caste ?
2. Whether on 07.10.2013 at about 5 p.m., while PW1 and the accused were working in room No.14 of the Block Panchayat Office,

Ettumanoor, a public place, the accused abused PW1 by uttering obscene words and thereby committed an offence punishable under Sec.294(b) r/w.34 of the I.P.C.?

3. Whether on the above date, time and place and in the course of the above transaction, the second accused intentionally insulted PW1, with intent to humiliate her in a public place within public view and thereby committed an offence punishable under Sec.3(1)(x) of the SC and ST (PoA) Act?
4. Whether at or about the same period, the accused, in furtherance of their common intention, committed forgery by fabricating false records, so as to make it appear that PW1 had committed misappropriation of funds, by fabricating 9 CB bills and thereby committed an offence punishable under Sec.465 r/w.34 of the I.P.C.?
5. Whether at or about the above period, the accused, in furtherance of their common intention and with a view to create alibi evidence, fabricated false records so as to make it appear that a meeting was convened in the Block Panchayat Office on 07.10.2013, in their official capacity and that the meeting ended at 05.15 p.m., without concurrence of the higher authority, and thereby committed an

offence punishable under Sec.466 r/w.34 of the I.P.C.?

6. Whether at or about the same period, the accused fabricated false records in respect of meeting and the same was intended to be used as genuine and thereby committed an offence punishable under Sec.474 r/w.34 of the I.P.C.?
7. What if any are the offences committed by the accused ?
8. If found guilty, what is the proper order as to sentence ?

11. Point No.1 :- PW1 deposed that she belongs to Hindu Pulaya, a Scheduled Caste Community. CW6, the Tahsildar, Vaikom during the relevant period, who had issued the Caste Certificate of PW1, could not be examined, as he was reported to be no more. Since the second accused has no objection to the genuineness of the caste certificate of PW1, furnished as per the list under Sec.294 of Cr.P.C. / 330 B.N.S.S., the same was marked as Ext.P30. PW6 Moncy P. Alexander, who was working as Tahsildar, Kottayam testified that on the basis of the enquiry report of Village Officer, Akalakunnam stating that the second accused is a member of the Hindu Veerashaiva Community, he issued Ext.P4 community certificate showing that the second accused belongs to Hindu Veerashaiva Community.

12. The defence has not disputed the fact that PW1 is a member of the Scheduled Caste Community and the second accused is a member of a higher caste. In the said circumstances, it is held that the prosecution has proved that PW1 is a member of the Hindu Pulaya Community, a Scheduled Caste and the second 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 6 :- Since the evidence and the legal aspects to be considered in these points are intertwined, these points are considered together. PW1 Sarojini testified that she had given Ext.P1 complaint to the Superintendent of Police. She deposed that since May, 2012, she had been working in the Block Office, Ettumanoor, handling the general purpose fund section. The accused persons were undertaking various expenditures, but did not produce any bills or vouchers before her and she had submitted a complaint to that effect to the Block Development Officer. She deposed that on 07.10.2013 at about 5 p.m., while herself and Geetha (PW3) were engaged in office work, the accused persons entered their office room and the first accused hurled obscene words at her and abused her by calling her caste name, that “നിന്നെയൊക്കെ എന്ത് ചെയ്യാലും ആരും ഒന്നും ചോദിക്കാനില്ല

പൊലയാടി മോളെ” and the second accused uttered her caste name that “നീ പെലക്കള്ളി അല്ലേടി നിന്നെയൊക്കെ എന്ത് ചെയ്യാലും ആരും ചോദിക്കാനില്ല”. She deposed that the first accused was the head of the office and she identified the second accused in the dock. Though she gave a complaint before the Ettumanoor Police Station, the police did not register a case. Thereafter, on 10.10.2013, she submitted a complaint to the Superintendent of Police, which was marked as Ext.P1. The police recorded her statement. At the time of incident, Geetha (PW3) was also with her and on hearing the noise, the driver Ranjith (PW2) was looking through the window from outside. She deposed that she had no knowledge about the caste of the second accused. She deposed that she had submitted a complaint to the BDO regarding the incomplete file handed over by the accused without receipts or vouchers, and that it was in consequence of that complaint that the said act was committed.

14. In cross-examination, PW1 stated that on the immediate western side of room No.14, there is another room and after that the room occupied by the Joint BDO and the Accounts Section is situated. The room on the northern side of her room was

occupied by the LSGD Assistant Executive Engineer and other staff members. There were windows from the aforesaid rooms opening into her room. She deposed that at present, she did not remember whether the room on the western side of her room was occupied by the Housing Officer and clerical staff. She stated that she entered service in the Education Department and while working at the Government School, Palakkuzha, she was unable to attend the office on time due to a leg injury sustained from a fall, as a result of which, she was suspended from service. She denied the suggestion that she had been suspended from service for abusing the Headmaster and other staff members of the school. According to her, the incident in this case occurred at about 5 p.m. and at that time, several people were present in the campus of the Block Panchayat Office. Inside the office, only herself, BDO and PW2 and PW3 were present. She admitted that the certified copy of the complaint shown to her was given by her to the BDO on 09.10.2013. She admitted that in the said complaint, she had alleged that the accused persons had attempted to assault her. She does not remember whether the second accused had filed complaint before the Additional Assistant Development Commissioner General against herself and

the BDO on 05.10.2013 and 08.09.2013. To the suggestion that in the said report, herself and the BDO were found guilty, she pleaded ignorance. According to her, since she was on deployment to the Block Office, her salary and allowances were paid from her parent department. She also admitted that she had filed complaints against her official superiors at Education Department alleging that she was abused by calling her caste name. She admitted that she was suspended from service on 25.02.2014. The second accused had not seen her service book and he is also not a resident of her native place.

15. PW2 Renjith, who was working as the driver of Block Panchayat President, Ettumanoor deposed that on 07.10.2013, by about 04.45 p.m., he had parked the official vehicle at the Ettumanoor Block Panchayat Office and at that time, he heard a hue and cry and abuses being hurled from the room of PW1. He looked inside the room through the window and saw the accused persons creating a ruckus. According to him, Ext.P2 is the log book of the official vehicle and Ext.P2(a) is the page No.193 written in his handwriting. He does not know the caste of PW1 and the second accused. The accused persons were abusing PW1 with obscene words. He does not remember the specific obscene

words hurled by the accused at that time. According to him, both the accused abused PW1 by her caste name and called her (പുലയാടി മോളെ). In cross-examination, he admitted that the log on 07.10.2013 is not written by him in the log book. Usually he writes the log in a rough book and copies it into the original log book. He admitted Ext.D2 statement in his 161 Cr.P.C. statement, wherein it is stated that he had not clearly heard what the accused persons had said to PW1. He also admitted the statement to the police stating that only later to the incident, he knew about the fact that the accused persons had abused PW1 by uttering her caste name and PW1 had lodged a complaint to the BDO. According to him, at the time of incident, no one else was present in the campus of Block Panchayat Office. To a suggestion that due to his misconception that the second accused had reported that he was driving the official vehicle in a reckless manner, he had stated falsehood, was denied.

16. PW3 Geetha Rajendran, who was working as a data entry operator on a temporary basis in the Ettumanoor Block Panchayat, deposed that on the alleged date of the incident, while she was engaged in work in the room of PW1, the accused persons entered the room and abused PW1 by uttering obscene

words. According to her, the second accused called PW1 by her caste name and abused her. According to her, the motive of the accused was because PW1 had demanded the accused to submit vouchers and bills in respect of the amounts expended by them.

17. In cross-examination, PW3 stated that she was a daily wage employee and that her services were engaged only when there was pending work. Some of the data entry work was carried out in English and some in Malayalam. To a question that there were no documents to show that she was on duty at the Ettumanoor Block Panchayat on 07.10.2013, PW3 answered that there was no practice of signing attendance daily, but work had been carried out by her. She was not paid salary on the date of her absence from duty. She admitted that she knew about the caste identity of both the accused and PW1 after the incident. She does not know to which caste, the accused persons belong.

18. PW4 Babu, who was working as the driver in the Ettumanoor Block Development Office deposed that he has signed Ext.P3 scene mahazar.

19. PW5 Vijayan C.V. deposed that while working as the Ettumanoor Block Development Officer, on 07.10.2013, PW1 gave

him a complaint alleging that the accused persons had abused her by calling her caste name and attempted to assault her. He had forwarded the complaint to his official superior. According to him, he is not an eye witness to the incident. In cross-examination, he stated that he had participated in the meeting held on 08.10.2013 in connection with the village development week celebrations. He denied issuing an office order stating that the staff should not remain in office after 5 p.m. However, he admitted Ext.D3 order issued by him. He is an accused in C.C. No.20/2021 pending before Vigilance Court, Kottayam. He reiterated that PW1 had given the complaint to him on 07.10.2013.

20. PW7 Madhukumar T., who was working as the General Extension Officer in Ettumanoor Block Development Office, deposed that he had produced Ext.P6 attendance register and Ext.P2 log book pertaining to Ettumanoor Block Development Office to the Investigating Officer vide Ext.P5 recovery mahazar.

21. PW8 Joseph Shaji, who was working as the Extension Officer in Ettumanoor Block Development Office from 27.07.2015 deposed that he had produced Exts.P8 and P10 minutes book and

Ext.D3 office order book to the Investigating Officer and signed in Ext.P7 seizure mahazar. Since the originals of these records were in regular use, those were received by him on 'moonnamsthanam'. Ext.P12 minutes of the Village Development Week Review Committee meeting was also produced by him to the police and it was also seized vide Ext.P11 mahazar.

22. PW9 Rajesh G. Nair deposed that while working as the Village Officer of Ettumanoor, he prepared Ext.P13 site plan with regard to the scene of occurrence.

23. PW10 Remy Thomas deposed that while working as the BDO in the Ettumanoor Block, she produced Ext.P14 series bills evidencing the disbursement of salary to PW2 and PW3.

24. PW11 Benny J. deposed that during 2013 - 2014, he was working as the Assistant Development Commissioner (Audit), Kottayam Performance Audit. He had produced Ext.P15 performance audit report and Ext.P15(a) enquiry report obtained after verifying the complaint against PW1 and PW5.

25. In cross-examination, he deposed that he had enquired into the allegation of abuse committed by PW1 against Ettumanoor Block Panchayat President.

26. PW12 P.D. Benny deposed that while working as the Saksharatha Prerak in Ettumanoor Panchayat, he has not signed in Ext.P12 minutes. He has not participated in any review committee meeting on 07.10.2013 at the Ettumanoor Block Office.

27. PW13 Ancy Jose deposed that while working as the Saksharatha Prerak in Athirampuzha Panchayat, she does not remember participating in a meeting on 07.10.2013. She turned hostile to the prosecution and the Prosecutor was permitted to put questions permissible in cross-examination. Ext.P16 series contradictory statements were marked in her statement recorded under Sec.161 Cr.P.C. In cross-examination by the defence, she deposed that she has not signed in Ext.P12 and not written her name in the same. The Ettumanoor Block Panchayat President has signed in Ext.P12.

28. PW14 Bince Joseph deposed that while working as the Sub Inspector of Ettumanoor Police Station, he received the complaint filed by PW1 before the District Police Chief and on the basis of that complaint, he registered Ext.P17 F.I.R. Since the offence under the SC and ST (PoA) Act were involved, he reported that

matter to the District Police Chief for conducting the investigation by the Dy.S.P.

29. PW15 V. Ajith deposed that while working as the Dy.S.P., Kottayam, as per the order of the District Police Chief, he took over the investigation of this case and forwarded Ext.P18 report to the court to that effect. He recorded the statements of PW1 to PW3. Thereafter, the investigation of this case was handed over to District Crime Detachment and PW16 conducted further investigation.

30. In cross-examination, PW15 stated that he visited the scene of occurrence and recorded the statements of the office staff, which are available in the CD file. On investigation, he could not find any sufficient evidence and therefore, submitted an untraced report.

31. PW16 A.U. Sunilkumar deposed that while working as Dy.S.P. in the Kottayam Crime Detachment, he took over the investigation of this case on 17.06.2014. He recorded the additional statements of PW1 and PW3. Ext.P19 is the report filed by him before the court intimating the taking over of the investigation by him. In cross-examination, he deposed that in the statements of PW1 and PW3, it is stated that at the time of

occurrence, other people who had come to the office were also present.

32. PW17 K.A. Ramesan deposed that while working as the Dy.S.P. in the Kottayam Crime Detachment, he took over the investigation in this case and forwarded Ext.P20 report to court. He prepared Ext.P3 scene mahazar and seized Ext.P6 attendance register and Ext.P2 log book vide Ext.P5 recovery mahazar. Thereafter, he seized the minutes book, office order book etc vide Ext.P7 seizure mahazar and returned the originals of the said records on moonamsthanam vide Ext.P7(a) kychit. He seized Exts.P21 and P22 files regarding the village development week celebrations and the file containing the letter, vide Ext.P11 seizure mahazar. He seized Ext.P14 series contingent bills vide Ext.P25 mahazar. He submitted reports incorporating the names and addresses of the accused and Secs.465, 466 and 474 I.P.C., as Exts.P26 and 27. After completion of the investigation, he filed the final report before the court.

33. In cross-examination, he deposed that he had not subjected Ext.P12 to Forensic Analysis. He had also not verified the complaints submitted by the second accused against PW1, PW5

and PW2. He has not recorded the statement of the Block Panchayat President. He proved Ext.D4 contradiction made by PW5. He admitted that he had not produced any document to show that PW3 was present on the date of occurrence.

34. DW1 Sandhya Banarji deposed that during 2010 - 2014, she was working as the President of Ettumanoor Block Panchayat. According to her, the second accused had submitted Ext.D5 complaint against PW2. The second accused had also submitted Exts.D6 and D7 complaints against PW1 and PW5. According to her, on 07.10.2013, a review committee meeting was conducted regarding the Village Development week as per her direction. She entrusted the second accused to convene the said meeting. Due to her official pre-occupation, she could not participate in the said meeting. On 07.10.2013, she reached her residence at 6 p.m. and PW2 was also with her. She has signed in Ext.P12 minutes of the meeting held on 07.10.2013, on 08.10.2013. PW2 was dismissed from service as per committee decision. As per page No.131 in Ext.P2, the log is to the effect that she had returned from an institution named Navajeevan on 07.10.2013 and the said page was marked as Ext.D8.

35. In cross-examination, she stated that PW2 was not having the habit of writing the log every day and after he was dismissed, the new driver had completed the said log of the tours made on 07.10.2013. As per Ext.P12, the meeting was held in the office of PW5. She denied the suggestion that Ext.P12 was a fabricated and forged document.

36. DW2 Bevin John, who was working as Project Director, Local Self Government Department deposed that he has produced Exts.D9 and D10 documents, as per the order of the court. As per Ext.D9, it is stated that the complaint of PW1 is a fabricated story and it is baseless.

37. As per Ext.D10, it is stated that the enquiry conducted by the department would reveal that the nine contingent bills were encashed unauthorisedly and PW5 has committed misconduct. It is also revealed that PW1 had involvement in the said irregularity. It is also recommended that the deputation of PW1 is to be cancelled and departmental enquiry is to be conducted regarding the irregularity.

38. As per Ext.D11, it is stated that on 01.10.2013, the Block Development Officer had not issued any memo to the Head Clerk and General Extension Officer.

39. As per Ext.D12, it is stated that the circular issued by PW5 was received by the second accused on 05.10.2013.

40. As per Ext.D13 proceedings of the President of Ettumanoor Block Panchayat dated 25.02.2014, PW1 was suspended pending enquiry for irregularities in fund disbursal and preparation of contingent bills.

41. Ext.D14 is the certified copy of the minutes dated 17.10.2013 of the meeting of Block Panchayat General Committee Ettumanoor.

42. Ext.D15 is the certified copy of the audit report prepared by the Local Fund Audit of the year 2012 - 2013 of the Ettumanoor Block Panchayat. As per the same, financial irregularities of PW5 is stated and recommendation is made to recoup the amount from PW5.

43. As per Ext.D16 issued from the Department of Education, the enquiry report pertaining to the misconduct of PW1 is forwarded. As per the enquiry report, it is stated that the husband of PW1 had submitted a false complaint alleging Scheduled Caste atrocities against the Deputy Director of Education and S.S..

44. The learned Public Prosecutor contended that the prosecution has proved that the accused persons have abused PW1 by uttering obscene words and by calling her caste name in public view inside the office of the Block Panchayat, Ettumanoor. Ext.P12 is proved to be a forged document, as PW12 and PW13, who are purported to be signatories of the same have stated that they have not participated in a meeting on 07.10.2013 and signed Ext.P12. Ext.P12 was in the custody of the second accused and therefore, it is proved by the prosecution that the said document was forged by the second accused. The purport of Ext.P12 is to show that on 07.10.2013, a review meeting was conducted at the Block Panchayat Office, which was attended by the accused persons and it had commenced at 3 p.m. and ended at 05.15 p.m., whereas, no such meeting was held and therefore, the said forged document was used as genuine for the purpose of creating an alibi for the accused persons to show that they were not present at the scene of occurrence at the alleged time of the incident.

45. The learned defence counsel contended that PW1, PW2 and PW3 are highly interested witnesses. The presence of PW2 and PW3 at the scene of occurrence is highly doubtful. Moreover, no

member of the public is examined to prove that the offence was committed within public view. It was also contended that PW2 had stated to the Investigating Officer that he had not witnessed the incident and in his testimony in court, he gave a contradictory version. PW3 was only a temporary employee and she was not regularly employed. Therefore, her presence at the office on 07.10.2013 is also highly doubtful.

46. According to the defence counsel, in Ext.D1 complaint submitted by PW1 to PW5, the BDO on 09.10.2013, which is the earliest version regarding the incident, which occurred on 07.10.2013, the alleged incident in this case is not stated. Ext.P1 complaint was given to the District Police Chief on 10.10.2013, subsequent to Ext.D1 and hence, the allegations pertaining to this case is an afterthought and embellishment.

47. It was also contended that PW1 was on inimical terms with the second accused and she had an axe to grind against him and her evidence falls in the category of an interested witness. Therefore, the testimony of PW1 regarding the incident, is not at all reliable and trustworthy. Moreover, it is not proved by the prosecution that the second accused had knowledge regarding

the caste identity of PW1 and hence, it could not be stated that he had intentionally insulted or humiliated PW1 solely because of her caste.

48. It was also contended that DW1, the Block Panchayat President had admitted Ext.P12 minutes and hence the contention of the prosecution that it was a fabricated and forged document is not correct. Moreover, Ext.P12 has not been forwarded for forensic examination and the authorship of the said document is not proved, inasmuch as the scribe of the said document is not identified. Therefore, it is not proved by the prosecution that Ext.P12 is written in the handwriting of the second accused and hence it cannot be held that he had forged and fabricated the said document. It was also contended that the ingredients of the offence under Sec.294(b) of the I.P.C. is not attracted, in view of the decision reported in **Latheef v. State of Kerala** [2014 (2) KHC 604]. It was also contended that in view of the decision of the Hon'ble Apex Court in **Sheila Sebastian v. R. Jawaharaj** [2018 SC 2434], since the person who made the false statement is not identified, the offence of forgery is also not proved against the second accused.

49. The defence also relied on the decision reported in **Vimal Arackal v. State of Kerala** [2018 (4) KHC 561], which states that merely calling a person by caste would not attract the penal provision and the intention of the accused to humiliate a member of the Scheduled Caste in public view with knowledge that the victim is a member of such caste is to be proved. Thus it was contended that the ingredients of the alleged offences are not made out by the prosecution and the second accused is to be acquitted.

50. I have considered the contentions of the learned Public Prosecutor and the learned defence counsel and analysed the testimony of PW1 to PW3, who have given evidence regarding the occurrence. To consider the probative value of the testimony of PW1 to PW3, their evidence is scrutinised.

51. PW1, the victim and PW3, an occurrence witness have supported the prosecution case. PW2 claims to have seen the occurrence through a window, while he was standing outside the room. According to him, he saw both the accused persons abusing PW1 by uttering obscene words. According to him, he heard the accused persons calling PW1 as "പുലയാടി മോളെ".

However, when cross-examined, he admitted that he gave statement to the police that he learnt about the incident later on. Moreover, when DW1, the Block Panchayat President was examined, she categorically stated that the accused was on duty by driving the official car on the date of occurrence, i.e. on 07.10.2013 at about 05.30 p.m. She stated that in Ext.D8 page No.131 of Ext.P2 log book also, it is mentioned so. DW1, the Block Panchayat President is the superior authority of PW2 and there is no necessity for her to state falsehood in court. Therefore, the presence of PW2 at the premise of Block Panchayat Office at or around the time of occurrence on 07.10.2013 is highly doubtful.

52. The evidence of PW1 and PW3 regarding the words uttered by the first accused is inconsistent with the earliest version of PW1 in Ext D1. For more clarity, the relevant extract of the testimony of PW1 and PW3 is reproduced in vernacular regarding the words uttered by the second accused. According to PW1 and PW3, the second accused uttered as follows : “നീ പെലക്കള്ളി അല്ലേടി നിന്നെയൊക്കെ എന്ത് ചെയ്യാലും ആരും ചോദിക്കാനില്ല”. However, in the earliest version of the incident narrated in Ext.D1 complaint given

by PW1 to PW5, the BDO / Secretary, Block Panchayat, Ettumanoor, no such verbal abuse is mentioned and an entirely different version is stated. A reading of Ext.D1, which is admitted by PW1 would reveal that at 5 p.m. on 07.10.2013, while PW1 was leaving her office, the Head Clerk and GEO were in the room of the Head Clerk. It is not stated in Ext.D1 that the accused persons, who were the Head Clerk and GEO had entered the room of PW1 and abused her. It is worthwhile to note the exact wordings in Ext.D1 in vernacular "07.10.2013-ൽ 5.00 മണിക്ക് രണ്ടു ഫയലുകളും എന്റെ അലമാരയിൽ വെച്ചു പൂട്ടി താക്കോൽ HC യുടെ മുറിയിലുള്ള താക്കോൽ വയ്ക്കുന്ന സമയത്ത് താക്കോൽ വെച്ചിട്ട് ഞാൻ പോന്നു. ഞാൻ പോരുമ്പോൾ HC യും GEO യും HC യുടെ മുറിയിൽ ഉണ്ടായിരുന്നു. 09.10.2013-ൽ ഞാൻ, സർ ആവശ്യപ്പെട്ട ഫയലുകളുടെ വിവരം റിപ്പോർട്ട് ചെയ്യുന്നതിന് ഫയൽക്കൈട്ടെടുത്തപ്പോൾ ഫയൽ എല്ലാം ഓർഡർ തെറ്റിയാണ് കെട്ടിനുള്ളിൽ കണ്ടത്. അതിൽ 35,000/- രൂപയുടെ ഫയൽ കാണാനില്ല. ഈ ഫയൽ കാണാതെ വന്നത് HC യും GEO യും അറിയാതെ പോകില്ല. ഈ ഫയലിൽ തിരിമറി നടത്തുന്നതിനുവേണ്ടി മനുഷ്യർക്കും ഫയൽ ഇവർ മാറ്റിയതാണെന്ന് എനിക്കു ഉത്തമബോധ്യമുണ്ട്. കാരണം ഈ ഫയലിന്റെ പേരിലാണ് ഇവർ എന്നെ കയ്യേറ്റം ചെയ്യാൻ ശ്രമിച്ചത്. " It needs to be noticed that the alleged caste based abuse and calling her caste name is not mentioned in Ext.D1 by

PW1, much less, it is also not mentioned that accused Nos.1 and 2 had entered the room of PW1

53. At any rate, the word uttered by the accused (പുലയാടി മോളെ) to abuse PW1 would not arouse sexually impure thoughts. In **Latheef .V. State Of Kerala** [2014(2) KHC 604], it is held as follows regarding the test of obscenity under Sec.294(b) of the I.P.C. :

“Abusive words or humiliating words or defamatory words will not as such amount to obscenity as defined under the law. Of course there is no doubt that the words alleged to have been used by the revision petitioner are in fact abusive and humiliating. But to make it obscene, punishable under S.294(b) IPC it must satisfy the definition of obscenity. S.294 IPC does not define obscenity. Being a continuation of the subject dealt with under S.292 IPC the definition of obscenity under 292(1) IPC can be applied in a prosecution under S.294 IPC also. To make punishable, the alleged words must be in a sense lascivious, or it must appeal to the prurient interest, or will deprave and corrupt persons. In P. T. Chacko v. Nainan Chacko reported in 1967 KHC 231 : 1967 KLT 799 this Court held that, “the test of obscenity is whether the tendency of the matter charged as obscenity is to deprave and corrupt those whose minds are open to such immoral influences.” In Sangeetha

Lakshmana v. State of Kerala reported in 2008 (1) KHC 812 : 2008 (2) KLT 745 : 2008 (1) KLD 339 this Court held thus, "in order to satisfy the test of obscenity, the words alleged to have been uttered must be capable of arousing sexually impure thoughts in the minds of its hearers." Thus it is quite clear that, to make obscene the alleged words must involve some lascivious elements arousing sexual thoughts or feelings or the words must have the effect of depraving persons, and defiling morals by sex appeal or lustful desires."

54. Therefore, it can only be held that the word uttered by the accused would not attract the ingredients of Sec.294(b) of the I.P.C. Thus it is held that the prosecution has failed to prove that the first accused had shared common intention and uttered obscene words against PW1 and the second accused has committed the offence under Sec.294(b) r/w.34 of the I.P.C.

55. The law on the point regarding the ingredients to be established by the prosecution to attract the commission of an offence under Sec.3(1)(x) of the SC and ST (PoA) Act is discussed as follows :

"3. Punishable for offences of atrocities :-

(1) Whoever, not being a member of a Scheduled Caste or Scheduled Tribe, -

XXXX

XXXX

XXXX

XXXX

XXXX

XXXX

(x) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;

56. In Vimal Arackal v. State of Kerala [2018 (4) KHC 561],

the Hon'ble High Court of Kerala considered the scope of Sec.3(1)

(x) of SC and ST (PoA) Act and held as follows :

"8. A reading of this provision would show that if a person who is not a member of scheduled caste or scheduled tribe intentionally insult or humiliate a member of scheduled caste or scheduled tribe on the ground that the victim is a member of scheduled caste or tribe, within public view, an offence is said to have been committed by the said person. So the essential ingredients to attract the offence are that ;

a) the victim shall be a member of scheduled caste or scheduled tribe,

b) the person who committed the act shall not be a member of scheduled caste or scheduled tribe,

c) The act was with the intention to insult or intimidate the member of scheduled caste or scheduled tribe, as he / she being a member of such caste or tribe,

d) the accused had knowledge or at least aware of the fact that the victim belonged to the community of scheduled caste or tribe,

e) the intention of the accused was to humiliate such member in a place within public view.

9. Public view means anything which is visible to public view while they are in or passing along any public place (Fifth Edition - Concise Law Dictionary). The word used in this provision is 'public view' not 'public place'. Therefore, the incident should be in a place where the public / people were present and that the accused had committed the offence with intention to harass / insult / intimidate the victim in public. So also, the intention of the accused assumes importance. The intentional insult / intimidation to humiliate a member of scheduled caste / tribe in a place within public view by a person who is not a member of SC / ST community, with the knowledge that the victim is a member of scheduled caste or tribe alone would constitute an offence under this section. In short, the basic ingredients to constitute an offence under this provision of the special Statute, is definitely the intention to humiliate or insult the victim in public by calling caste name or by committing such other acts.

10. It is important to note that the alleged place of occurrence as revealed from the materials on record is the residential house of the 2nd respondent that too inside her house. She has no case that public was present at the time of the occurrence. So prima facie it is difficult to conclude that her house is coming within the ambit of 'public view'. So also it is not discernible from the materials on record that he had used any

particular / specific words so as to humiliate her or to insult her as alleged. Merely calling a person by caste would not attract the penal provision. Therefore, prima facie the essential ingredients to attract an offence under S.3(1)(x) are lacking. Even if he had used any words so as to insult her it will not constitute an offence under S.3(1)(x) of the Act, as the incident was not at place within public view. An allegation that the 'humiliation was with the intention to insult her for being a member of scheduled caste' or knowing her caste, is conspicuously absent in the complaint lodged by her. The mere fact that the victim is a member of scheduled caste or tribe is not sufficient to attract an offence under the Special Statute.

x x x x x

12. The special Act was enacted to protect the members of scheduled castes and tribes the weaker and down trodden section of the society and to prevent commission of assault, humiliation, inhuman exploitation, insult, harassment and all kinds of atrocities against them or to eradicate grave social evils as well to make them confident that they are also part of the main stream of the society, but that is not to say that, innocent persons to be prosecuted on frivolous complaints. Hence, I am constrained to conclude that the final report filed pursuant to FIR registered on the complaint are only to be quashed as prayed for, by the petitioner though the normal rule is not to interfere with

the criminal proceedings. Therefore, the petition is allowed”.

57. In **Aji Raj C.A. v. State of Kerala and Another** [2020 KHC 54], it was held regarding the distinction of the expression public view with public place, as follows :

“ The distinction between the expressions "public place" and "in any place within public view" has been elucidated by the Supreme Court in Swaran Singh v. State [2008 KHC 4926 : (2008) 8 SCC 435 : 2008 (4) KLT SN 8 : 2008 CriLJ 4369 : 2008 (11) SCALE 346 : (2008) 3 SCC (Cri) 527 : 2008 (69) AIC 25 : 2008 (3) Guj LH 446 : 2009 (1) MPLJ 503 : 2009 (2) Mah LJ 22] as follows :

"It has been alleged in the FIR that Vinod Nagar, the first informant, was insulted by appellants 2 and 3 (by calling him a 'Chamar') when he stood near the car which was parked at the gate of the premises. In our opinion, this was certainly a place within public view, since the gate of a house is certainly a place within public view. It could have been a different matter had the alleged offence been committed inside a building, and also was not in the public view. However, if the offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, the lawn would certainly be a place within the public view. Also, even if the remark is made inside a building, but some members of the public are

there (not merely relatives or friends) then also it would be an offence since it is in the public view. We must, therefore, not confuse the expression 'place within public view' with the expression 'public place'. A place can be a private place but yet within the public view. However, a perusal of the F.I.R. shows that Swaran Singh did not use these offensive words in the public view. There is nothing in the F.I.R. to show that any member of the public was present when Swaran Singh uttered these words, or that the place where he uttered them was a place which ordinarily could be seen by the public. Hence in our opinion no prima facie offence is made out against appellant no.1." (emphasis supplied).

10. There is a world of difference between the expressions "in any public place" and "in any place within public view". The expression "in any place within public view" has specific meaning. A place "within public view" may be a private or a public place. The requirement of public view can be satisfied even in a private place, where the public is present. The location of the place of occurrence has importance. The courtyard of the residential building of a person is a private place. But, if it is visible to persons from outside, it would be a place "within public view". If an act of insult or intimidation or abuse is committed there and if such act is seen by a person from outside, it can definitely be found that the act is committed "within public view". Suppose, a function is held in a residential house in the

presence of members of the public who are invited. If the act of insult or intimidation or abuse is committed there in their presence, then it is an act committed "within public view". When the act committed is viewed by any member of the public, it becomes an act committed "within public view", whether it is a private place or a public place. The expression "within public view" has to be understood to mean that the act alleged has taken place in the presence of a member of the public. Even if the act alleged was committed in a public place and if no member of the public has seen it, it cannot be found that the act was committed "within public view". The act of insult or intimidation or abuse should have been visible to the public. Thus, it can be seen that what is relevant and material is not whether the act alleged was committed in a private place or a public place but whether it was committed "within public view".

58. In the decision reported in **Daya Bhatnagar and Others Vs. State** [2004 KHC 4391], the Hon'ble Delhi High Court held as follows regarding the expression 'within Public view' :

"19. The SC/ST Act was enacted with a laudable object to protect vulnerable section of the society. Sub-clauses (i) to (xv) of S.3(1) of the Act enumerate various kinds of atrocities that might be perpetrated against Scheduled Castes and Scheduled Tribes, which constitute an

offence. However, Sub-clause (x) is the only clause where even offending "utterances" have been made punishable. The Legislature required 'intention' as an essential ingredient for the offence of 'insult', 'intimidation' and 'humiliation' of a member of the Scheduled Castes or Scheduled Tribe in any place within 'public view'. Offences under the Act are quite grave and provide stringent punishments. Graver is the offence, stronger should be the proof. The interpretation which suppresses or evades the mischief and advances the object of the Act has to be adopted. Keeping this in view, looking to the aims and objects of the Act, the expression "public view" in S.3(1)(x) of the Act has to be interpreted to mean that the public persons present, (howsoever small number it may be), should be independent and impartial and not interested in any of the parties. In other words, persons having any kind of close relationship or association with the complainant, would necessarily get excluded. I am again in agreement with the interpretation put on the expression "public view" by learned brother Mr. Justice B.A. Khan. The relevant portion of his judgment reads as under :

"I accordingly hold that expression within 'public view' occurring in S.3(1)(x) of the Act means within the view which includes hearing, knowledge or accessibility also, of a group of people of the place/ locality/village as distinct from few who are not private and are as good as strangers and not linked

with the complainant through any close relationship or any business, commercial or any other vested interest and who are not participating members with him in any way. If such group of people comprises anyone of these, it would not satisfy the requirement of 'public view' within the meaning of the expression used." (emphasis supplied).

25. To conclude, I am in complete agreement with the interpretation put by Hon'ble Mr. Justice B.A. Khan to the expression "public view" in S.3(1)(x) of the Act. But, with great respect to the learned brother Justice Khan, I have not been able to persuade myself to agree to the conclusion reached by him on facts. "Public view" envisages that public persons present there should be independent, impartial and not having any commercial or business relationship, or other linkage with the complainant. It would also not include persons who have any previous enmity or motive to falsely implicate the accused persons."

59. In **Hitesh Verma V State of Uttarakhand & Anr.** [2020 KHC 6631], wherein, referring to a catena of earlier decisions, Hon'ble Apex Court held that, an offense under the Act is not established merely for the reason that, the victim is a member of the scheduled caste, unless there is an intention to humiliate a member of the SC/ST community in public view. The Apex court

expounded the ambit of the expression Public view and held as follows:

"12. The basic ingredients of the offence under Sec.3(1)(r) of the Act can be classified as 1) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe and 2) in any place within public view.

13. The offence under Sec.3(1)(r) of the Act would indicate the ingredient of intentional insult and intimidation with an intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe. All insults or intimidations to a person will not be an offence under the Act unless such insult or intimidation is on account of victim belonging to Scheduled Caste or Scheduled Tribe. The object of the Act is to improve the socio-economic conditions of the Scheduled Castes and the Scheduled Tribes as they are denied number of civil rights. Thus, an offence under the Act would be made out when a member of the vulnerable section of the Society is subjected to indignities, humiliations and harassment.

"14. Another key ingredient of the provision is insult or intimidation in "any place within public view". What is to be regarded as "place in public view" had come up for consideration before this Court in the judgment reported as Swaran Singh and Others v. State through Standing Counsel and Others 2008 (8) SCC 435 : (AIR 2008 SC (Supp) 441) The Court had drawn distinction

*between the expression "public place" and "in any place within public view". It was held that if an offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, then the lawn would certainly be a place within the public view. On the contrary, if the remark is made inside a building, but some members of the public are there (**not merely relatives or friends**) then it would not be an offence since it is not in the public view. The Court held as under :*

15. As per the FIR, the allegations of abusing the informant were within the four walls of her building. It is not the case of the informant that there was any member of the public (not merely relatives or friends) at the time of the incident in the house. Therefore, the basic ingredient that the words were uttered "in any place within public view" is not made out. In the list of witnesses appended to the charge-sheet, certain witnesses are named but it could not be said that those were the persons present within the four walls of the building. The offence is alleged to have taken place within the four walls of the building. Therefore, in view of the judgment of this Court in Swaran Singh, it cannot be said to be a place within public view as none was said to be present within the four walls of the building as per the FIR and/or charge-sheet"

"28. It has been alleged in the FIR that Vinod Nagar, the first informant, was insulted by Appellants 2 and 3 (by calling him a "chamar") when he stood near the car which was parked at the gate of the premises. In our opinion, this was certainly a place within public view, since the gate of a house is certainly a place within public view. It could have been a different matter had the alleged offence been committed inside a building, and also was not in the public view. However, if the offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, the lawn would certainly be a place within the public view. Also, even if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view. We must, therefore, not confuse the expression "place within public view" with the expression "public place". A place can be a private place but yet within the public view. On the other hand, a public place would ordinarily mean a place which is owned or leased by the Government or the municipality (or other local body) or gaon sabha or an instrumentality of the State, and not by private persons or private bodies."

In **Aji Raj's** case 2020 KHC,54, referring to **Swaran Singh's** case, it was held that, "the expression within public view has to be understood to mean that the act

alleged has taken place in the presence of a member of the public. Even if the act alleged was committed in a public place and if no member of the public has seen it, it cannot be found that the act was committed within public view. The act of insult or intimidation or abuse should have been visible to the public. Thus, it can be seen that what is relevant and material is not whether the act alleged was committed in a private place or public place but whether it was committed within public view".

60. In this case, in view of the discrepancies in the versions of PW2 regarding his witnessing the incident directly and the evidence of DW1, who testified that at the time of the alleged occurrence, PW2 was driving the official vehicle, in which she was travelling, the presence of PW2 at the time of incident is highly doubtful. Therefore, the evidence of PW2 is only to be discarded.

61. PW3 was admittedly a temporary employee at the Block Panchayat Office, Ettumanoor. The Investigating Officer has admittedly not produced any official record to show that PW3 was on duty on the alleged date of occurrence. This assumes significance in view of the fact that PW3 herself admitted that she

would be present for duty only when called from the office. Moreover, in view of the dictum of the decisions cited above, PW3, who was a co-employee / colleague of PW1 would not fall within the ambit of a member of general public. The prosecution has no case that no other member of the public has witnessed the incident. Hence, it is held that the prosecution has failed to prove that the alleged overt acts of abuse meted out by PW1 by the second accused was committed in public view.

62. PW1 was admittedly a permanent staff of the Education Department and she was deployed for duty to the Block Panchayat. Even according to the statement made by PW1 in cross-examination, the native places of PW1 and the second accused are different and the second accused had not seen her service book. PW1 has not stated that the accused had knowledge about her caste identity before the alleged incident. The prosecution has also failed to prove that the accused had knowledge about the caste identity of PW1 before the date of the alleged incident. This assumes significance in view of the fact that as per the dictum of the above referred decisions, the intentional insult or humiliation must be on account of the Scheduled Caste identity of the victim and for that purpose, the accused should

have knowledge about the Scheduled Caste status of the victim. Merely because two persons are working in the same office, knowledge about the caste identity of each other could not be attributed to both. Thus, in this case, the prosecution has failed to prove that the second accused had knowledge about the Scheduled Caste status of PW1. Moreover, in Ext.D1, the earliest version of the incident, PW1 had not mentioned anything about the intentional insult or humiliation on account of her Scheduled Caste identity made by the second accused. Thus, on analysing the testimony of PW1, I am of the view that her evidence has an element of artificiality and does not have a ring of truth. The documents produced by the defence has proved that PW1 has made allegations against her colleagues in the past also alleging harassment on the basis of caste identity and those complaints turned out to be baseless. In the said circumstances, I am of the considered view that PW1 is not a trustworthy witness. Moreover, the alleged offence of humiliation and abuse could not be said to have occurred in public view. In the said circumstances, it is held that the prosecution has failed to prove the offence under Sec.3(1)(x) of SC and ST (PoA) Act.

63. According to the prosecution, Ext.P12 is a forged and

fabricated document. DW1, the Block Panchayat President has stated that she has signed in the same and that it was prepared as per her direction. The prosecution has not subjected Ext.P12 for forensic analysis to establish that it was prepared in the handwriting of the second accused.

64. In **Sheila Sebastian's case** [2018 KHC 6412], the Hon'ble Supreme Court has held that it is imperative for constituting an offence under forgery or making a false document, the prosecution has to prove that the accused is the maker of the same. It is held as follows :

" In Mir Nagvi Askari vs. Central Bureau of Investigation, 2009 KHC 973 : 2009 (15) SCC 643 : 2009 (2) KLD 531 : 2009 (11) SCALE 174 : AIR 2010 SC 528 : 2010 (2) SCC (Cri) 718, this Court, after analysing the facts of that case, came to observe as follows :

"A person is said to make a false document or record if he satisfies one of the three conditions as noticed hereinbefore and provided for under the said section. The first condition being that the document has been falsified with the intention of causing it to be believed that such document has been made by a person, by whom the person falsifying the document knows that it was not made. Clearly the documents in question in the present case, even if it be assumed to have been made dishonestly or fraudulently, had not been made with the intention of

causing it to be believed that they were made by or under the authority of someone else.

The second criteria of the section deals with a case where a person without lawful authority alters a document after it has been made. There has been no allegation of alteration of the voucher in question after they have been made. Therefore, in our opinion the second criteria of the said section is also not applicable to the present case.

The third and final condition of S.464 deals with a document, signed by a person who due to his mental capacity does not know the contents of the documents which were made i.e. because of intoxication or unsoundness of mind, etc. Such is also not the case before us. Indisputably therefore the accused before us could not have been convicted with the making of a false document."

25. Keeping in view the strict interpretation of penal statute i.e., referring to rule of interpretation wherein natural inferences are preferred, we observe that a charge of forgery cannot be imposed on a person who is not the maker of the same. As held in plethora of cases, making of a document is different than causing it to be made. As Explanation 2 to S.464 further clarifies that, for constituting an offence under S.464 it is imperative that a false document is made and the accused person is the maker of the same, otherwise the accused person is not liable for the offence of forgery.

26. The definition of "false document" is a part of the definition of "forgery". Both must be read together. 'Forgery' and 'Fraud' are essentially matters of evidence which could be proved as a fact by direct evidence or by inferences drawn from proved facts. In the case in hand, there is no finding recorded by the trial Court that the respondents have made any false document or part of the document / record to execute mortgage deed under the guise of that 'false document'. Hence, neither respondent no.1 nor respondent no.2 can be held as makers of the forged documents. It is the imposter who can be said to have made the false document by committing forgery. In such an event the Trial Court as well as Appellate Court misguided themselves by convicting the accused. Therefore, the High Court has rightly acquitted the accused based on the settled legal position and we find no reason to interfere with the same."

65. In this case, it is not proved by the prosecution that the second accused is the person, who has forged Ext.P12. Moreover, DW1, the Block Panchayat President has stated that Ext.P12 is signed by her and it is a genuine document. In view of the dictum of the Hon'ble Supreme Court in **Sheila Sebastian's case**, it is imperative for the prosecution to prove as to who had forged the above said false document marked as Ext.P12. There is no evidence adduced by the prosecution to prove that the

second accused has forged Ext.P12. In the said circumstances, it is held that the prosecution has failed to prove that the second accused has committed the offences under Secs.294(b) 465, 466 and 474 of the I.P.C. and Sec.3(1)(x) of the SC and ST (PoA) Act. Point Nos.2 to 6 are found against the prosecution.

66. Point Nos.7 and 8 : In the result, in view of the findings in Point Nos.2 to 6, the second accused is found not guilty of the offences under Secs.294(b), 465, 466 and 474 r/w.34 of the Indian Penal Code and Sec.3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and acquitted under Sec.235(1) of the Cr.P.C.

The charge against the first accused, who is no more, is ordered to be abated.

The second accused is set at liberty. The bail bond executed by him stands cancelled.

Dictated to the Confdl. Asst., transcribed and typed by her, corrected by me and pronounced in the open Court, on this the 21st day of May, 2026.

**Sd/-
Manoj M.
Sessions Judge**

APPENDIX**A. Witness examined for the Prosecution:-**

Rank		Date	Name	Description of Witness
PW1	CW1	21.07.25	Sarojini	Complainant
PW2	CW2	21.07.25	Renjith	Eye witness
PW3	CW3	21.07.25	Geetha Rajendran	Eye witness
PW4	CW4	06.08.25	Babu	Witness in scene mahazar
PW5	CW5	06.08.25	Vijayan C.V., BDO	Other witness
PW6	CW8	06.08.25	Moncy P. Alexander Tahasildar	Issued caste certificate of A1&A2
PW7	CW9	06.08.25	Madhukumar T. General Extension Officer	Produced Attendance book & log book
PW8	CW11	06.08.25	Joseph Shaji Extension Officer	Produced minutes dated 07.10.2013 ഗ്രാമവികസന വാരം അവലോകനം Rural Development Week
PW9	CW14	06.08.25	Rajesh G. Nair Village Officer	Site plan
PW10	CW15	06.08.25	Rexy Thomas BDO	Bill Nos.80/13-14, 83/13-14, 84/13-14 produced
PW11	CW16	07.08.25	J. Benny ADC, Audit	Enquiry report
PW12	CW22	07.08.25	P.D Benny (Saksharatha Prerak)	Attended Rural Development week meeting dt. 08.10.2013
PW13	CW20	07.08.25	Ancy Jose (Saksharatha Prerak)	Attended Rural Development week meeting dt. 08.10.2013
PW14	CW28	24.09.25	Bince Joseph Sub Inspector	First Information Report

PW15	CW29	24.09.25	V. Ajith Dy.S.P	Initial Investigation
PW16	CW30	24.09.25	A.U. Sunilkumar Dy.S.P	Investigation
PW17	CW31	24.09.25	K.A. Ramesan Dy.S.P.	Further investigation, Final Report

B. Witness examined for the Defence :-

Date	Name	Description of Witness
27.10.25	Sandhya Banarji	Nil
14.11.25	Bevin Raj	Nil

C. Court Witness:- NIL

List of Prosecution/Defence/Court Exhibits

A. Exhibits marked for the Prosecution:-

Sl. No	Exhibit Number	Date	Description	The witness who proved or attested the Document
1.	Ext.P1/PW1	10.10.13	Complaint filed before the District Police Chief, Kottayam	PW1
2.	Ext.P2/PW2	NIL	Log Book	PW2
3.	Ext.P2(a)/PW2	17.06.14	Page No.193 of Log Book	PW2
4.	Ext.P3/PW4	19.11.15	Scene Mahazar	PW4
5.	Ext.P4/PW6	17.01.14	Community certificate of 2 nd Accused	PW6
6.	Ext.P5/PW7	21.11.15	Recovery Mahazar of Attendance Register and Log Book	PW7
7.	Ext.P6/PW7	NIL	Attendance Register	PW7

8.	Ext.P7/PW8	17.02.16	Seizure mahazar of Minutes Book and officer order book for the period 17.10.2013 to 11.11.2015	PW8
9.	Ext.P7(a)/PW8	17.02.16	Kaicheet of Minutes Book and Office Order Book	PW8
10	Ext.P8/PW8	07.03.14	Attested copy of Minutes dated 07.03.2014	PW8
11.	Ext.P9/PW8	10.03.16	Mahazar of 'സാക്ഷരതാ പ്രേരക് അവലോകന മിനിറ്റ്സ്'	PW8
12.	Ext.P10/PW8	08.10.13	Photocopy of relevant pages of Minutes Book of സാക്ഷരതാപ്രേരക്	PW8
13.	Ext.P11/PW8	20.02.16	Mahazar of 'ഗ്രാമ വികസന വാർ സമാപനം'	PW8
14.	Ext.P12/PW8	07.10.13	Minutes of Rural Development week	PW8
15.	Ext.P13/PW9	16.01.16	Site plan	PW9
16.	Ext.P14/PW10	23.11.13	Bill No.83/2013 and 84/2013 showing salary of daily wage Driver Renjith	PW10
17.	Ext.P14(a)/PW10	21.10.13	Bill No.80/2013 showing salary of DTP Operator Geetha Rajendran	PW10
18.	Ext.P15/PW11	23.03.14	Certified copy of performance Audit Report	PW11
19.	Ext.P15(a)/PW11	16.09.14	Certified copy of Enquiry Report	PW11
20.	Ext.P16/PW13	16.03.16	Portion in the 161 Cr.P.C Statement of CW20/PW13	PW13
21.	Ext.P16(a)/PW13	16.03.16	Portion in the 161 Cr.P.C Statement of CW20/PW13	PW13
22.	Ext.P16(b)/PW13	16.03.16	Portion in the 161 Cr.P.C Statement of CW20/PW13	PW13

23.	Ext.P17/ PW14	12.10.13	First Information Report	PW14
24.	Ext.P18/ PW15	14.10.13	Report regarding taken charge of investigation by CW29/PW15	PW15
25.	Ext.P19/ PW16	17.06.14	Report regarding taken charge of investigation by CW30/PW16	PW16
26.	Ext.P20/ PW17	16.11.15	Report regarding taken charge of investigation by CW31/PW17	PW17
27.	Ext.P21/ PW17	10.05.12	True copy of File No. A/360/12	PW17
28.	Ext.P22/ PW17	25.02.14	True copy of File No. A/496/14	PW17
29.	Ext.P23/ PW17	05.03.16	Seizure mahazar of community certificate of 1 st Accused	PW17
30.	Ext.P24/ PW17	03.03.16	Community certificate of 1 st Accused	PW17
31.	Ext.P25/ PW17	10.03.16	Inventory of contingent bill	PW17
32.	Ext.P26/ PW17	28.03.16	Address report of Accused	PW17
33.	Ext.P27/ PW17	28.03.16	Sec. 465,466, 474 of IPC incorporating Report	PW17
34.	Ext.P28/ PW17	28.03.16	Address report of CW1/PW1	PW17
35.	Ext.P29/ PW17	26.03.16	Form 15	PW17
36.	Ext.P30	01.01.14	Caste certificate of CW1/PW1	By Rule 294 Crl. Rules of Practice

B. Exhibits marked for the Defence:-

Sl. No	Exhibit Number	Date	Description	The witness who proved or attested the Document
1.	Ext. D1/PW1	09.10.13	True copy of complaint dated 09.10.2013 filed before the Secretary, Block Panchayath, Ettumanoor filed by CW1/PW1 Sarojini	PW1
2.	Ext. D2/PW2	04.01.14	Portion in 161 Cr.P.C. statement of CW2/PW2	PW2
3.	Ext. D3/PW5	NIL	Attested copy of Office Order book	PW5
4.	Ext. D4/PW5	18.12.15	Portion in the 161 Cr.P.C. statement of CW5/PW5	PW5
5.	Ext. D5/DW1	13.08.13	Copy of complaint dated 13.08.2013 against CW2/PW2 Renjith submitted by 2 nd Accused M.S. Vijayan	DW1
6.	Ext. D6/DW1	05.10.13	Copy of complaint against PW1 & PW5 dated 05.10.2013 submitted by 2 nd Accused M.S. Vijayan	DW1
7.	Ext. D7/DW1	08.10.13	Copy of complaint against PW1 & PW5 dated 08.10.2013 submitted by 2 nd Accused M.S. Vijayan	DW1
8.	Ext. D8/DW1	NIL	Page No. 131 of Ext. P2 Log Book	DW1
9.	Ext. D9/DW2	10.03.14	Attested copy of Enquiry Report No.A1-344-14-PAU	DW2
10.	Ext. D10/DW2	22.10.14	Attested copy of Enquiry Report No.D2-4297/2013	DW2

11.	Ext. D11	18.09.25	Order No. A-1328/2024 dated 18.09.2025 of Block Panchayath Office, Ettumanoor (R.T.I document)	By Rule 294 CrI. Rules of Practice
12.	Ext. D12	14.10.25	R.T.I. document dated 14.10.2025 issued from Block Panchayath, Ettumanoor	By Rule 294 CrI. Rules of Practice
13.	Ext. D13	25.02.14	Attested copy of Order No. Etnr-BP/03/2013 of Block Panchayath, Ettumanoor	By Rule 294 CrI. Rules of Practice
14.	Ext. D14	17.10.13	Attested copy of Minutes of General Committe dated 17.10.2013 of Block Panchayath, Ettumanoor	By Rule 294 CrI. Rules of Practice
15.	Ext. D15	17.03.14	Attested copy of Audit Report 2012-2013 of Block Panchayath, Ettumanoor	By Rule 294 CrI. Rules of Practice
16.	Ext. D16	14.02.13	Copy of Enquiry Report issued under R.T.I Act.	By Rule 294 CrI. Rules of Practice

C. Court Exhibits:- NIL

D. Material Objects :- NIL

Id/-
Sessions Judge.

Serial No. of the Case : Sessions Case No.321/2016
 Crime Number and : Crime No. 1414/2013
 Name of Police Station : Ettumanoor Police Station

DESCRIPTION OF THE ACCUSED

Sl No	Name	Father's Name	Occupation	Residence	Age
1.	Jinu V.T. (No more)	Thankappan	NIL	Valacherry House, Shappupady Bhagom, Kumarakom Village, Kottayam	No more
2.	M.S. Vijayan	Sivaraman Pillai	NIL	Mulloor House, Nellikunnu Bhagom, Mattakkara, Akalakkunnam Village.	58

Dates of

Occurrence : 07.10.2013
Complaint : 12.10.2013
Apprehension : Nil
Release on bail : Nil
Committal : 18.08.2016
Commencement of trial : 11.08.2017
Close of trial : 15.12.2025
Date of Hearing : 16.03.2026
Judgment : 21.05.2026
Reason for delay : No delay
Remarks : NIL

Id/-
Sessions Judge.

//True copy//

Copied by:
Compared by:

By Order

Sd/-
Sheristadar