

**IN THE COURT OF THE JUDICIAL MAGISTRATE OF THE FIRST  
CLASS - I, PALA**

Present:- Smt.Shermin S.S., Judicial Magistrate of the First Class -I, Pala

**Tuesday the 07<sup>th</sup> day of April, 2026/17<sup>th</sup> Chaithra 1948**

**ST.5181/2019**

- Complainant : State represented by the Sub Inspector of Police,  
Kuravilangadu in Crime No.1197/2019  
  
(Rep.By Smt. Hima A.R, APP, Pala)
- Accused : Stephen @ Esthappan, aged 68 yrs, S/o Joseph,  
Kalarickal House, Nedumbara Bhagam, Uzhavoor East  
Kara, Uzhavoor Village.  
  
(Rep By Adv. Abraham Thomas)
- Offence Punishable U/s.294(b),323, 341 of IPC
- Plea : Not guilty.
- Finding : Accused found guilty of the offences punishable u/s  
323 and 341 of IPC. Accused found not guilty of the  
offences punishable u/s.294(b) IPC.
- Sentence/Order : Accused is found guilty of the offences punishable under  
Section 341 and 323 of IPC and he is convicted under  
Section 255(2) CrPC. Convict is sentenced to pay a fine  
of ₹ 1,000 for the offence under Section 323 of IPC and  
to pay a fine of ₹ 500 for the offence under Section 341  
IPC. In default of payment of fine, he shall undergo  
simple imprisonment for 2 weeks for offences u/s 323 and  
341 of IPC. If fine is realized shall be paid to PW1 as  
compensation under Section 357 of CrPC. Accused is  
found not guilty for the offence u/s 294(b) of IPC. Hence  
he is acquittal u/s 255(1) CrPC.

**Description of Accused**

| Name               | Age | Father's/<br>Husband's<br>name | Calling | Residence  | Taluk     |
|--------------------|-----|--------------------------------|---------|------------|-----------|
| Stephen@ Esthappan | 68  | Joseph                         |         | Kalarickal | Meenachil |

**Dates of**

| Occurrence | Complaint | Apprehension | Release on<br>bail | Commence<br>ment of trial | Close of<br>trial | Sentence or<br>order |
|------------|-----------|--------------|--------------------|---------------------------|-------------------|----------------------|
| 27.9.2019  | 29.9.19   | 21.12.19     | 21.12.19           | 14.12.21                  | 31.3.26           | 7.4.26               |

This case having been heard finally and coming on this days proceedings, the Court passed the following:-

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

This is a case instituted on final report filed by S.I of police Kuravilangadu in Crime No.1197/2019, alleging that the accused had committed the offences punishable under section 294(b),323, 341 of IPC.

**2. The prosecution case in nutshell is as follows:-** On 27/09/2019 at 03.00 p.m, at Nedumbara Bhagam, Uzhavoor, when CW1 follow CW2 and CW3 as per their direction, for inspecting the farm, accused, hurled abused CW1, grabbed his hand and thereby wrongfully restrained him. Thereafter, accused beat CW1's head and right eye and thereby he sustained injuries. Thereby accused alleged to have committed offences punishable u/s. 294(b),323, 341 of IPC.

3. On appearance of the accused, copies of relevant prosecution records were furnished to him. After considering the police report, documents submitted along with that report and after hearing both sides, on being satisfied that there were grounds to proceed against the accused, particulars of offence punishable U/s. 294(b), 323, 341 of IPC read over, explained and asked to the accused to which he pleaded not guilty and claim to be tried.

4. The case was posted for prosecution evidence. On the prosecution side, PW1 to PW6 were examined and Exhibits P1 to P6 were marked. On closing of the prosecution evidence, accused was examined u/s 313(1)(b) of the Code of Criminal Procedure, 1973 regarding the incriminating circumstances made out against him in the prosecution evidence. He denied the allegations levelled against him and pleaded innocence. Even though sufficient opportunities had given, no evidence adduced from the side of defence.

5. Heard both sides.

**6. The following points arise for determination:-**

1. *Whether on 27/09/2019 at 03.00 p.m, at Nedumbara Bhagam, Uzhavoor, accused, uttered obscene words against PW1, as alleged by the prosecution and thereby committed offence punishable U/s.294(b) of IPC?*
2. *Whether on 27/09/2019 at 03.00 p.m, at Nedumbara Bhagam, Uzhavoor, accused, voluntarily caused hurt to PW1, as alleged by the prosecution and thereby committed offence punishable*

*U/s.323 of IPC?*

3. *Whether on 27/09/2019 at 03.00 p.m, at Nedumbara Bhagam, Uzhavoor, accused, wrongfully restrained PW1 as alleged by the prosecution and thereby committed offence punishable U/s.341 of IPC?*

4. *Sentence or order?*

7. **Points No.1 to 3:-**For the brevity of discussion, these points are considering together.

8. CW1 is examined as PW1. He is the injured person in this case. He made FI statement before the police. His evidence is that on 27.09.2019 at 03.00 p.m. the incident has occurred at the house of accused. His son made a complaint before the Health department against accused, regarding draining of wastewater from his pig farm. As per the request of Health Inspector, he along with Health Inspector proceeded to the place in which pig farm is running. When they entered into the courtyard of accused, by uttering obscene words 'എടാ, പൂരി മോനെ', accused slapped in his right cheek .While he was trying to get up, again beaten him at his face and head. Health Inspector and other persons accompanied with him tried to obstruct the accused. Then the accused ran away from the place of occurrence by saying that 'I will not be spare you'. PW1 suffered pain over head and eye. He went to police station. From there he was directed to hospital for treatment. He went to hospital, there he was admitted and discharged on next day. He identified the signature in Exhibit P1. He stated that while uttering obscene words, he was

humiliated. He identified the accused in the dock. In the cross-examination, he stated that the property of the accused is lying adjacent to his property. His house is 100 meters away from the property of accused. Water from the property of accused is flowing through his property. Counsel for the accused made a suggestion that alleged injury happened while on a fall, but he denied that suggestion.

9. CW2 is examined as PW2. He is an occurrence witness. His evidence is that while he was working as Health Inspector, on 27.09.2019 at 03.00 p.m, he inspected the house of accused and the alleged incident occurred at the house of the accused on that day. Incident happened at the cotyard of accused. His Evidence is that he received a complaint from one Mr. George Vadakkekudiyirippu regarding the draining of wastewater from pig farm run by the accused. Along with PW1, he went to identify the pig farm. When they inspected the place, it is understood that facts mentioned in the complaint are true. He along with PW1 came to the accused house and he himself introduced that he is Health Inspector, visited for inspecting the complaint of flowing drainage water from pig farm. At that time without any provocation, by uttering obscene words, accused slapped into the face of PW1. He uttered obscene word by saying 'എടാ, പൂറി മോനെ'." They obstructed accused from beating PW1. Thereafter accused ran away. He stated that he knew the accused and identified the accused before the court. In the cross-examination he stated that

he visited the property of accused on 27.09.2019, for petition enquiry. He deposed that accused assaulted PW1, in front of his courtyard. PW2 stated that waste water from pig farm was draining at the time of inspection.

10. CW5 is examined as PW3. He is the attester of Exhibit P2 scene mahazar.

He identified the signature in Exhibit P2 scene mahazar.

11. CW6 is examined as PW4. PW4 is the doctor who examined PW1. His evidence is that while he was working as Junior Consultant at K. R. Narayanan Memorial Specialist Hospital, Uzhavur on 27.09.2019 at 04.45 p.m. He examined one Mr. Ulahannan, came with alleged assault by one Mr. Stephen at his house at 03.00 p.m. on 27.09.2019. On examination, there was pain and excessive watering from right eye. Swelling developed following a fall to the ground after getting hit. Left eye was reacting to light. Right eye's Pupils was irregular, not reacting to light. Conjunctival Congestion present. Bilateral cataract found. Swelling with a contusion present over the occipital region of 3x3cm on scalp. He was referred for higher center for further treatment. He identified his signature on Exhibit P3 wound certificate which was issued by him. In the cross-examination defence counsel asked a suggestion that on false information he registered wound certificate. The doctor denied that suggestion. He stated that on examination there was injury on his eyes, so patient was referred to higher center.

12. CW7 was examined as PW5. He is the person who registered FIR. His evidence is that while he was working as SCPO at Kuravilangadu police station on 27.09.2019, Based on the statement of PW1, he registered FIR. He identified the signature in FIR. FIR is marked as Exhibit P4. He identified Exhibit P1 FIS. He identified his signature in Exhibit P2 scene mahazar and he identified accused before the court.

13. CW8 was examined as PW6. He was the Investigating Officer in this case. His evidence is that while he was working as Sub-Inspector of Police at Kuravilannadu Police Station, on 04.10.2019, he took over the investigation and the accused was arrested and released on bail bond. Bail bond is marked as Exhibit P5 . He identified Exhibit P3. He knows the accused person and filed final charge sheet.

14. Prosecution relies on the above evidence to prove the prosecution case. On the other hand, the accused contented that he is innocent of the allegations levelled against him. Hence it is necessary to put the evidence to scrutiny.

15. The case of the prosecution is that accused hurled abused PW1, grabbed his hand and thereby wrongfully restrained him. Thereafter, accused beat PW1's head and right eye and thereby he sustained injuries. The learned APP argued that there is evidence from PW1 to prove the case and also there is medical evidence to support the case of PW1. PW2 is the eye witness. He supported the prosecution

case. Where learned APP further argued that evidence of PW1 and PW2 are reliable and therefore prosecution has successfully proved the case.

16. On the other hand, learned defence counsel argued that evidence in this case is not sufficient to prove the case. The contention raised by the defence counsel is that the injury was occurred during altercation and on that altercation, he fell down.

17. Major contention raised by the accused is that injury of PW1 is happened while falling during the altercation. On examination of PW1 and PW2, it is clear that when PW1 and PW2 entered into the courtyard of accused, by uttering obscene words, he assaulted PW1 in his face and head. PW4 categorically deposed that there was a swelling developed following a fall to the ground after getting hit. On examination, left eye was reacting to light and right eye's pupil was irregular, not reacting to light. There was a contusion present over the occipital region of 3x3cm scalp and he was referred for higher center for further treatment. He opined that injuries could be the result of alleged incident. On going through the evidence, it is seen that PW1 deposed that he was assaulted and beaten on his face and head. PW4 doctor deposed that there was Contusion present over the occipital region of 3x3cm on scalp. That means PW1's statement is corresponding with the injury sustained by him. There is nothing to disbelieve in the case of PW1.

18. The term hurt in Section 319 IPC is that whoever causes bodily pain, disease or infirmity to any person is said to cause hurt. From the evidence of PW1 and

PW4, PW1 suffered injury. There is evidence from the prosecution to prove that accused persons voluntarily caused hurt to PW1. Accused had no case that he caused hurt to PW1 out of sudden quarrel or provocation. Therefore, the evidence available in this case is sufficient to prove that accused caused hurt to PW1 and the prosecution has succeeded in proving offence under Section 323 of IPC.

19. There is evidence from prosecution to prove that accused voluntarily caused hurt to PW1. Accused had no case that he caused hurt to PW1 out of sudden quarrel or provocation. Therefore, the evidence available in this case is sufficient to prove that accused caused hurt to PW1 and the prosecution has succeeded in proving offence under Section 323 of IPC.

20. In order to attract Section 294(b) of the Indian Penal Code (IPC) deals with obscene acts and songs in public places. Specifically, it penalizes anyone who sings, recites, or utters any obscene song, ballad, or words in or near any public place, causing annoyance to others. In the deposition of PW1, stated that accused called his an obscene word. He narrated the obscene word as 'ଋଷି ଶୋକେ'. The offence occurred at the courtyard of accused. That place cannot be considered as a public place. Hence offence under section 294(b) IPC will not come into attract.

21. In order to punish an offence under wrongful restraint u/s 341 IPC, there must be voluntary obstruction from any person so as to prevent that person from

proceeding in any direction in which that person has a right to proceed be there. From the deposition of PW1, he categorically stated that accused obstructed and wrongfully restrained him. He made statement in tune with the FIS. Thus evidence available in this case is sufficient to prove that accused caused wrongful restraining to PW1 and the prosecution has succeeded in proving offence under Section 341 of Indian Penal Code.

22. **Point number 4:-** In the result of the above said findings, accused is found guilty for the offence punishable under Section 323 and 341 of IPC and convicted thereunder as per Section 255 [2 ]CrPC. Accused is not found guilty for offence under Section 294(b) of IPC and he is acquitted under Section 255(1) CrPC. Heard on question of sentence.

Judicial Magistrate of the first class 1, Pala.

23. Thereupon heard on question of sentence. Aforesaid convict pleaded for mercy. Considering the nature of this case, I am of the view that maximum sentence is not necessary. I am satisfied that this is not a fit case to invoke the benevolent provisions of Probation of Offenders Act. I am of the view that following sentence will meet the ends of justice and I do so.

In the result, accused is found guilty of the offences punishable under Section 341 and 323 of IPC and he is convicted under Section 255(2) CrPC. Convict is sentenced to pay a fine of ₹ 1,000 for the offence under Section 323 of IPC and to pay a fine of ₹ 500 for the offence under Section 341 IPC. In default of payment of fine, he shall undergo simple imprisonment for 2 weeks for offences u/s 323 and 341 of IPC. If fine is realized shall be paid to PW1 as compensation under Section 357 of CrPC. Accused is found not guilty for the offence u/s 294(b) of IPC. Hence he is acquitted u/s 255(1) CrPC.

Dictated to the Confidential Assistant transcribed and typed by her, corrected by me and pronounced in the open Court on this day, the 07<sup>th</sup> day of April, 2026.

**Judicial Magistrate of the First Class-I,  
Pala**

### **APPENDIX**

#### **Witnesses examined for the prosecution**

- PW1 : Ulahannan (CW1)
- PW2 : Shajimon(CW2)
- PW3 : Biju Thomas(CW5)
- PW4 : Dr. Issac George(CW6)
- PW5 : Aji R(CW7)
- PW6 : Dipu T.R(CW8)

Exhibits marked for the prosecution

- P1 : F.I.S proved by PW1  
P2 : Scene mahazer proved by PW3  
P3 : Wound certificate proved by PW4  
P4 : FIR proved by PW5  
P5 : Bail bond proved by PW6  
P6 : Address report proved by PW6

Witnesses examined for the defence : Nil  
Exhibits marked for the defence : Nil  
Material objects marked : Nil

**Judicial Magistrate of the First Class – I,  
Pala.**

**True copy//**

**Judicial Magistrate of the First Class – I,  
Pala**