

**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

**Monday the 30<sup>th</sup> day of March, 2026/ 9<sup>th</sup> Chaithra 1948**

**ST.4/2019**

Complainant : State represented by the Sub Inspector of Police,  
Kuravilangadu in Crime No.1237/2018

**(Rep.By Smt.Hima A.R, APP Gr.II, Pala)**

Accused A1: Subin Peter, 35 yrs, S/o K.T Peter,  
Karackathottiyil House, Poovathunkal Bhagam,  
Monippally Village.

A2: Satheesh, 42 yrs, S/o Rajappan, Thuruthimattathil  
House, Perunthanam Bhagam, Uzhavoor Kara,  
Uzhavoor Village.

A3: K.K Jayaprakash @ Kuttan, 64 yrs,  
S/o Kumaran Nair, Thelappurath House,  
Chathakkulam Bhagam, Uzhavoor Kara,  
Uzhavoor Village.

A4: T.C Radhakrishnan, 62 yrs, S/o Chandrasekharan  
Nair, Kurummanal House, Uzhavoor Town  
Bhagam, Uzhavoor Kara, Uzhavoor Village.

**(Rep By Adv. S Shanmukhasundaram Pillai)**

Offence Punishable U/s.341, 323 r/w 34 of IPC

Plea : Not guilty.

Finding : A1 to A4 are found guilty of the offences  
punishable u/s 341, 323 r/w 34 of IPC

Sentence/Order : A1 to A4 are found guilty of the offences punishable u/s. 341, 323 r/w 34 of IPC of the IPC and they are convicted u/s. 255(2) Cr.PC. Convicts are sentenced to pay a fine of Rs.1,000/-each for the offence under section 323 of I.P.C and to pay a fine of Rs.500/-each for the offence under section 341 of I.P.C . In default of payment of fine, they shall undergo simple imprisonment for one month for the offence u/s 323 of IPC and two weeks for the offence u/s 341 of IPC. If fine is realised shall be paid to PW1 as compensation u/s.357(1) CrPC.

**Description of Accused**

Name	Age	Father's/Husband's name	Calling	Residence	Taluk
Subin Peter	35	K.T Peter	-	Karackathottiyil	Meenachil
Satheesh	42	Rajappan	-	Thuruthimattathil	Meenachil
K.K Jayaprakash @ Kuttan	64	Kumaran Nair	-	Theilappurath	Meenachil
T.C Radhakrishnan	62	Chandrasekharan Nair	-	Kurummanal	Meenachil

**Dates of**

Occurrence	Complaint	Apprehension	Release on bail	Commencement of trial	Close of trial	Sentence or order
1.11.2018	7.11.2018	20.9.2019	20.9.2019	20.12.2019	25.3.26	30.3.26

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 Cr.No.1237/2018, alleging that the accused had committed the offences punishable under section 341, 323 r/w 34 of IPC.

**2. The prosecution case in nutshell is as follows:-**On 01/11/2018, at 06.45 P.M, at Uzhavoor Town Bhagam, in furtherance of their common intention, accused no.1 wrongfully restrained CW1 and slapped on his face. At that time accused no.2 to 4, hit CW1's face and head by using their hands and thereby all accused alleged to have committed offences punishable u/s. 341, 323 r/w 34 of Indian penal Code (herein after IPC).

3. On appearance of the accused, copies of relevant prosecution records were furnished to them. 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, read over, explained and asked to the accused for the offences punishable U/s.341, 323 r/w 34 of IPC to which they pleaded not guilty and claim to be tried.

4. The case was posted for prosecution evidence. On the prosecution side,

PW1 to PW7 were examined and Exhibits P1 to P6 were marked. On closing of the prosecution evidence, accused no.1 to 4 were examined u/s 313(1) (b) of the Code of Criminal Procedure, 1973 regarding the incriminating circumstances made out against them in the prosecution evidence. They denied the allegations levelled against them and pleaded innocence. From the side of defence, DW1 and DW2 were examined.

5. Heard both sides.

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

1. *Whether on 01/11/2018, at 06.45 P.M, at Uzhavoor Town Bhagam, in furtherance of their common intention, accused, wrongfully restrained PW1 as alleged by the prosecution and thereby committed offence punishable U/s.341r/w 34 of IPC?*

2. *Whether on 01/11/2018, at 06.45 P.M, at Uzhavoor Town Bhagam, in furtherance of their common intention, accused, voluntarily caused hurt to PW1 as alleged by the prosecution and thereby committed offence punishable U/s.323 r/w 34 of IPC?*

3. *Whether all accused acted in furtherance of their common intention as alleged?*

4. *Sentence or order?*

7. **Points No.1 to 3:-** For the brevity of discussion, these points are considering together. CW1 is examined as PW1. His evidence is that incident took place before 01.11.2018 at 06.45 p.m near Uzhavoor town in front of a

shop named Niranath Stores. His evidence is that he started his bike and on the way, accused 1 to 4 restrained his bike and A1 Subin caught hold of his right hand and slapped on his right cheek. At that time A2 Saneesh hold his nose and beaten, A3 beaten his neck, A4 beaten in his face. He was taken to hospital. He made statement before the police. It was marked as Exhibit P1. He stated that he and A1 have certain family problems. This was the reason for attack. He identified the accused persons in the court. He saw the incident in the presence of street light.

8. CW3 was examined as PW2. He was an occurrence witness. He turned hostile to the prosecution case. CW4 was examined as PW3. He was also an occurrence witness. His evidence is that he saw the incident. It took place at 06.45 p.m near Uzhavoor market. While he was talking with his friend, PW1 was coming in a bike. He was restrained by A1 and A4. They beaten him. Thereafter PW1 was taken to hospital. He deposed that he knows Subin and Radhakrishnan. He identified A1 Subin and A4 Radhakrishnan. There were light from various shops.

9. CW5 was examined as PW4. He is the attestor of Exhibit P2 scene mahazar. He identified his signature in Exhibit P2 scene mahazar. In the cross-examination, he stated that PW1 was hospitalized for 2 days.

10. CW6 was examined as PW5. PW5 was the doctor who examined PW1. His evidence is that on 01.11.2018 at 07.00 p.m. while he was working as Assistant Surgeon at KRN Hospital, Uzhavoor. He examined one Mr. Anish Mathew, came with alleged history of assault by four people at Uzhavur town. There was a swelling 3x1x1 centimeter over right cheek below right eye was found. Tenderness over nape of neck. Thendernes over radial shaft and injury appeared fresh. For which he issued Exhibit P3 certificate.

11. CW7 examined as PW6. His evidence is that while he was working in Kuravilangadu Police Station on GD charge on 07.11.2018, based on the statement of PW1, he registered Crime No. 1237/2018 under Section 341, 323 and 34 IPC. He identified Exhibit P1 FI Statement and identified his signature in Exhibit P4 FIR. In the cross-examination he was asked by the defence counsel that the incident took place on 01.11.2018 and FIS was given on 07.11.2018. PW1 stated that accused is relative.

12. PW7 was the Investigating Officer in this case. His evidence is that while he was working as Sub-Inspector of Police on 07.11.2018 at Kuravilannadu Police Station, he proceeded to the place of occurrence and prepared scene mahazar. He identified his signature in Exhibit P2 scene

mahazar. A1 to A4 was arrested and released on bail bond. He identified the signature in bail bond and it is marked as Exhibit P5. He produced wound certificate issued by the doctor and it was identified as Exhibit P3. Address report of the accused is produced and it is marked as Exhibit P6. After investigation, he filed the final report. He identified all the accused persons present before the court. In the cross-examination, he stated that accused persons was identified by PW1.

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

14. In the cross-examination, PW1 stated that A1 had enmity towards him before 2-3 months back. The incident took place at a crowded area. At the time of incident he was sitting at his bike. He was at observation in hospital for 45 minutes and thereafter discharged. He stated that Rajesh was taken to him to hospital. When he called Rajesh over phone, he was driving his auto. After half an hour, he reached the place.

15. In the cross-examination, PW3 stated that two days after the incident, he made statement before the police. He stated that there was a prior enmity

between PW1 and A1. He saw the incident. He stated that he is a tipper driver. He saw other accused persons, who were present today, only at the rate of trial. Other two accused persons.

16. In the cross-examination, PW5 stated that PW1 was treated as outpatient and the tenderness was over radial shaft which required referenced on ortho surgeon. Which he did not do in this case. Since the injuries were minor, there was no need for inpatient treatment.

17. PW1's testimony shows that A1 to A4 wrongfully restrained him while he was riding his bike. A1 caught hold his right hand and slapped on his right cheek. He suffered pain. Kicked on his face and A3 beaten with his hand on his body and neck. A4 slapped on his face. PW6 is the doctor who examined PW1. Testimony of PW6 shows that there was a swelling 3x1x1cm over right cheek below right eye was found and there was a tenderness and swelling over the lap of neck. There is tenderness over radial shaft and injuries appeared fresh. From the evidence of PW6, it can be seen that all the injuries are correspondence with the statement given by PW1, regarding the injuries. PW3 is the occurrence witness. His evidence is that he saw the incident. He identified A1 and A4. His testimony shows that he saw A1 and A4 beaten PW1. He saw the incident. There was sufficient light at that time. PW4 put his signature in the Exhibit P2 scene mahazar and he identified his signature.

18. From the side of defence, two witnesses were examined as DW1 and DW2. Evidence of DW1 is that he knows PW1 and accused persons. His testimony is that he knows the enmity between PW1 and accused persons. He stated that While he was waiting at Uzhavur town, he heard a noise and he saw Anoop caught hold Subin. At that time, Anoop pushed Subin. Thereafter he started his bike. He fell down. DW2 also stated that he knew PW1 and accused persons. He heard a noise while he was at Uzhavur. He saw Anoop and Subin. Several persons gathered there. After that, while trying to go away from the place in his bike, he fell down. This shows that there was an incident occurred between PW1 and accused persons. From the side of accused persons, no evidence is produced that they made complaint before the police that they are attacked by PW1.

19. Major contentions of the defence was that radial shaft injury was happened only when a person fall from a place. Moreover, beating in the right cheek with holding right hand is improbable.

20. 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 PW6. PW1 suffered injury. There is evidence from the prosecution to prove that accused persons voluntarily caused hurt to PW1. Accused had no case that they 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.

21. In order to punish an offence under wrongful restraint, 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 persons obstruct and wrongfully restrained Him while he was on his bike. He made statement in tune with the FIS. Thus evidence available in this case is sufficient to prove that accused no. 1 to no. 4 caused wrongful restraining to PW1 and the prosecution has succeeded in proving offence under Section 341 of Indian Penal Code.

22. From the evidence of PW1 and PW3, A1 to A4 came together and attacked PW1 and it is sufficient ground to held that they have acted in furtherance of common intention. On going through the entire evidence, it is seen that A1 and A2 have actively participated in the offence. Therefore, all of them are liable for the above said offence by virtue of Section 34 of the IPC.

23. **Point No.4:-** In the result of the above said findings, accused no.1 to 4 are found guilty for the offences punishable under sections 341, 323 r/w 34

of IPC and convicted thereunder as per section 255(2) of Cr.P.C. A1 to A4 heard on question of sentence.

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

24. Thereupon heard on question of sentence. Aforesaid convicts(A1 to A4) 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 the following sentence will meet the ends of justice and I do so.

In the result, A1 to A4 are found guilty of the offences punishable u/s. 341, 323 r/w 34 of IPC of the IPC and they are convicted u/s. 255(2) Cr.PC. Convicts are sentenced to pay a fine of Rs.1,000/-each for the offence under section 323 of I.P.C and to pay a fine of Rs.500/-each for the offence under section 341 of I.P.C . In default of payment of fine, they shall undergo simple imprisonment for one month for the offence u/s 323 of IPC and 2 weeks for the offence u/s 341 of IPC. If fine is realised shall be paid to PW1 as compensation u/s.357(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 30<sup>th</sup> day of March, 2026

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

**APPENDIX**

Witnesses examined for the prosecution

PW1 : Anoop Mathew(CW1)

PW2 : Babu K.S(CW3)

PW3 : Ratheesh(CW4)

PW4 : Abeesh Mathew(CW5)

PW5 : Dr.Sineesh P Joy(CW6)

PW6 : Pradeep(CW7)

PW7 : Dipu T.R(CW8)

Exhibits marked for the prosecution

P1 : F.I.S dated 07/11/2018 proved by PW1

P2 : Scene mahazar dated 07/11/2018 proved by PW4

P3 : Wound certificate dated 01/11/2018 proved by PW5

P4 : FIR dated 07/11/2018 proved by PW5

P5 : Bail bond dated 08/11/2018 Proved by PW7

P6 : Address Report dated 08/11/2018 proved by PW7

Witnesses examined for the defence :

DW1: K. A Ajo

DW2: T. S Shijumon

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**