

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE -II,
KANJIRAPPALLY**

Present :- Niyatha Prasad,
Judicial First Class Magistrate – II, Kanjirappally

Wednesday, the 08th day of April, 2026
(18th day of Chaithram, 1948)

CC No. 189/2020

Complainant : State of Kerala represented by the Sub Inspector
of Police, Manimala PS in **Crime No. 163/2020.**
(By Sri. Shajahan K.S, APP-II, Kanjirappally)

Description of accused

Sl. No.	Name	Father's Name	Age	Occupation	Residence
A1.	Ajin T. P	Prasad	25/20	Coolie	Thakidipurathu (H), Chuvattadippara Bhagam, Manimala P. O, Vellavoor Village.

(By Adv. Sri. Josy Antony)

Offence : Under section 294 (b), 447 & 323 of IPC

Plea : Not Guilty.

Finding : Guilty.

Sentence/Order : The accused is found guilty of the offence punishable
u/s. 323 of IPC and released under section 3 of the
Probation of Offenders Act, after due admonition.
Accused is found not guilty for the offence punishable
u/s. 294(b) & 447 of IPC.

Dates of :-

Offence	Complaint	Apprehension	Release on bail	Commitment	Commencement of trial	Commencement of evidence
23.02.20	23.02.20	23.02.20	23.02.20	...	02.12.22	26.06.23

Close of trial	Sentence or order	Service of copy of judgment or finding on accused	Explanation of delay	Period of detention undergone during investigation, inquiry or trial for the purpose of Section 428 Cr.P.C
27.03.26	08.04.26	...	For appearance of the accused

J U D G M E N T

The accused was charge-sheeted by the Sub Inspector of Police, Manimala Police Station, for the offences punishable u/ss. 294 (b), 323 and 447 of Indian Penal Code (hereinafter referred to as IPC).

2. Prosecution case in brief is as follows: The accused, due to his previous animosity towards CW3, the son of CW1, on 23.02.2020 at 18.00 p.m, criminally trespassed into the courtyard of Kappalumackal house bearing No. 170 in Ward No. V of Vellavoor Grama Panchayath, Vellavoor Kara, Vellavoor Village and when the same was questioned by CW1, the accused uttered obscene words and pushed him down and assaulted him repeatedly. On seeing the same, CW2 and CW3 intervened, and they were also assaulted by the accused. Thereby the accused is alleged to have committed the offences punishable u/ss. 294(b), 323 & 447 of the IPC.

3. On the basis of the information given to CW9, CW10 registered FIR as crime 163/20 u/ss. 294(b), 323 and 447 of IPC. After the investigation, the final report was filed before the court alleging the commission of an offence punishable u/ss. 294(b), 323 and 447 of IPC. Cognizance was taken of the offence punishable u/ss. 294(b), 323, and 447 of the IPC, and the case was taken on file as CC 189/2020. On the appearance of the accused, copies of all relevant prosecution records were furnished to the accused, and thereby the mandate under section 207 of the Code of Criminal Procedure (hereinafter referred to as "Cr.P.C.") was complied with. Particulars of the offence were read over and explained to the accused u/ss. 294(b), 323 and 447 of IPC. The accused pleaded not guilty to the offences alleged and claimed to be tried by this court.

4. From the side of the prosecution, PW1 to PW9 were examined and Exts. P1 to P7 were marked. CW4 was reported to be no more. Material objects produced were marked as MO1 and MO2. After the closing of prosecution evidence, the accused was given an opportunity to personally explain the incriminating evidence against him u/s. 313(1)(b) Cr.P.C. The accused denied all incriminating circumstances against him and maintained his plea of innocence. During S.313 CrPC examination, the accused filed an additional statement contending that he and the daughter of PW1 and PW2 were in a romantic relationship, and they called the accused to their home to discuss the same. But when he reached there, PW1 and PW3 misbehaved towards the accused, stating that the accused should withdraw from his love relationship, and when the same was not heeded to by the accused, PW1 and PW3 brutally assaulted him and gave a false complaint to the police.

5. Heard both sides. Perused the records.

6. The following points arise for consideration: -

- (i) Whether the accused had uttered obscene words at PW1 and thereby committed the offence punishable u/s.294(b) of the IPC?
- (ii) Whether the accused had voluntarily caused hurt to PW1 to PW3 and thereby committed the offence punishable u/s.323 of the IPC?
- (iii) Whether the accused criminally trespassed into the courtyard of the house of PW1 and thereby committed the offence punishable u/s. 447 of IPC?
- (iv) If found guilty, order as to sentence?

7. **Point Nos. (i) to (iii)** : These points were considered together, having regard to the nature of evidence adduced in this case. As noted above, the prosecution's case was that the accused trespassed into the courtyard of the house of PW1, and when the same was questioned by PW1, the accused uttered obscene words at him and assaulted PW1 to PW3. On the contrary, the accused maintained his innocence and asserted that the instant case was foisted on him out of animosity. In proof of its case, the prosecution examined PWs 1 to 5. PWs 1 to 3 are the injured in this case. PW4 and PW5 are the witnesses to the occurrence.

8. PW1 deposed that the alleged incident occurred on 23.02.2020 at 06.00 p.m. in the road towards his house from Manimala-Kothalapadi-Kulathungal road. He testified that he was collecting cow dung at the cattle farm when he saw the accused approaching his front yard via the road in front of his house. On seeing the same, PW1 told the accused that it is not a public road and enquired where he was going. Immediately, the accused directed PW1 to call PW3. But PW1 replied that PW3 is not at home and directed the accused to leave his house. At that time, the accused uttered obscene words at him and pushed him down. He fell down along with the cow dung that he had in his hands. Thereafter, the accused sat on him and fisted him on his back, hand and neck. On hearing the hue and cry, PW2, his wife, interfered, and when PW2 tried to push the accused away, he stood up and beat PW2 on her neck. Due to pain, PW2 cried aloud, and around 10 to 25 people gathered around. All of them together overpowered the accused, and upon hearing the sound, his son, PW3, also came to the spot. When PW3 attempted to take the accused, he bit him on his hand. They immediately reported the matter to the police. Police came to the spot. But the accused escaped from the police jeep. But the police caught him and took him to the police station. PW1 identified the accused, who was present in the dock. He stated that, with respect to the incident, he had given a statement to the police, which is marked as Exhibit P1.

9. PW2 is the wife of PW1. She also deposed in tune with PW1's version with respect to the date, time, and place of the alleged incident. She stated that she was going to give water to the cattle when she heard a sound from the road in front of her house, and immediately went there and found her husband lying on the ground with the accused on top of him and assaulting him. She immediately intervened, and at that time, the accused stood up and hit her on her neck. The accused again tried to assault PW1, and she further interfered. On hearing the hues and cries, PW3 came to the spot, and when he attempted to grab the accused, the accused bit on his hand. At that time, a lot of people gathered around and they captured the accused and tied him with a towel. Thereafter, they immediately reported the matter to the police, who took the accused to the station. She also identified the accused, who was present in the dock.

10. PW3 is the son of PW1 and PW2. He also stated that the alleged incident

occurred on 23.02.2020 at 06.00 p.m. at the portion where the road meets his front yard. He testified that he heard a loud noise from that area and immediately went there and found the accused assaulting his father. Hence, he immediately tried to intervene, and the accused bit on his left hand. There were bruises, so he went to the hospital for medical assistance. He also testified that the matter was then and there intimated to the police, and the police took the accused to the police station. He also identified the accused, who was present in the dock.

11. PW4 and PW5 are the independent occurrence witnesses in this case. Both of them turned hostile to the prosecution's case by deposing that they neither saw the incident nor gave any statement to the police. Even though the Learned APP was permitted to put questions under Section 154 of the Evidence Act and the proviso to Section 162 of CrPC, nothing has come out in evidence in support of the prosecution.

12. PW6 is the doctor who had examined PW3, and PW7 is a witness to Exhibit P3 mahazar prepared by the police. PW8 recorded the statement of PW1, and PW9 conducted the investigation in this case.

13. The entire prosecution evidence is arrayed above. It is the cardinal principle of criminal jurisprudence that the guilt of the accused must be proved beyond a reasonable doubt. Further, the burden of proving its case beyond a reasonable doubt rests with the prosecution and never shifts. Another golden thread that runs through the web of the administration of justice in criminal cases is that, if two views are possible on the evidence adduced in a case, one pointing to the accused's guilt and the other to his innocence, the view favourable to the accused should be adopted. (vide **Kali Ram Vs. State of Himachal Pradesh** reported in (1973) 2 SCC 808; **State of Rajasthan Vs. Raja Ram** reported in (2003) 8 SCC 180). Keeping in mind the aforesaid propositions in law, this court ventures to examine the arguments advanced by both parties and the materials on record.

14. The learned counsel for the accused primarily argued that Section 294 (b) of IPC and 447 of IPC is not attracted in this case. In order to bring home an offence

punishable u/s. 294(b) of IPC, the prosecution has to prove that the accused uttered obscene words at PW1, in or near any public place, and the aforesaid act or acts caused annoyance to others. The Hon'ble Court of Kerala in **Latheef v. State of Kerala** reported in **2014 KHC 604** held that; *“the legal test of obscenity is satisfied only when the impugned act can be said to appeal to an unhealthy, inordinate person having perverted interest in sexual matters or having a tendency to morally corrupt and debase persons likely to come in contact with the impugned act.”* The obscene act or word should cause annoyance to the affected. From the records, it can be seen that the prosecution witnesses failed to depose that the alleged obscene word uttered caused any annoyance to them. Moreover, the place of occurrence cannot be termed as strictly a public place. Hence, section 294(b) of the IPC is not attracted in this case.

15. The learned counsel for the accused argued that the testimony of PWs 1 to 3 are that of interested witnesses and thus their reliability is tainted by bias and interest. Of course, it is settled law that evidence of interested witnesses is not necessarily unreliable. Partisanship by itself is not a valid ground for discrediting or rejecting sworn testimony. Nor can it be laid down as an invariable rule that the testimony of an interested witness can never shape the premise of conviction of an accused until it is sufficiently corroborated by other independent evidence. All that is required is that the evidence of interested or inimical witnesses must be scrutinized with due care and accepted with caution. Ergo, if on such scrutiny, the evidence of an interested witness is found to be cogent, credible, or trustworthy, it may, by itself, be enough in the particular circumstances of a case, to form the basis of conviction.

16. In the instant case, the independent witnesses PW4 and PW5 had turned hostile to the prosecution case. But it is relevant to note that both PW4 and PW5 has admitted the presence of the accused at the place of the incident. The learned counsel for the accused argued that the place of occurrence is different for PW1 to PW3. But I am not in agreement with the said contention for the reason that PW1 to PW3 had categorically deposed that the place of occurrence is near the pathway leading to their house. The same is corroborated by Exhibit P3 scene mahazar prepared by PW9 in the presence of PW7. The learned counsel also submitted that Section 447 of the IPC is also

not attracted, for the prosecution has failed to show that the place of occurrence belongs to PW1. Though the prosecution alleges that the place of occurrence lies along the pathway leading to the accused's house and the courtyard adjacent thereto, no records have been produced by the prosecution. But as I have already mentioned, the evidence of PW1 to PW5 categorically points towards the presence of the accused at the place of occurrence. The only question remaining to be adjudicated is whether the accused voluntarily caused hurt to PW1, PW2, and PW3.

17. PW1 to PW3 were cross-examined at length. The specific case of the accused is that the daughter of PW1 and PW2, and the accused, were in a romantic relationship. PW1 to PW3 called the accused to their house under the guise of discussing about the same, but assaulted the accused and filed this false case against him. It is pertinent to note that even though PW1 to PW3 were cross-examined on various aspects, nothing was brought out during cross-examination to discredit the version of PW1 to PW3. Normal discrepancies in evidence are those due to normal errors of observation, normal errors of memory due to lapse of time, and mental dispositions, such as shock and horror at the time of occurrence; these are always there, however honest and trustful the witness may be. Courts have to label the category to which a discrepancy may be categorized (reliance is placed on the decision in **Krishna Mochi vs. State of Bihar**, reported in **2002 6 SCC 81**; **State of Rajasthan vs. Kalki**, reported in **AIR 1981 SC 1390**). In the instant case, the discrepancies are minor, and it cannot be deemed to be one that would go to the root of the prosecution's case.

18. One of the major contentions put forward by the learned counsel for the accused is that PW1 and PW2 did not seek medical assistance. However, both PW1 and PW2 have explained the same, that since there was an aged mother at the house, they could not go to the hospital. PW3, who had sustained a more serious injury, sought medical assistance. PW6, the doctor who examined PW3, categorically deposed that there was a curved abrasion of size 4x1cm on the left forearm. The learned counsel for the accused also submitted that the date and time of examination are not noted in Exhibit P2 and hence the injury noted might be a self-inflicted one. During re-examination, the same was clarified by the learned APP to which PW6 deposed that since it was a busy

time in the casualty, the date and time were not noted.

19. In upshot, this Court is of the view that the the prosecution has succeeded in proving that the accused has voluntarily caused hurt to PW1 to PW3, while the prosecution has failed to prove the ingredients of sections 447 and 294(b) of IPC. Hence, point Nos. (i) and (iii) are found against the prosecution and point No. (ii) is found in favour of the prosecution.

20. **Point No. (iv):-** In view of the afore finding on point nos. (i) and (iii) are found against the prosecution and point No. (ii) is found in favour of the prosecution. The accused is found guilty of the offence punishable u/s. 323 of IPC and is liable to be convicted thereunder. Considering the facts and circumstances of the case, including the accused's age at the time of the offence, this court is of the view that this is a fit case to invoke the benevolent provisions of the Probation of Offenders Act.

In the result, the accused is found guilty of the offence punishable u/s. 323 of IPC and released under section 3 of the Probation of Offenders Act, after due admonition. Accused is found not guilty and is acquitted for the offences punishable u/s.294(b) & 447 of IPC. MO1 (Mobile phone) and MO2 (Watch) shall be returned to its owner after the expiry of appeal period and if no appeal has been preferred or that any appeal presented has been disposed of.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in open Court on this the 08th day of April, 2026).

Sd/-

**JUDICIAL FIRST CLASS MAGISTRATE-II,
KANJIRAPPALLY**

APPENDIX

List of Prosecution /Defence/Court Witnesses

A. Prosecution witnesses

Rank	Name	Whether Eye Witness, Police Witness, Expert witness, Medical Witness, other witness
PW1	Radhakrishnan	Informant/Injured

PW2	Bindhu	Occurrence witness
PW3	Arjun R. Nair	Occurrence witness
PW4	Sunil T	Occurrence witness
PW5	Sanal Kumar	Occurrence witness
PW6	Dr. Dilu G Pilla	Medical witness
PW7	Sreekumar S	Mahazar witness
PW8	Manoj G	Police witness
PW9	Jeby K. John	Investigation officer

B. Defence Witness

Rank	Name	Whether Eye Witness, Police Witness, Expert witness, Medical Witness, other witness
	Nil	

C. Court Witness

Rank	Name	Whether Eye Witness, Police Witness, Expert witness, Medical Witness, other witness
	Nil	

List of Prosecution/Defence/Court Exhibits

A. Prosecution Exhibits

Sl.No	Exhibit Number	Description
1.	Ext P1/PW1	FIS dated 23.02.2020
2.	Ext P2/PW6	Wound certificate dated 23.02.2020
3.	Ext P3/PW7	Scene mahazar dated 24.02.2020
4.	Ext P4/PW9	FIR dated 23.02.2020
5.	Ext P5/PW9	Bail bond dated 23.02.2020
6.	Ext P6/PW9	Property list dated 24.02.2020
7.	Ext P7/PW9	Address report dated 24.02.2020

B. Defence Exhibits

Sl.No	Exhibit Number	Description
	Nil	

C. Court Exhibits

Sl.No	Exhibit Number	Description
	Nil	

D Material objects

Sl.No	Material object	Description
1.	MO1	Mobile phone
2.	MO2	Watch

Sd/-

**JUDICIAL FIRST CLASS MAGISTRATE-II
KANJIRAPPALLY**