

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

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

Friday, the 29th day of May, 2026
(08th day of Jyeshtham, 1948)

CC No. 1000/2016

Complainant : State of Kerala represented by the Sub-Inspector
of Police, Karukachal PS in **Crime 234/2016**.

(By Sri. Shajahan K.S, APP-II, Kanjirappally)

Description of accused

SL. No.	Name	Father's Name	Age	Occupation	Residence
A1.	Gireesh	Gopalan	39/16	...	Palackal (H), Anchani Bhagam, Champakara Kara, Karukachal Village.

(By Adv. Sri. P. T Johnson)

Offence : Under sections 323, 324 & 447 of IPC

Plea : Not Guilty.

Finding : Not Guilty.

Sentence/Order : Accused is acquitted u/s.248(1) of Criminal
Procedure Code 1973.

Dates of :-

Offence	Complaint	Apprehension	Release on bail	Commitment	Commencement of trial	Commencement of evidence
29.01.16	04.02.16	-	19.02.16	...	20.10.16	28.02.19

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
25.05.26	29.05.26	...	No delay

J U D G M E N T

This is a case charge sheeted by the Sub Inspector of Police, Karukachal Police Station in crime No.234/2016, against the accused alleging commission of offences punishable under sections 323, 324 & 447 of Indian Penal Code (herein after referred to as IPC).

2. **The prosecution case in brief is as follows:-** Due to the previous animosity the accused had towards CW1, the accused with the intention to cause hurt to CW1 on 29.01.2016 at 09.45 p.m, the accused criminally trespassed into the courtyard of the house of CW1 and slapped on his face. Thereafter the accused using a wooden plank hit on the head of CW1 thrice causing injury. The alleged incident occurred in the courtyard of house named Chennattu, bearing No. 107 in Ward No. XV of Karukachal Grama Panchayath, Kochukandam Bhagam in Champakkara Kara, Karukachal Village. Thereby the accused is alleged to have committed the offences punishable under sections 323, 324 & 447 of IPC.

3. On the basis of the information given by the informant to CW6, he registered FIR u/ss. 323, 324 & 447 of IPC. After the completion of investigation, final report was filed before the court and cognizance was taken for the offences punishable u/ss. 323, 324 & 447 of IPC and the case was initially taken on file as CC 328/2016 on the file of Judicial First Class Magistrate Court-I, Changacherry. 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. On appearance of the

accused, he was heard on the question of framing charge and after perusal of prosecution records charge was framed u/s.240 of Cr.P.C for the offences punishable u/ss. 323, 324 & 447 of IPC. It was read over and explained to the accused to which the accused pleaded not guilty and claimed to be tried. As per the O.M No.1306/25 dated 19.03.2025 of the Hon'ble Chief Judicial Magistrate Court, Kottayam, the file was transferred to this court and it was taken on file as CC 1000/2016 on 17.05.2025.

4. From the side of prosecution, PW1 to PW7 were examined and Exts.P1 to P5 were marked. CW3 was given up by the prosecution. Since there were incriminating circumstances against the accused person, he was given an opportunity to personally explain the same under section 313 (1)(b) Cr.P.C and he denied all the incriminating circumstances against him and maintained the plea of innocence. Neither oral nor documentary evidence was adduced from the side of defence.

5. Heard both sides. Perused the records.

6. Points that arise for consideration are: -

- i Whether the accused with the intention caused hurt to PW1 and thereby committed the offence punishable u/s. 323 of IPC ?
- ii Whether the accused voluntarily caused hurt to PW1 using a wooden plank which being a dangerous weapon and thereby committed the offence punishable u/s.324 of 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, what is the order as to sentence?

7. **Point No. (i) to (iii)**: Since these points are interconnected, they are considered together for the sake of brevity and to avoid repetition. Prosecution

case started when PW4 registered Ext. P3, first information report on the basis of the statement given by PW1. The investigation was conducted by PW5 & PW6 and after completion of investigation, final report was filed by PW6. The learned APP argued that the prosecution has adduced enough evidence to prove the guilt of the accused and hence the accused is liable to be convicted for the alleged offences. *Per contra*, the learned counsel for the accused argued that the prosecution has failed to prove their case and hence the accused is entitled to get a clean acquittal.

8. The specific case of the prosecution is that, due to the previous animosity the accused had towards PW1, the accused with the intention to cause hurt to PW1 on 29.01.2016 at 09.45 p. m, the accused criminally trespassed into the courtyard of the house of PW1 and slapped on his face. Thereafter the accused using a wooden plank hit on the head of PW1 thrice causing injury. The alleged incident occurred in the courtyard of house named Chennattu, bearing No. 107 in Ward No. XV of Karukachal Grama Panchyath, Kochukandam Bhagam in Champakkara Kara, Karukachal Village.

9. The informant in this case is examined as PW1. He deposed that the accused is his uncle and the accused had obtained Rs. 5,000/- as hand loan but did not return the same in spite of repeated demands. On 29.01.2016 at 09.45 p. m PW1 demanded the amount and then the accused criminally trespassed into the courtyard of the house of PW1 and slapped on his face. Then the accused took a wooden plank and hit on the head of PW1 repeatedly causing injuries. PW1 further testified that on hearing his cry his parents, PW2 and CW3 came to the spot and took him to Mercy Nursing Home, Karukachal. In connection with the incident he gave a statement to the police which is marked as Ext. P1. He identified the accused who was present in the dock. His chief examination was adjourned for identification of the material object. However, PW1 expired and hence his chief examination could not be completed.

10. PW2 is the father of PW1. During chief examination he supported the prosecution case but during cross examination he turned hostile to the prosecution case by deposing that he neither saw the incident nor gave any statement to the police. PW4 to PW6 are official witnesses and PW7 is the witness to the scene mahazar prepared by PW5.

11. The learned counsel for the accused argued that there is nothing on record to connect the accused with this case. On the other hand, the learned APP argued that the evidence of the prosecution witnesses categorically proves the guilt of the accused. The primary witness, PW1 expired before completing his chief examination and hence the accused did not get an opportunity to cross examine him. Hence, his evidence cannot be considered u/s. 32 of Indian Evidence Act. Other than that, the only positive evidence is the evidence of the police witnesses. Even though there is no hard and fast rule that the evidence of police witnesses cannot be the sole reason for conviction, it is unsafe to rely on their evidence especially when the occurrence witness had turned hostile to the prosecution case. Considering the evidence on record by yardstick of probabilities, its intrinsic worth and animus of witness, this court is of the view the accused is entitled to get the benefit of doubt in his favour. Hence point nos. (i) to (iii) are found against the prosecution.

12. **Point No.(iv):** In view of point Nos.(i) to (iii) this point does not arise for consideration. Hence, the accused is found not guilty for the offences punishable under sections 323, 324 & 447 of IPC and is liable to be acquitted for the said offence.

In the result:-

The accused is acquitted U/s.248(1) Cr.P.C for the offences punishable under sections 323, 324 & 447 of IPC. Bail bond executed by the accused stands cancelled and he is set at liberty.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me

and pronounced in the open court on this the 29th day of May, 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	Vishnu	Informant
PW2	Appukuttan	Occurrence witness
PW3	Dr. V. M Vidhyadharan	Medical witness
PW4	Kuriakose Joseph	Police witness
PW5	R. Rajeev	Investigation officer
PW6	A. C Peter	Investigation officer
PW7	Renjith	Mahazar witness

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 04.02.2016
2.	Ext P2/PW3	Wound certificate dated 29.01.2016
3.	Ext P3/PW4	FIR dated 04.02.2016
4.	Ext P4/PW5	Scene mahazar dated 04.02.2016
5.	Ext P5/PW5	Address report dated 04.02.2016

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
	Nil	

Sd/-

**JUDICIAL FIRST CLASS MAGISTRATE-II
KANJIRAPPALLY**