

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

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

Monday, the 27th day of April, 2026
(07th day of Vaisakha, 1948)

CC No. 307/2019

Complainant : Sanoj K. S, aged 34/13,
S/o V. G Sreedharan, Keecheril (H),
Mukkoottuthara P. O, Elivalikkara Kara,
Erumely South Village.

(By Adv. Sri. Rajesh P)

Description of accused

SL. No.	Name	Father's Name	Age	Occupation	Residence
1.	Raj Mohan @ Biju	Kuttappan	42/13	...	Charuvil (H), Elivalikkara Kara, Erumely South Village, Mukkoottuthara P. O, Pin : 686510.
2.	Reji	Kuttappan	45/13	...	Charuvil (H), Elivalikkara Kara, Erumely South Village, Mukkoottuthara P. O, Pin : 686510.
3.	Varkey	-	64/13	...	Pariyanikkal (H), Elivalikkara Kara, Erumely South Village, Mukkoottuthara P. O, Pin : 686510.
4.	Biju	Rajappan	35/13	...	Chettedath (H), Elivalikkara Kara, Erumely South Village, Mukkoottuthara P. O, Pin : 686510.
5.	Raveendran	-	55/13	...	Plakkal (H),

					Elivalikkara Kara, Erumely South Village, Mukkoottuthara P. O, Pin : 686510.
6.	Saji	Kuttappan	46/13	...	Charuvil (H), Elivalikkara Kara, Erumely South Village, Mukkoottuthara P. O, Pin : 686510.
7.	Suku (Split up)	-	45/13	...	Pulikkunnu Mukalel (H), Elivalikkara Kara, Erumely South Village, Mukkoottuthara P. O, Pin : 686510.
(By Adv. Sri. Binoy Jose)					
8.	Usha (Split up)	Suku (Husband)	40/13	...	Pulikkunnu Mukalel (H), Elivalikkara Kara, Erumely South Village, Mukkoottuthara P. O, Pin : 686510.
9.	Jose (No more)	-	58/13	...	Pariyanikkal (H), Elivalikkara Kara, Erumely South Village, Mukkoottuthara P. O, Pin : 686510.
10.	Laisamma Jose	-	54/13	...	Pariyanikkal (H), Elivalikkara Kara, Erumely South Village, Mukkoottuthara P. O, Pin : 686510.
(By Adv. Sri. Binoy Jose)					
11.	Midhun Jose (Split up)	Jose	23/13	...	Pariyanikkal (H), Elivalikkara Kara, Erumely South Village, Mukkoottuthara P. O, Pin : 686510.

12.	Chacko	-	55/13	...	Areeparambil (H), Elivalikkara Kara, Erumely South Village, Mukkoottuthara P. O, Pin : 686510.
(By Adv. Sri. Binoy Jose)					
13.	Charlie Chacko (Split up)	-	21/13	...	Areeparambil (H), Elivalikkara Kara, Erumely South Village, Mukkoottuthara P. O, Pin : 686510.
14.	Annamma	-	58/13	...	Vattomkuzhiyil (H), Elivalikkara Kara, Erumely South Village, Mukkoottuthara P. O, Pin : 686510.
15.	Sabu	Annamma (Mother)	28/13	...	Vattomkuzhiyil (H), Elivalikkara Kara, Erumely South Village, Mukkoottuthara P. O, Pin : 686510.
16.	Soosamma Varkey	Varkey (Husband)	58/13	...	Pariyanikkal (H), Elivalikkara Kara, Erumely South Village, Mukkoottuthara P. O, Pin : 686510.
17.	Ajitha	Rajmohan	38/13	...	Charuvil (H), Elivalikkara Kara, Erumely South Village, Mukkoottuthara P. O, Pin : 686510.
(By Adv. Sri. Binoy Jose)					
18.	Viswanathan (No more)	-	68/13	...	Kottarath (H), Elivalikkara Kara, Erumely South Village, Mukkoottuthara P. O, Pin : 686510.
19.	Padmini	Viswanathan	57/13	...	Kottarath (H),

	Viswanathan (Split up)	(Husband)			Elivalikkara Kara, Erumely South Village, Mukkoottuthara P. O, Pin : 686510.
20.	Suresh	Viswanathan	40/13	...	Kottarath (H), Elivalikkara Kara, Erumely South Village, Mukkoottuthara P. O, Pin : 686510.
(By Adv. Sri. Binoy Jose)					
21.	Sunitha (Split up)	Suresh (Husband)	33/13	...	Kottarath (H), Elivalikkara Kara, Erumely South Village, Mukkoottuthara P. O, Pin : 686510.
22.	Rajani	Reji (Husband)	36/13	...	Charuvil (H), Elivalikkara Kara, Erumely South Village, Mukkoottuthara P. O, Pin : 686510.
23.	Raju	-	60/13	...	Chempil (H), Elivalikkara Kara, Erumely South Village, Mukkoottuthara P. O, Pin : 686510.
24.	Santhosh	-	38/13	...	Kuttappallil (H), Elivalikkara Kara, Erumely South Village, Mukkoottuthara P. O, Pin : 686510.

(By Adv. Sri. Binoy Jose)

Offence : Under section 324, 448, 452, 506(ii) r/w 34 of IPC

Plea : Not Guilty.

Finding : Not Guilty.

Sentence/Order : All accused except A7, A8, A11, A13, A19, A21 are acquitted U/s.248(1) Cr.P.C for the offences punishable under sections 448, 452, 324 & 506(ii) r/w 34 of IPC. Bail bond executed by all the accused except A7, A8, A11, A13, A19, A21 stands cancelled and they are set at liberty. Charge against A9 and A18 stands abated and case against A7, A8, A11, A13, A19, A21 are split up and refiled as CC 761/2019.

Dates of :-

Offence	Complaint	Apprehension	Release on bail	Commitment	Commencement of trial	Commencement of evidence
19.10.13	29.10.13	-	-	...	13.08.19	23.07.19

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
16.04.26	27.04.26	...	Officer on leave	

J U D G M E N T

This is a case taken on file based on a private complaint filed by the complainant under section 190 read with section 200 of the Code of Criminal Procedure (hereinafter referred to as Cr.P.C.). The complaint was filed against 24 accused, alleging the commission of offences punishable under sections 143, 147, 294(b), 324, 326, 448, 452, 506(ii) read with 149 of the Indian Penal Code (hereinafter referred to as IPC).

2. The averments in the complaint in brief are as follows: On 19.10.2013 at 06.00 a.m the complainant heard some persons talking in front of his house and on hearing the same, the father of the complainant opened the door and at that time accused no. 3 who was in possession of a wooden stick assaulted him and when the complainant's father fell down, the first accused using a stone hit him on the left side of the head causing

serious injuries. The third accused along with accused no. 1 and no. 4 dragged the father of the complainant to the courtyard and accused no. 2 and no. 5 stamped him. The father of the complainant sustained serious injuries and on seeing the accused persons assaulting the father of the complainant, the complainant, his mother and brother interfered and then the accused persons criminally intimidated them and also assaulted them. The complainant, his father, his mother and brother sustained serious injuries and all of them were admitted at Kanjirapally Government Hospital from 19.10.2013 to 23.10.2013. Even though complaint was given to Erumeli Police Station, case was taken against few accused, that too charging comparatively less offences. Hence, this complaint alleging the commission of offences punishable under sections 143, 147, 294(b), 324, 326, 448, 452, 506(ii) read with 149 of IPC.

3. After conducting an enquiry under section 202 of Cr.P.C, the learned predecessor in office took cognizance of the offences punishable u/ss. 324, 448, 452, 506(ii) r/w 34 of IPC, and the case was taken on file as CC 307/2019. On issuance of summons, all accused entered appearance. On appearance of the accused, copies of all relevant records were furnished to the accused, thereby complying with the mandate under section 207 of the Cr. P.C. The complainant was then directed to adduce evidence under section 244 Cr.P.C. After completion of evidence under section 244 of Cr.P.C, since there were material grounds to frame a charge against the accused persons, a formal charge was framed. It was read over and explained to the accused persons for the offences u/ss. 324, 448, 452, 506(ii), 506(ii) r/w 34 of IPC to which the accused pleaded not guilty and claimed to be tried. During the course of the trial, A9 and A18 expired, and the case against A7, A8, A11, A19, A21 were split up as they failed to contest the case subsequently.

4. From the side of the complainant, PW1 to PW6 were examined and Exts. P1 to P4 were marked. After the complainant's evidence was closed, the accused were given an opportunity to personally explain the incriminating evidence against them u/s. 313(1)(b) Cr.P.C. The accused denied all incriminating circumstances against them and maintained their plea of innocence. The complainant's evidence was then reopened as per the order of the Hon'ble High Court of Kerala. The accused were again granted an

opportunity to explain the incriminating evidence against them, and they denied it and maintained their plea of innocence. From the side of defence, Exts. D1 to D4 were marked. No oral evidence was adduced.

5. Heard both sides. Perused the records.

6. The following points arise for consideration: -

- (i) Whether the accused persons in furtherance of their common intention criminally trespassed into the house of PW1 and thereby committed the offence punishable u/s. 448 r/w 34 of IPC?
- (ii) Whether the accused persons in furtherance of their common intention caused hurt to the father of PW1 by using a wooden stick and stone which being dangerous weapons and thereby committed the offence punishable u/s. 324 r/w 34 of IPC ?
- (iii) Whether the accused persons in furtherance of the common intention criminally trespassed into the house of PW1 possessing deadly weapons and caused injury to PW1 to PW4 and thereby committed the offence punishable u/s. 452 r/w 34 of IPC?
- (iv) Whether the accused persons in furtherance of their common intention criminally intimidated PW1 to PW4 and thereby committed the offence punishable u/s. 506(ii) r/w 34 of IPC?
- (v) If found guilty, order as to sentence?

7. **Point Nos. (i) to (iv):** Since these points are interconnected, they are considered together for the sake of brevity. As I have already mentioned, the genesis of this case is upon the complaint filed by PW1 before this court. The learned counsel for the complainant argued that the evidence of PW1 to PW4, supported by the evidence of PW5 and PW6, the doctors who examined them, would prove the guilt of the accused and hence they should be punished in accordance with the law. On the contrary, the learned counsel for the accused argued that this case is an abuse of the process of law and all the accused are entitled to get a clean acquittal.

8. The oral evidence in this case consists of the testimonies of the complainant, who was examined as PW1, his father, who was examined as PW2, his mother, who

was examined as PW3 and brother, who was examined as PW4. PW1 deposed that on 19.10.2013 at around 06.00 a.m. he heard the sound of some persons talking in front of their house. Hence his father PW2 had went and opened the door. At that time the accused persons assaulted his father, PW2, and hence he immediately went to the sit-out. When he went to the sit-out he saw the second and fifth accused assaulting his father. Hence he tried to push away the accused persons 2 and 5. But the first accused intervened and hit him using a wooden stick on the left hand muscle and left side of the ribs and criminally intimidated him. The second and fifth accused pushed him down and the first accused hit him using the stick on his nose. Both PW1 and PW2 cried aloud and hence PW4 came to the sit-out. But the accused persons assaulted PW4 also. When PW3, his mother came from the kitchen, the accused persons 1 to 5 pushed her down and dragged her till the sit-out. The other accused persons who had gathered around had uttered obscene words and criminally intimidated them. They informed the matter immediately to the police and sought medical assistance from Taluk Hospital, Kanjirapally.

9. PW2 to PW4 also deposed in tune with the version of PW1 with respect to the incident. PW2 deposed that by around 06.00 a.m. on 19.10.2018 he opened the door on hearing the sound of some persons talking and at that time the third accused hit him using a stick on his left leg. He fell at the sit-out and the first accused hit him using a stone. The accused persons 3, 4 and 5 stamped him and kicked him. When he cried aloud, his son PW1 came to the spot. But the second accused assaulted him and he also fell at the sit out. His wife PW3 and younger son PW4 was also assaulted by the accused persons. He sustained severe injuries and hence sought medical assistance from Govt. Hospital, Kanjirapally. Similar is the deposition of PW3 and PW4. PW5 was examined since the whereabouts of PW6 could not be traced out initially. PW6 is the doctor who had examined PW1 to PW3. PW5 deposed that while he was working as Casualty Medical Officer at Kanjirappally Taluk Hospital, on 10.08.2013 at 07.50 a.m. he had examined a patient named V. G Sreedharan, a 60-year-old male patient, Keechery House, Elivalikkara PO, who was brought by SI of Police, Erumeli, with alleged history of assault. On examination a lacerated wound 4x1 centimeter on the front of scalp, lacerated wound 3x1 centimeter over left shin, lacerated wound 1x0.5 centimeter over

left knee, abrasion over right elbow, shoulder and knee, were noted. Patient was conscious and oriented and no bony injuries were noted. In his opinion, it could be caused as alleged and to that aspect he had issued the wound certificate which is marked as Ext. P1. On the same day at 07.35 a.m. he had examined a patient named Sanoj, a 35-year-old male patient brought by SI of Police Erumeli with alleged history of assault. On examination, lacerated wound was recovered. 2x1cm over right root of nose, lacerated wound 3x1 centimeter below left eye, pain on left shoulder, pain and deformity over left forearm, abrasion left chest were noted. Patient was conscious and oriented and in his opinion it could be caused as alleged. Wound certificate is marked as Exhibit P2. On the same day at 07.50 a. m he had examined a patient named as Sreeraj. 23-year-old male brought with alleged history of assault by SI of Police, Erumeli. On examination, abrasion over right wrist, contusion over left forearm were noted and in his opinion it could be caused as alleged. The wound certificate is marked as Exhibit P3. On the same day, at 07.45 a.m. he had examined a patient named Shantamma, 58-year-old female, who was brought by SI of Police Erumeli with alleged discovery of assault. On examination, lacerated wound 4x1 centimeter over back of scalp, swelling over left foot, contusion over right thigh, pain over right shoulder were noted. No bony injuries were noted. In his opinion, it could be as alleged and the certificate is marked as Exhibit P4.

10. The fact that PW1 to PW4 sustained injuries is substantiated by the evidence of PW5. Now the pertinent question is whether the same was caused by the accused persons herein. The learned counsel for the complainant argued that, going by the dictum of the Hon'ble Supreme Court in **Amar Singh v. Balwinder Singh and others** reported in **AIR 2003 SC 1164**, when the evidence of the complainant is supported by the evidence of the co-injured, that by itself is a ground for conviction. In the instant case, the evidence of PW1 is supported by the evidence of PW2 to PW4. The learned counsel for the accused submitted that PW2 to PW4 are the father, mother and brother of PW1 and, as such, are interested witnesses. He further submitted that the evidence of PW1 to PW4 during cross-examination would go to show that a number of cases were pending between them and the accused, and in all cases, the witnesses herein are cited as occurrence witnesses. But the evidence of PW2 to PW4 cannot be discarded for the

mere fact that they are interested witnesses. It is a settled position of law that the evidence of PW2 to PW4, who are interested witnesses, need not be discarded wholly for the mere reason that they are interested witnesses, provided their evidence inspires confidence of the court.

11. The entire prosecution evidence was 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 were 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. Keeping in mind the aforesaid propositions in law, this court ventures to examine the arguments advanced by both parties and the materials on record.

12. The learned counsel for the accused argued on the premise that the instant case is bound to fail for the sole fact that there was a delay in filing the complaint in this case, which stood unexplained by the complainant. Of course, this court remembers the edict laid down in **Chacko and others v. State of Kerala**, reported in 2002(2) KLJ 845, wherein it was held that a long unexplained delay can lead to the introduction of coloured versions. However, the same court in **Sanjay Oran Vs.State of Kerala** reported in **2021 (5) KLT 30** also held that mere delay in lodging FIR was not necessarily fatal to prosecution case always. On the other hand, the fact that FIR was lodged belatedly was a relevant fact which the court must take notice of and assess, bearing in mind the facts and circumstances of each case. In other words, the explanation, if any, offered by the prosecution and how far the explanation so offered must be acceptable on the given facts must be assessed by the Court subjectively. Pertinently, in this case, the prosecution failed to furnish any explanation for the delay in filing this complaint. The learned counsel for the complainant submitted that initially, a police case was registered against accused 1 to 5 alone, and no effective investigation was conducted; hence, this private complaint was filed against accused 1 to 24.

13. The learned counsel for the accused submitted that for the same set of facts,

the accused persons 1 to 6 were tried by this court in CC 2167/2013. But since not all the accused persons were arrayed by the police, PW1 has filed this private complaint against the accused persons 1 to 24. Given the fact of the issues, CC 2167/2013 and this case ought to have been tried together. However, the fact that this case and CC 2167/2013 arose from the same cause of action was brought to the notice of this Court only at a later stage. By that time, CC 2167/2013 was already disposed of. In that case, this case is hit by section 300 of Cr.P.C as far as accused 1 to 5 are concerned. The principle under S.300 of the Cr P.C. postulates that no man should be vexed with more than one trial for an offence arising out of identical acts committed by him. When an offence has already been subjected to judicial adjudication, whether it ended in acquittal or conviction, it is a negation of criminal justice to allow repetition of the adjudication in a separate trial on the same set of facts. The fact that accused 1 to 5 were already tried and acquitted in CC 2167/2013 is not a disputed fact. It is proved by Exts. D1 to D3. Hence, the accused 1 to 5 cannot be tried again on the same set of facts.

14. As I have already mentioned, it is true that PW1 to PW4 have sustained injuries. PW1 to PW4 have also stated the names of the assailants. But it is pertinent to note that none of the accused was identified by the witnesses in the dock. The question of identity was not put to any of the witnesses except PW2 that too during re examination. Interestingly, he deposed that except for A2, A3 and A5 none of the other accused assaulted them. In **Rajendra Singh v. State of Uttaranchal** reported in **2025 KHC 6844** it was held by the Hon'ble Apex Court that when the eye witness did not identify the accused, conviction cannot be based on the same. Similarly, in **Rajesh v. State of Kerala**, reported in **2025 KHC 859**, the Hon'ble High Court of Kerala observed that the substantive evidence of identification is the identification of an accused in the dock. Even if the case of the prosecution is that the witnesses are closely related or known to each other, the same will not suffice unless they positively identify the accused in the dock. As held by the Hon'ble High Court in **Manu G. Rajan and Another v. State of Kerala** reported in **2021 (5) KHC 767**, merely because all accused persons were directly known by witnesses, that by itself does not take away the requirement of proper identification in dock, and when there is a failure to properly identify the accused in the dock, it is fatal to the prosecution case. Further, the Hon'ble

Apex Court in the decision in **Tukesh Singh v. State of Chattisgarh** reported in **2025 KHC 6479**, has also held that identification of the accused in court, by the eye witnesses is of utmost importance and failure to identify the accused in court as the person seen committing the crime is fatal to prosecution case, as it fails to establish beyond reasonable doubt that the accused present in the court is the same person who committed the alleged offences. In the instant case, the complainant has arrayed as many as 24 accused, none of whom were identified in the dock. Going by the above principle, this court is of the view that even if the names of the assailants are named by the witnesses, their non-identification is fatal to their case. Further, the complainant has failed to adduce cogent evidence to prove that the accused had trespassed into the property of PW2 and caused any injuries in furtherance of the common intention of all the accused. On a conspectus of the evidence on record, yardstick of probabilities and animus of witness, this court is of the opinion that the accused persons are entitled to get the benefit of doubt. Hence point no.(i) to (iv) are found against the complainant.

15. **Point No.(v):** In view of point No.(i) to (iv), this point does not arise for consideration. Hence, all accused except A7, A8, A11, A13, A19, A21 are found not guilty for the offences punishable under sections 324, 448, 452, 506(ii) r/w 34 of IPC and they are liable to be acquitted for the said offences.

In the result:-

All accused except A7, A8, A11, A13, A19, A21 are acquitted U/s.248(1) Cr.P.C for the offences punishable under sections 324, 448, 452, 506(ii) r/w 34 of IPC. Bail bond executed by all the accused except A7, A8, A11, A13, A19, A21 stands cancelled and they are set at liberty. Charge against A9 and A18 stands abated and case against A7, A8, A11, A13, A19, A21 are split up and refiled as CC 761/2019.

(Dictated to Adalat Ai software, corrected by me and pronounced in the open court on this the 27th 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	Sanoj	Complainant/Injured
PW2	V. G Sreedharan	Occurrence witness/Injured
PW3	Santhamma	Occurrence witness/Injured
PW4	Sreeraj	Occurrence witness/Injured
PW5	Dr. Reena Rasheed	Medical witness
PW6	Dr. Rohit	Medical 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/PW6	Certified copy of wound certificate of Sreedharan dated 19.10.2013.
2	Ext P2/PW6	Certified copy of wound certificate of Sanoj dated 19.10.2013.
3	Ext P3/PW6	Certified copy of wound certificate of Sreeraj dated 19.10.2013.
4	Ext.P4/PW6	Certified copy of wound certificate of Santhamma dated 19.10.2013.

B. Defence Exhibits

Sl.No	Exhibit Number	Description
1.	D1/PW1	Certified copy of charge sheet in CC 2166/13

2.	D2/On consent	Copy of FIR in Cr. 641/13 dated 19.10.2013
3.	D3/On consent	Copy of FIS in CC 2166/13 dated 19.10.2013
4.	D4/On consent	Complaint in CC 139/17 dated 12.03.2014

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**