

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

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

Monday the 30th day of March, 2026
(9th day of Chaithram, 1948)

CC No.983/2017

Complainant : State of Kerala represented by the Sub Inspector
of Police, Karukachal Police Station in
Crime No.1954/16

(By APP-II, Kanjirappally)

Description of accused

SL. No.	Name	Father's Name	Age	Occupation	Residence
A1	Bindu Mathew	Mathew Chacko	38/16	House wife	Muthumarathil (H), NSS Layam Bagom, Champakkara Kara, Karukachal Village.
A2	Marykutty	Chacko Mathai	60/16	House wife	Muthumarathil (H), Kizhuvattu Bagom, Koothrappally Kara, Karukachal Village.
A3	Albert @ Jith	Mathew Chacko	20/16	Coolie	Muthumarathil (H), NSS Layam Bagom, Champakkara Kara, Karukachal Village.

(By Adv. Sri. K.Madhavan Pillai)

Offence : Under sections 294(b), 323, 324 &
447 r/w 34 of IPC

Plea : Not Guilty.

Finding : Not Guilty.

Sentence/Order : Accused persons are 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
17.11.16	19.11.16	27.11.16	27.11.16	...	20.03.21	14.01.25

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
25.03.26	30.03.26	...	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. 1954/16, against the accused persons, alleging commission of offences punishable under sections 294(b), 323, 324 & 447 r/w 34 of the Indian Penal Code (herein after referred to as IPC).

2. **The prosecution case in brief is as follows:-** Due to the previous the accused had towards CW1, the accused persons in furtherance of their common intention on 17.11.2016 at 2.30 p.m, the first accused called CW1 to his house and the second accused criminally trespassed into the said and uttered obscene words at him and assaulted using a wooden stick. Thereby, the accused are alleged to have committed the offences punishable under sections 294(b), 323, 324 & 447 r/w 34 of IPC.

3. On the basis of the information given by the informant to CW7, CW8 registered the first information report and a crime was registered as crime 1954/16 u/ss. 294(b), 323, 324 & 447 r/w 34 of IPC. After the investigation, the final report

was filed before the court alleging the commission of offences punishable u/ss. 294(b), 323, 324 & 447 r/w 34 of IPC. Cognizance was taken for the offences punishable u/ss. 294(b), 323, 324 & 447 r/w of IPC and the case was initially taken on file as CC 449/2017 on the file of JFCM-I, Changanachery. On issuance of summons, both the accused persons entered appearance. They were released on bail. Copies of all relevant prosecution records were furnished to the accused persons, and thereby the mandate under section 207 of the Code of Criminal Procedure (hereinafter referred to as “Cr. P.C. ”) was complied with. After hearing on framing of charge, charge was framed after perusing the prosecution records. It was read over and explained to the accused persons u/s. 240(2) Cr.P.C. u/ss. 294(b), 323, 324 & 447 r/w of IPC to which the accused persons 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 983/2017 on 24.05.2025.

4. From the side of the prosecution, PW1 to PW6 were examined and Exts. P1 to P7 were marked. Material object was marked as MO1. CW5 is reported to be no more. CW4 was reported to not known. Since there were incriminating circumstances against the accused persons , they were given an opportunity to personally explain the same under section 313 (1)(b) Cr. P.C., and they denied all the incriminating circumstances against them and maintained the plea of innocence. No oral 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 persons in furtherance of their common intention, hurled obscene words at PW1 and thereby committed the offence punishable u/s. 294 (b) r/w 34 of IPC ?
- ii. Whether the ssecond accused in furtherance of the common intention, voluntarily caused hurt to PW1 using a stick which being a dangerous

weapon and thereby committed the offence punishable u/s.324 r/w 34 of IPC?

iii. Whether the accused persons in furtherance of their common intention caused hurt to PW1 and thereby committed the offence punishable u/s.323 r/w 34 of IPC ?

iv. 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. 447 r/w 34 IPC?

v. If found guilty, what is the order as to sentence?

7. **Point Nos. (i) to (iv):** Since these points are interconnected, they are considered together for the sake of brevity and to avoid repetition. Prosecution case started when PW5 registered Ext. P3, first information report on the basis of the statement given by PW1. The investigation was conducted by PW6, and after the completion of the investigation, the final report was filed by PW6. The learned APP argued that the prosecution has adduced sufficient evidence to prove the accused's guilt and, hence, the accused is liable to be convicted of the alleged offences. *Per contra*, the learned counsel for the accused person argued that the prosecution has failed to prove its case and, hence, the accused is entitled to a clean acquittal.

8. The specific case of the prosecution is that, due to the previous the accused had towards PW1, the accused persons in furtherance of their common intention on 17.11.2016 at 2.30 p.m, the first accused called PW1 to his house and the second accused criminally trespassed into the said and uttered obscene words at him and assaulted using a wooden stick.

9. The informant in this case is examined as PW1. She deposed that the alleged incident occurred on 17.11.2016 at 02.00p.m, inside her house at Karukachal. She deposed that while she was sitting inside her house the accused persons criminally trespassed into her house and uttered obscene words at her. Thereafter the first

accused caught hold on her hair locks and slapped on her cheek. The third accused using a wooden stick hit on the left hand and when she fell down he kicked her. On hearing the sound, friends of her husband came to the house and they took her to the hospital. Thereafter she gave statement to the police which is marked as Exhibit P1. She also stated that she sustained injuries in the incident and identified the wooden stick which was used for assaulting her and marked as MO1.

10. PW2 and PW3 are the occurrence witnesses. Both of them turned hostile to the prosecution case by deposing that they neither saw the incident nor gave any statement to the police.

11. The prosecution has alleged the commission of offence punishable under section 294 (b) of IPC. The specific contention of the prosecution is that the first accused had hurled obscene words at PW1. PW1 has not deposed before this court the obscene words which were alleged to be stated by the accused. 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 a perverted interest in sexual matters or having a tendency to morally corrupt and debase persons likely to come in contact with the impugned act.”*

12. It is the settled position of law that the obscene act or word should cause annoyance to the affected. But the deposition of PW1 is silent on that aspect. Moreover, it is alleged to have been stated by the accused at her house and hence, the accused cannot be roped in with the offence punishable u/s. 294(b) of IPC.

13. The accused are also alleged to have committed the offences punishable u/ss. 323, 447 and 324 of IPC. Now coming to section 324 of IPC, the Hon'ble High Court of Kerala in **Joy v. State of Kerala** reported in **2014 (1) KHC 414** held that for a successful prosecution on the ground of infliction of hurt, under S.324 or S.

326 of IPC, the prosecuting agency must have a definite case that the alleged grievous hurt or hurt was caused or inflicted by means of (a) any instrument for shooting, stabbing or cutting or (b) any instrument which, used as weapon of offence, is likely to cause death, or (c) by means of fire or any heated substance or (d) by means of any poison or any corrosive substance or (e) by means of any explosive substance, or (f) by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or (g) by means of any animal. In this case, the prosecution's allegation is that the accused inflicted injuries on the body of PW1 using a stone and an iron rod, which, used as a weapon of offence, is likely to cause death. Though the expressions 'dangerous weapon' or 'deadly weapon' are not seen used in S.324 or 326 of the IPC, persons in law usually refer to these sections as penal sections dealing with the infliction of grievous hurt or hurt with a dangerous or deadly weapon. Anyway, let us see whether the material object alleged or involved in this case will come under S.324 of IPC dealing with infliction of hurt with a weapon likely to cause death, when used as a weapon of offence. **In Mathai v State of Kerala**, reported in 2005(1) KLT 719, it was observed that to decide whether the weapon is a dangerous one or not, some evidence with regard to its size, sharpness, etc. must be proved before the court. In the instant case, PW1 identified MO1 stick used by the third accused.

14. The learned counsel further submitted that the only positive evidence in this case is the evidence of PW1. As I have already mentioned, PW2 and PW3 had turned hostile to the prosecution case. The learned APP submitted that the evidence of PW4, the doctor who had examined PW1 would go to show that PW1 has sustained corresponding injuries. PW4 deposed that while he was working as medical officer at Mercy Nursing Home on 17.11.2016 at 4.15 p.m, she had examined a patient named Sreeja Anoop 28 year old female patient who was brought by husband Anoop with alleged history of assault. On examination, abrasion was noted on the frontal area of scalp and contusions on right thigh, left elbow and left shoulder. She was treated as inpatient and discharged on

19.11.2016. The wound certificate is marked as Exhibit P2. During cross examination, PW4 deposed that the injuries noted in Exhibit P2 cannot be caused due to a fall.

16. PW5 is deposed that on 18.11.2016, while he was working as Assistant Sub Inspector of Police at Karukachal Police Station, on the basis of the statement given by PW1, he had registered Exhibit P3 FIR in this case. PW6 conducted the investigation in this case. He deposed that in the presence of PW2, he had prepared Exhibit P5, the scene mahazar. Thereafter, the accused persons were arrested and released on Exhibit P7 bail bond. Exhibit P4 is the complete address report of the accused. MO1 was produced before this court as per Exhibit P6, the property list, and he identified the same. After the investigation was completed, he submitted the final report. During cross-examination, he admitted that in column number 8 of FIR, the nature of information is stated as written. But he admitted that no written complaint regarding this incident was made by PW1. The learned counsel for the accused submitted that there is a delay of 1 day in giving Exhibit P1, and no reason for the delay is stated by PW1. PW1. But PW6 deposed that, in his opinion, there was no delay and that PW1 had given the statement while she was undergoing treatment.

17. To attract the offence u/s. 324 IPC, the weapon used should be one that qualifies the term, a dangerous weapon. I have perused MO1. The same does not come within the term dangerous weapon, and injury was not inflicted on any vital part of the body of PW1. Hence, this court is of the view that S. 324 of IPC is not attracted in this case.

18. The specific case of the defence is that, there is counter case and the accused persons were brutally assaulted by PW1 and in the incident she sustained injuries. According to the counsel for the accused, the evidence of PW1 is not believable. During cross examination, PW1 admitted that there is a case pending against her for assaulting the first accused on the same day. PW is alleged to have assaulted the

first accused used a surgical blade and in order to counter the same, this case was filed. It is the cardinal principle of criminal jurisprudence that the guilt of the accused must be proved beyond all reasonable doubt. Further, the burden of proving its case beyond all reasonable doubt lies on the prosecution and it never shifts. Another golden thread which 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 guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted.

19. On going through the oral testimonies of witnesses, coupled with the documents produced and marked from the side of prosecution, this court is of the view that, the accused persons herein had succeeded in putting a strong and probable defence version when the prosecution has miserably failed to prove their case beyond all reasonable doubts. Considering the evidence on record by yardstick of probabilities, its intrinsic worth and animus of witness, this court is of the view the accused persons is entitled to get the benefit of doubt in his favour. Hence point nos. (i) to (iv) are found against the prosecution.

20. **Point No.(v):** In view of point Nos.(i) to (iv) this point does not arise for consideration. Hence, the accused persons are found not guilty for the offences punishable under sections 294(b), 323, 324 & 447 r/w 34 of IPC and he is liable to be acquitted for the said offence.

In the result:-

The accused persons are acquitted U/s. 248(1) Cr.P.C for the offences punishable under sections 294(b), 323, 324 & 447 r/w 34 of IPC. Bail bond executed by the accused persons stand cancelled and they have set at liberty.

The material object produced before the court and entered as T 1440/16 (stick) shall be destroyed 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 the open court on this the 30th day of March, 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	Sreeja Anoop	Informant/Injured
PW2	Shyamala	Occurrence witness
PW3	Martin Mathew	Occurrence witness
PW4	Dr. V.M. Vidhyadharan	Medical witness
PW5	Anilkumar	Police witness
PW6	Manoj M	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 18.11.16
2.	Ext P2/PW4	Wound certificate dated 17.11.16
3.	Ext P3/PW5	FIR dated 18.11.16

4.	Ext P4/PW6	Report dated 18.11.16
5.	Ext P5/PW6	Scene Mahazar dated 19.11.16
6.	Ext P6/PW6	Property list dated 19.11.16
7.	Ext P7/PW6	Bail bond dated 27.11.16

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**