

**IIN 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. 598/2022

Complainant : State of Kerala represented by the
Sub- Inspector of Police, Manimala P. S
in **Crime 622/2022.**

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

Description of accused

SL. No.	Name	Father's Name	Age	Occupation	Residence
A1.	Binsu John	John	46/22	Driving	Kakkanadu (H), Ullayam Bhagam, Kadayanikkadu P. O, Vellavoor Village.

(By Adv. Sri.D. Muralidhar)

Offence : U/ss. 294(b), 427, 447, 506(i) of IPC.

Plea : Not Guilty.

Finding : Not Guilty.

Sentence/Order : Accused person is acquitted u/s. 255(1) of
Criminal Procedure Code 1973.

Dates of :-

Offence	Complaint	Apprehension	Release on bail	Commitment	Commencement of trial	Commencement of evidence
14.04.22	02.06.22	08.06.22	08.06.22	...	03.07.24	11.12.24

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
18.04.26	27.04.26	...	Officer on leave

J U D G M E N T

This is a case charge sheeted by the Sub Inspector of Police, Manimala Police Station in crime No.622/22, against the accused alleging commission of offences punishable under section 294(b), 427, 447, 506 (i) of Indian Penal Code (hereinafter referred to as IPC).

2. **The prosecution case in brief is as follows:-** CW1 had permitted CW4 to draw electric line through the property of CW1, enraged by the same, the accused on 14.04.2022 at 11.00 a. m when KSEB workers came for work, uttered obscene words at CW2 and CW5, the brother and mother of CW1 respectively, and criminally intimidated them. The accused then destroyed the compound wall (kaiyyala) causing damages to the tune of Rs. 10,000/- to CW1. Thereby the accused is alleged to have committed the offences punishable under sections 294(b), 427, 447, 506 (i) IPC.

3. On the basis of the statement given by the informant to CW7, CW8 registered FIR u/s.294(b), 427, 447, 506 (i). After the completion of investigation, final report was filed before the court and cognizance was taken for the offences punishable under sections 294(b), 427, 447, 506 (i) IPC and the case was taken on file as CC 598/2022. 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 person, plea was read over and explained to the accused person under section 251 Cr.P.C. for the offences punishable under sections 294(b), 427,

447, 506 (i) IPC to which the accused pleaded not guilty and claimed to be tried.

4. From the side of prosecution, PW1 to PW10 were examined and Exts.P1 to P7 were marked. Since there were incriminating circumstances against the accused, 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. During 313(1)(b) Cr.P.C examination, the accused stated that he is innocent in this case and that he has no connection with the alleged offences and he has no knowledge about the same. He filed additional statement contending that it is absolutely a false and fabricated case and a civil case is pending before Munsiff Court with respect to the property in question and suppressing the said facts CW1 due to her animosity filed this false case against the accused. No oral or documentary 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 uttered obscene words at PW2 to PW4 & PW7 and thereby committed the offence punishable u/s.294(b) of IPC?
- ii. Whether the accused with the intention criminally trespassed into the property of PW1 and thereby committed the offence punishable u/s.447 of IPC?
- iii. Whether the accused with the intention caused damages to the compound wall situated in the property of PW1 and thereby committed the offence punishable u/s.427 of IPC?
- iv. Whether the accused person with the intention criminally intimidated PW2 to PW4 & PW7 and thereby committed the offence punishable u/s. 506(i) of IPC?
- v. If found guilty, what is the order as to sentence?

7. **Point No.(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 PW8 registered Ext. P3, first information report on the basis of the statement given by PW1. The investigation was conducted by PW8 to PW10 and after completion of investigation, final report was filed by PW10. 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, PW1 had permitted PW3 to draw electric line through the property of PW1, enraged by the same the accused on 14.04.2022 at 11.00 a. m when KSEB workers came for work uttered obscene words at PW2 and PW4, the brother and mother of PW1 respectively and criminally intimidated them. The accused then destroyed the compound wall (kaiyyala) causing damages to the tune of Rs. 10,000/- to PW1.

9. PW1 is the informant in this case. She deposed that the alleged incident occurred on 14.04.2022 at 11.00 a. m in the property at Ullayam. She deposed that she is living at Kanjirappally and that she had purchased 3 cents of property for the purpose of ingress and egress to her property at Ullayam and a compound wall was also constructed. PW3 had requested her to allow her to draw electric line through her property which was agreed by her. Accordingly on the date of the alleged incident KSEB workers came to the spot and the accused obstructed the drawing of electric line stating that it is his property. When the same was questioned by PW2 and PW4 the accused hurled obscene words at them and criminally intimidated them. The matter was informed to PW1 by PW2 and hence on the same day itself she gave a complaint to the police. But since no action was taken, on 02.05.2022 she gave another complaint to the District Police Chief. Even then no action was taken and hence thereafter Ext. P1 was given. She also identified the accused who was standing in the dock.

10. Admittedly, PW1 is not a witness to the actual incident. PW2 to PW5 and PW7 are the occurrence witnesses. PW2 is the brother of PW1. He testified that her sister PW1 has certain property near his house at Ullayam and the alleged incident occurred in the said property of PW1 on 14.04.2022 at 11.00 a.m. He also testified that when the KSEB workers were present in the property of PW1 for drawing electricity line, the accused came there with a chopper and intimidated the KSEB workers. On hearing the sound, himself and his mother, PW5, went to the spot and saw the accused standing there with a chopper. When PW2 questioned the accused, the accused uttered obscene words at them and also assaulted PW3. The same version was supported by PW4 and PW7. PW3 also stated that the accused had assaulted and criminally intimidated him.

11. The learned APP submitted that the evidence of PW1 to PW4 and PW7 categorically proves the guilt of the accused. On the contrary, the learned counsel for the accused argued that the prosecution has miserably failed to prove the essential ingredients of the offences alleged. The accused is alleged to have committed the offence punishable u/s. 294(b) of IPC. But none of the prosecution witnesses have stated what obscene words were spoken by the accused. Hence this court is of the view that S. 294(b) of IPC is not attracted in this case.

12. The accused is also alleged to have criminally intimidated PW2 to PW4 and PW7. The specific allegation of the prosecution is that the accused had threatened to kill them by showing a chopper. However it is the settled position of law that mere threatening words alone is not sufficient to attract the offence u/s. 506(i) of IPC. The learned APP submitted that the deposition of PW5 is clear that they were threatened by the accused and hence S.506(i) of IPC is attracted. The offence of criminal intimidation is defined in S.503 of IPC. It is true that the words of the accused are threatening in nature but there is no deposition by the witnesses that they were frightened by the use of such words by the accused. Hence as such S. 506(i) of IPC is not attracted.

13. The accused is also alleged to have committed the offences punishable u/s. 427 & 447 of IPC. The learned counsel for the accused submitted that the property in question is a subject matter of dispute pending before the Munsiff's Court, Kanjirappally and hence title over the said property cannot be fixed. It is admitted by PW1 that civil case is pending before Munsiff's Court, Kanjirappally. PW5 is the Village Officer, Vellavoor who had issued Ext. P2 certificate showing the ownership and possession of 1.21 Ares of property comprised in Resurvey No. 154/3-6 in Block No. 27 of Vellavoor Grama Panchayath.

14. PW6 recorded the statement of PW1 on the basis of which PW8 registered Ext. P3 FIR in this case. He visited the place of occurrence and prepared Ext. P4 scene mahazar. PW9 then took over the investigation, arrested the accused and released him on Ext. P5 bail bond. Ext. P6 is the address report and after completion of investigation he laid the initial final report. Thereafter, PW10 conducted further investigation and laid the final report in this case.

15. The learned counsel for the accused submitted that Ext. P2 was prepared by PW5 only on the basis of village records and no resurvey plan or site visitation was conducted by PW5, PW8 to PW10. It is admitted by PW5 that he did not visit the place of occurrence but gave Ext. P2 on the basis of village records. Similarly it has come out in evidence that the accused had obstructed the laying of electric post on the ground that the said property belongs to him. This in turn fortifies the case of the accused that there is civil dispute with respect to the place of occurrence. It is relevant to note that PW5 and PW9 deposed that they did not peruse the title deed by which PW1 had received the property in question. This again casts some doubt regarding the prosecution case.

16. It is also pertinent to note that there is a delay of more than one month in giving Ext. P1. As per the evidence of PW1 she had given complaint to the police regarding the incident on the date of the alleged incident itself but the said complaint is suppressed by the prosecution. The learned counsel for the accused

argued on the premise that the instant case is bound to fail for the sole fact that there is delay in lodging FIR which stood unexplained by the prosecution. Of course, this court remembers the dictum laid down in **Chacko and others vs. State of Kerala** reported in **2002 (2) KLJ845** where in it was held that the long unexplained delay can lead to introduction of coloured versions. However, the same court in **Sanjay Oran vs. State of Kerala** reported in **2021 (5) KLT30** also held that mere delay in lodging FIR is not necessarily fatal to the prosecution case always. On the other hand, the fact that FIR was lodged belated is a relevant fact which court must take notice and assess bearing in mind the facts and circumstances of each case. In other words, the explanations if any offered by the prosecution and how far the explanations 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 lodging the FIR. In upshot, the only possible inference would be that there was an attempt by the prosecution to suppress the material facts from the very inception of this case which in turn created doubt about the genesis of the crime and the investigation conducted in this case.

17. For the forgoing reasons, the evidence and materials brought on records speak loud and clear that the prosecution evidence is grossly inadequate to bring home the offences alleged against the accused as the entire case of the prosecution suffers from material contradictions. At this juncture, this court refers to the dictum laid down by the Hon'ble Apex Court in **Harbeer Singh vs. Sheeshpal and others** reported in **AIR 2016 SC4958** wherein it was held that when two views are possible on the evidence adduced, one pointing towards the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted. Considering the evidence on record by yardstick of probabilities, its intrinsic worth and animus of witness, this court is of the view accused person is entitled to get the benefit of doubt in his favour. Hence point nos. (i) to (iv) are found against the prosecution.

18. **Point No.(v):** In view of point Nos. (i) to (iv), this point does not arise for consideration. Hence, the accused person is found not guilty for the offences punishable under sections 294(b), 427, 447, 506 (i) IPC and accused person is liable to be acquitted for the said offences.

In the result:-

The accused person is acquitted U/s.255(1) Cr.P.C for the offences punishable under sections 294(b), 427, 447, 506 (i) IPC. Bail bond executed by the accused stands cancelled and accused 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 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	Radhika A R	Informant
PW2	Rahul A. R	Occurrence witness
PW3	Viswanathan	Occurrence witness
PW4	Suseela	Occurrence witness
PW5	Sinimol K. R	Village Officer
PW6	Joshy M. J	Police witness
PW7	Raghunathan Nair	Occurrence witness
PW8	Bobby Varghese	Investigation officer
PW9	Vijayakumar	Investigation officer
PW10	Sabu Antony	Investigation officer

B. Defence Witness

Rank	Name	Whether Eye Witness,Police Witness,
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		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 02.06.2022
2.	Ext P2/PW5	Possession Certificate dated 19.11.2022
3.	Ext P3/PW8	FIR dated 02.06.2022
4.	Ext P4/PW8	Scene mahazar dated 02.06.2022
5.	Ext P5/PW9	Bail bond dated 08.06.2022
6.	Ext P6/PW9	Address report dated 08.06.2022
7.	Ext P7/PW9	Section added report dated 10.08.2022

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/-

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