

IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE - I,
KANJIRAPPALLY

Present :- Smt.Arsha Mary Margret, Judicial First Class Magistrate

Thursday, 26th day of March, 2026/5th Chaitra, 1948

CALENDAR CASE No.1070/2021

<u>Complainant</u>	:	State represented by the Sub Inspector of Police Kanjirappally Police Station (Crime No.780/20) (By Smt. Jyothilakshmi P., APP-1, Kanjirappally)
Accused	:	1. Rahul E.T., S/o Thankachan, aged 24 Edasserimattam House, Koovappally village (Originally A2 in CC.97/2021) 2. Lijin E.J. @ Chakku, s/o Jagannadhan, aged 25 Edamannil house, Koovappally village (Originally A4 in CC.97/2021) (By Adv.Muhammed Haris K.S.)
Offence	:	u/s.323 and 324 r/w 34 of IPC
Plea	:	Not Guilty
Finding	:	Not Guilty
Sentence or Order	:	Accused no.1 and 2 (original A2 and A4) found not guilty of the offences punishable U/ss. 323 and 324 r/w 34 of IPC and acquitted of said offence u/s.248(1) Cr.P.C.

Description of Accused:

Name of accused	Age	Father's Name	Calling	Residence	Village
Rahul E.T.	24	Thankachan	..	Edasserimattam	Koovappally
Lijin E.J. @ Chakku	25	Jagannadahan	..	Edamannil	Koovappally

Dates of

Offence	Complaint	Apprehension or appearance	Release on bail	Commencement of trial	Close of trial	Sentence or order
13.05.20	14.05.20	18.03.26	18.03.26	13.10.22	19.03.26	26.03.26

This case having been finally heard on 19.03.26 and the Court on 26.03.26 delivered the following:-

JUDGMENT

1. This case arises from the Final report submitted by the Investigating Officer of Kanjirappally Police station against the accused persons, alleging offences punishable under sections 323, 324 read with Section 34 of the Indian Penal Code, 1860 (hereinafter referred to as IPC).
2. The prosecution case in brief is as follows: On account of prior enmity harboured by Accused Nos. 1 to 4 against the de facto complainant, the accused persons, acting in furtherance of their common intention, on 13/05/2020 at about 10:15 p.m., assaulted the de-facto complainant in front of the gate of Kunnappally estate at Ambalavalavu, Alamparappu Estate. The accused persons fisted the de-facto complainant and beat him with stones and sticks. Thus, the accused persons are alleged to have committed offences punishable under Sections 323 and 324 read with Section 34 of the IPC.
3. Summons were issued to the accused. The accused persons are represented by the Counsel of their choice. Upon appearance of the accused persons, copies of relevant records were served upon them. After perusing records and hearing both

sides, charge framed under sections 323, 324 read with Section 34 of IPC were read over and explained to the accused in Malayalam. The accused Nos. 1 to 4 pleaded not guilty and claimed to be tried. Thereafter the matter was posted for prosecution evidence.

4. The Prosecution cited CW1 to CW8 as their witnesses. Out of them, CW3, CW4, CW5, CW6, and CW8 were examined as PW1, PW4, PW2, PW3 and PW5 respectively. Exhibits P1 to P6 were marked. Thereafter, matter was posted for examination of the accused persons under section 313(1)(b) of CrPC. The accused Nos. 1 and 3 were examined under section 313(1)(b) of the CrPC. However, Accused Nos. 2 and 4 absconded at this stage, and therefore, the case against them was split up and refiled as the present case. Subsequently, Accused Nos. 2 and 4 surrendered before this Court on 18/03/2026 and were examined under Section 313(1)(b) of the CrPC. They denied all incriminating circumstances appearing in evidence against them. No evidence was adduced from the side of the defence.
5. Heard the learned Assistant Public Prosecutor and Learned defence Counsel. Perused the records.
6. The points that arise for consideration are as follows:-
 - (i) Whether the accused persons have, in furtherance of their common intention, voluntarily caused hurt to CW1 and thereby committed offence punishable under section 323 read with Section 34 of the IPC?
 - (ii) Whether the accused persons have, in furtherance of their common intention, voluntarily caused hurt by dangerous weapons to CW1 and thereby committed offence punishable under section 324 read with Section 34 of the IPC?
 - (iii) What is the sentence, if any, to be awarded to the accused?

7. **Points (i) and (ii)** : As the facts under consideration in points (i) and (ii) are analogous, for the sake of brevity and ease of discussion, these points are discussed together. The prosecution case as contained in the Final Report has already been discussed. Out of the 8 charge witnesses cited in the Final Report – CW1 is the injured witness. However, despite granting ample opportunities and considerable number of postings, the prosecution has failed to secure the presence of CW1 to depose as to commission of the alleged crime. Further, the presence of CW2, a chance witness to the crime, could not be secured for the purpose of testifying in Court as it was reported that CW2 is no more.
8. PW1, PW2 and PW4 were the other chance witnesses to the commission of the alleged crime. In the course of his examination, PW1 stated that he did not witness the alleged occurrence and that he did not furnish any statement in that regard to the Investigating Officer. PW2, upon being examined, deposed on similar terms, asserting that he had neither seen the alleged incident nor given any statement to the Investigating Officer. PW4 also deposed to the same effect. In view of their testimony, PW1, PW2 and PW4 were declared hostile to the prosecution case. Further, nothing was brought out in evidence through the cross examination of PW1, PW2 and PW4 to prove the allegations levelled against the accused. PW3, the witness to the scene mahasar identified his signature in the scene mahasar, which is marked as Ext. P1.
9. The Investigating officer examined as PW5 deposed regarding the procedure adopted for the investigation of the case. The evidence of PW5 reveals that on 14.05.2020, CW1 (Ramesh Kumar) appeared at the police station and gave a statement alleging that Accused Nos. 1 to 4, along with ten identifiable persons, attacked him on the Alamparappu–Kunnappally estate road. The First Information Statement so recorded is marked as Ext.P2. On the basis of the said statement, Crime No. 718/2020 was registered under Sections 141, 142, 143,

144, 148, 323 and 324 read with Section 149 IPC, and the FIR is marked as Ext.P3. PW5 visited the place of occurrence and prepared the scene mahasar (Ext.P1). PW5 further deposed that during investigation, it was revealed that only Accused Nos. 1 to 4 were involved in the alleged crime and accordingly, Sections 141, 142, 143, 144 and 149 of IPC were deleted and Sections 323, 324 read with Section 34 of IPC was incorporated. The section alteration Report was duly produced before the Court and marked as Ext.P4. PW5 also submitted in Court the address report of the accused marked as Ext.P5 and collected the wound certificate of CW1 issued by the doctor, which is marked as Ext.P6. The accused persons were not arrested during investigation as they were absconding. Upon completion of the investigation, PW5 laid the charge sheet before the Court.

10. Upon consideration of the evidence adduced before this Court, it is evident that the entire prosecution case rests solely on the testimony of the Investigating Officer. The prosecution has failed to place on record the testimony of the injured witness, CW1, who was the most competent witness to testify as to bodily pain or infirmity sustained as a result of the said beating. The same is an essential ingredient to constitute offences under section 323 and 324 of the IPC. Further, no evidence whatsoever has been adduced to establish the use of any dangerous weapon in the commission of the alleged offence so as to attract the ingredients of Section 324 IPC.
11. Ext P6 wound certificate discloses that CW1 sustained a wound measuring 3 x 1 x 3 cms near his jaw on the left side of his face and abrasions on his chest. But the observations in Ext. P6 alone would be insufficient to prove the charge against the accused persons. At best, Ext. P6 demonstrates that CW1 had sustained certain injuries, but it does not establish that such injuries were caused as a result of any assault by the accused persons.

12. Further, as per Ext.P2 FIS, the de-facto complainant states that accused Nos.1 to 4 along with ten identifiable persons attacked him. But as per the evidence of the investigating officer, only four persons were involved in the alleged offence. The reason why such a discrepant version of the alleged occurrence appears to be given by CW1 in his FIS remains unexplained. This inconsistency casts a serious doubt over the entire prosecution case.
13. Criminal jurisprudence does not rest on mere probabilities or likelihoods; it demands that the prosecution establish the guilt of the accused beyond reasonable doubt. From the above discussions, this court finds that the prosecution has failed to prove beyond reasonable doubt that the accused persons in furtherance of their common intention committed voluntary caused hurt and hurt by dangerous weapons to CW1 as alleged by prosecution. Hence points i and ii are found in favour of the accused.
14. **Point no.iii:** In view of finding on point Nos. (i) and (ii), this court finds that the accused persons are not guilty of the offence punishable under sections 323, 324 r/w S. 34 of the Indian Penal Code.

In the result, accused no.1 and 2 (original A2 and A4) are found not guilty of offences punishable under sections 323, 324 r/w S. 34 of the Indian Penal Code and accordingly accused persons are acquitted of the said offence U/S. 248 (1) of Cr.P.C. The bail bond of the accused persons stand cancelled and accused persons are set at liberty forthwith.

(Dictated to the Confidential Asst., transcribed and typed by her, corrected and pronounced by me in open court on this the 26th day of March, 2026

Judicial First Class Magistrate-1
Kanjirappally

APPENDIX

Exhibits marked for the Prosecution:

P1/PW3	14.05.20	Scene mahazar
P2 /PW5	14.05.20	F.I.Statement
P3/PW5	14.05.20	F.I.Report
P4/PW5	14.05.20	Section adding report
P5/PW5	14.05.20	Address Report
P6/PW5	14.05.20	Wound certificate

Exhibits marked for the Defence: Nil

Witnesses Examined for Prosecution:

PW1	28.10.25	Mohanan
PW2	12.11.25	Satheesh
PW3	12.11.25	Aswin
PW4	26.11.25	Shajumon
PW5	24.02.26	Mukesh T.D.

Witnesses Examined for Defence: Nil

Material Objects : Nil

Judicial First Class Magistrate -I
Kanjirappally