

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE,
ERATTUPETTA**

Present: Smt. Aparna.V,
Judicial First Class Magistrate, Erattupetta

Dated this the 16th day of June, 2026

Calendar Case No. 50/2021

Complainant	:	State of Kerala Represented by the Sub Inspector of Police, Erattupetta Police Station in Crime No.13/21 (By A.P.P., Erattupetta)
Accused	A1.	Althaf, Aged 24/20 S/o. Arif, Varappallil (H) Thadavanal Bhagom, Thekkekkara Kara Erattupetta Village
	A2.	Muhammed Rafi, Aged 25/20 S/o. Shahul Hameed, Thaipparambil (H) Govt.school Bhagom, Thekkekkara Kara, Erattupetta Village
	A3.	Nidhin Augustin, Aged 21/21 S/o. Saji Augustine, Kunnepparambil (H) Thadavanal Bhagom, Thekkekkara kara Erattupetta Village (No more)
		(By Adv.Smt. Beena Giri)
Offence	:	Punishable under section 153, 427, 34 IPC
Plea	:	Not Guilty
Finding	:	Not Guilty
Sentence/Order	:	A1 & A2 are found not guilty of the offences u/s. 153, 427, 34 IPC and are acquitted u/s.248(1) Cr.P.C. Case against A3 is abated, as he is no more

<u>Date of</u>							
Offence	Report of Complaint	Apprehension	Release on bail	Commencement of trial	Close of trial	Sentence or order	Explanation for delay and remarks
31/12/20	06/02/21	05/01/21	05/01/21	17/05/23	15/06/26	16/06/26	Nil

Description of accused

Name	Father's name	Age	Calling	Residence	Taluk
Althaf	Arif	24/20	-	Erattupetta	Meenachil
Muhammed Rafi	Shahul Hameed	25/20	-	Erattupetta	Meenachil
Nidhin Augustin	Saji Augustin	21/21	-	Erattupetta	Meenachil

J U D G M E N T

This is a case charged by the Sub Inspector of Police, Erattupetta Police Station in Crime No. 13/21 against the accused alleging the commission of offences punishable U/s. 153, 427, 34 of IPC (here in after IPC).

2. The prosecution case in brief is that there existed political grudge between the accused and CW1, who is the member of CPI (M), Unit committee and on 31/12/20 at 11.30p.m at Thaipparambu Colony bhagom, the accused destroyed the flag post erected by the aforesaid committee and set fire to the

party flag and other decorating items at the spot itself. Thus the accused persons are alleged to have committed the aforesaid offences.

3. The accused appeared before court. They were represented by a counsel of their own choice. Bail was granted to them. The copies of the relevant documents were furnished u/s.207 Criminal Procedure Code (hereinafter Cr.PC). Charge was framed, read over and explained to the accused u/s. 153, 427, 34 of IPC to which he pleaded not guilty and claimed to be tried. Later, it was reported that A3 is no more. Death certificate of A3 is produced. The charge against A3 is abated.

4. On the side of prosecution eight witnesses, CW1 to 8, were cited. The prosecution evidence consists of oral evidence of PW1 to PW3. The remaining witnesses were given up by learned APP.

5. There was no incriminating evidence made against the accused. Hence, the examination under s.313 Cr.PC was dispensed with. The defence did not adduce any evidence.

6. Heard both sides.

7. The points for consideration are:

1. Whether the accused illegally and maliciously provokes a riot, as alleged?
2. Whether the accused committed mischief, as alleged?
3. Whether the accused acted in furtherance of their common intention, as alleged?

4. If so, sentence and order?

8. **Point nos.1 to 3:-** These points are considered together as they are correlated with each other.

9. CW1 was examined as PW1. He denied the allegation against the accused persons. However, he stated that he gave Ext. P1 FIS statement to the police. He stated that he gave FIS on hearsay from others. CW2 & CW3 the occurrence witnesses were examined as PW2 & PW3. They denied witnessing the incident. CW4 to 8 were given up by the learned APP.

10. The prosecution allegation against the accused is under sec.153, 427, 34 of IPC. From the above discussion, it is clear that the oral evidence of PW1 to PW3 contravene the prosecution case. Thus there is no substantial evidence to establish the guilt of the accused. The prosecution has not adduced any other evidence. There is no materials on record to conclude that the act of the accused attracts the ingredients of the offences under section 153, 427, 34 of IPC alleged against them. Thus, I am unable to conclude the guilt of the accused. In the light of lack of evidence, the prosecution has failed to prove the case beyond reasonable doubt against the accused. Hence, point nos.1 to 3 are found in favour of the accused.

11. **Point No.4:-** In the result, the accused A1 & A2 are found not guilty of the offence under section 153, 427, 34 of IPC and they are acquitted of the

said offence u/s.248(1) Cr.P.C. The bail bonds executed by the accused, if any, stand cancelled and they are set at liberty. Case against A3 is abated, as he is no more.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open Court 16th day of June, 2026)

**Judicial First Class Magistrate
Erattupetta**

<u>Appendix</u>		
<u>Witnesses for the prosecution:-</u>		
PW1	Muhammed Sadiq	Defacto complainant
PW2	Ansil	Eye witness
PW3	Manaf	Eye witness
<u>Exts. for the prosecution:-</u>		
P1	FIS dated 03/01/21marked through PW1	
<u>Witnesses and Exts. for the defence:- Nil</u>		
<u>Material Object marked: Nil</u>		

**Judicial First Class Magistrate
Erattupetta**