

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE-I,  
CHANGANACHERRY**

Present:- Sri.Anil Kumar. T.S, Judicial I Class Magistrate.

Dated this the, 31<sup>st</sup> day of March, 2026  
10<sup>th</sup> day of Chaithra, 1948

**ST No.3523/2019**

Complainant : Chacko Joseph, Aged 64, S/o Joseph, Mammoottil (H),  
Thrikkodithanam P.O, Thrikkodithanam Village,  
Changanacherry Taluk.

*(By Adv.Shine Babu)*

Accused A1 Chackochan, Aged 55, S/o Varghese,  
Kandathil (H), Vezhapra P.O,  
Ramnakari Village, Kuttanadu Taluk.

A2 Gregory K V, S/o Varghese,  
Kandathil parambil (H), Vezhapra P.O,  
Ramnakari Village, Kuttanadu Taluk.

*(By Adv.E A Sajikumar)*

Offence : U/s., 447, 427 r/w 34 of IPC.

Plea : Not guilty

Finding : Not guilty

Sentence/Order : Accused are acquitted u/s.255(1) of Cr.P.C. Their bail  
bonds stand discharged and they are set at liberty.

**Date of:-**

Offence	Report of complaint	Apprehension/ Appearance of accused	Release on bail	Commencement of trial	Close of trial	Sentence of order	Explanation for delay and remarks
14.02.14	16.12.14	A2- 13.01.21 A1- 31.12.24	A2- 13.01.21 A1- 31.12.24	31.12.24	27.03.26	31.03.26	---

**Description of Accused**

Name of accused	Age	Father's Name	Caste or Religion	Calling	Residence	Taluk
Chackochan	55	Varghese	---	---	Kandathil	Kuttanadu
Gregory	---	Varghese	---	---	Kandathil parambil	Kuttanadu

This case having been finally heard on 27.03.2026 and posted for judgment to 31.03.2026 and the court on the same day delivered the following:-

**J U D G M E N T**

This case arose on a private complaint filed by the complainant against the accused, two in number, based on which cognizance was taken against them for offences u/s.447 and 427 r/w 34 of IPC.

2) The case of the complainant in short is as follows:- The accused are persons residing on the property on the western side of the property owned by the complainant in Thrikkodithanam Village. The accused constructed a house on their property by violating building rules and they deposited sand and house construction materials near the compound wall, which caused damage to the compound wall of the complainant's property. The complainant had filed OS 88/2014 and obtained an interim order to maintain the status quo. But violating the said order, the accused completed the unscientific construction of the compound wall and his house. The unscientifically constructed compound wall is a threat to the life of the complainant. Thus, the accused have committed the offences punishable under sections 120(B), 440, 444, 427 and 506 r/w 34 of IPC.

3) On filing the complaint, after conducting enquiry, this court took cognizance of the offence punishable under sections 447 and 427 r/w 34 of IPC against the accused. The accused appeared before the court. They were enlarged on bail. After furnishing copies of all relevant prosecution records, the particulars of offences were read over and explained to the accused to which they pleaded not guilty and claimed to be tried.

4) In evidence, PW1 to PW3 were examined. On closing the evidence of the complainant, the accused were examined under section 313(1) (b) of the Code of Criminal Procedure, 1973. The accused denied all the incriminating circumstances appearing in evidence. The accused has not adduced any defence evidence.

5) Heard both sides.

6) The following points arise for determination:-

- i. Whether the accused criminally trespassed into the property of the complainant in Thrikkodithanam Village and thereby committed the offence punishable under section 447 of IPC?
- ii. Whether the accused caused damage to the compound wall of the complainant's property and thereby committed the offence punishable under section 427 of IPC?
- iii. Sentence or order, if any ?

7) Heard both sides.

8) **Point nos.1 and 2:-** For the sake of convenience point nos.1 and 2 are considered together. In this case, the complainant filed CMP 9556/2014 on

15.12.2014, alleging that the accused persons trespassed on his property and constructed a compound wall. The said CMP was forwarded to SHO, Thrikkodithanam, invoking powers under section 156(3) of Cr.P.C. The police, after conducting an investigation, filed a refer charge on 29.12.2014 on the ground that the matter is of civil nature. The present petition is in fact a protest complaint. The complainant himself is examined as PW1 to prove his case. According to him, the accused persons trespassed in to his property. He had given OS 88/2014 and status quo was ordered in that Court. While the order of status quo was in force, the accused persons completed the construction of the dilapidated compound wall. He gave complaint to the Police. SHO, Thrikkodithanam visited the spot directed the accused to stop construction. According to PW1, the accused persons attempted to regularise their illegal construction.

9) PW2 is an occurrence witness. He had seen the accused persons constructing the disputed compound wall. PW3 is another witness. He conceded that he does not know the details of the case.

10) The allegation is that the accused in furtherance of their common intention trespassed in to the property of PW1 and constructed a compound wall by violating the status quo order passed by the civil court. Section 441 of IPC defines criminal trespass. As per the said provision, criminal trespass is defined as "Whoever enters into property in the possession of another with the intent to commit an offence or to intimidate, insult or annoy any person in possession of such property, or having lawfully entered into such property, but remains there with

intent thereby to intimidate, insult or any such person, or with an intent to commit an offence, is said to commit criminal trespass". According to PW1, the civil court has issued a status quo order in respect of the compound wall constructed by the accused. But the said order is not produced before the court. The purpose of the suit mentioned by PW1 is also not known. Similarly, it is not known whether the competent civil court has declared possession or ownership of the disputed compound wall. The above facts are necessary to arrive at a conclusion as to whether the accused committed any trespass. Thus the complainant miserably failed to prove the ingredients of the offence punishable under section 447 of IPC. After concluding the trial and when the matter was posted for hearing, the complainant, who is conducting the case as party in person produced order of the Hon'ble Addl.District Judge-I, Kottayam confirming the order in R.P.No.3/2025 and IA No.1/2025 in O.S No.56/2022 of Munsiff's Court, Changanacherry. The complainant produced the document without filing application to reopen evidence and it is not known what is the relevance of this order. Hence it is not admitted in evidence.

11) Another offence alleged is under section 427 of IPC. Section 427 provides punishment for causing mischief. Mischief is defined under section 425, under the said section whoever with intent to cause or knowing that he is likely to cause, wrongful loss or damage to the public or to any person, causes destruction of any property, or any such change in any property or in the situation thereof as destroys or diminishes its value or utility, or affects it injuriously, commits mischief. Since there is no proof that the ownership of the disputed compound wall vests with

PW1, the ingredients of offence under section 427 of IPC are not attracted in this case.

12) Further, PW1 has not produced any evidence to prove that the accused persons made any alterations to the disputed wall. PW1 deposed that two commission reports are available in the civil case. But those reports are not produced in this case. He has not even produced any documents to show that he is owner of the property mentioned in the complaint. The complaint and oral evidence of PW1 are totally vague. As far as witnesses are concerned they also have no idea regarding the possession or ownership of the disputed compound wall. A purely civil dispute is given the colour of a criminal case by PW1 and he miserably failed to prove the ingredients of the offences alleged against the accused. Hence, they deserve acquittal.

13) **Point no.3:-** In view of the finding on point nos.1 and 2, accused are found not guilty of the offences punishable u/s.447 and 427 r/w 34 of IPC.

In the result, the accused are found not guilty of the offences punishable under sections 447 and 427 r/w 34 of IPC and they are acquitted under section 255(1) of the Code of Criminal Procedure, 1973. Their bail bonds stand discharged and they are set at liberty.

*(Dictated to the Confidential Assistant, typed by her, corrected and pronounced by me in open court, this the 31<sup>st</sup> day of March, 2026)*

Judicial First Class Magistrate – I  
Changanacherry

**APPENDIX:****Witness for the prosecution:**

PW1/CW1	-	Sri.Chacko Joseph	-	21.08.2025
PW2/CW2	-	Sri.Varghese Antony	-	12.12.2025
PW3/CW3	-	Sri.K T Devasia	-	17.02.2026

**Exhibits for the prosecution:**

Nil

**Witness and Exhibits for the defence :**

Nil

Judicial First Class Magistrate -1  
Changanacherry