

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

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

Dated this the, 30th day of April, 2026
10th day of Vaishakha, 1948

CC No.3334/2016

Complainant : State - represented by the Sub Inspector of Police,
Chingavanam Police Station in Crime
No.1004/2016.

(By Smt.Rishna Rahim, APP Changanacherry)

Accused

A1 Nikhil, Aged 27/16, S/o Sudeshan,
Nedumparambil (H), Cement kavala Bhagom,
Mulankuzha kara, Nattakom Village.

A2 Sajith, Aged 29/16, S/o Haridas, Kavanayil (H),
Mulankuzha kara, Nattakom Village.

A3 Aneesh, Aged 36/16, S/o Ponnappan,
Kuzhikkattumattam (H), Mulankuzha kara,
Nattakom Village.

A4 Ponnappan, Aged 66/16, S/o Govindan,
Kuzhikkattumattam (H), Mulankuzha kara,
Nattakom Village.

A5 Jissmon, Aged 30/16, S/o Sudhakaran,
Kavanal (H), Mulankuzha kara,
Nattakom Village.

A6 Siby Thomas, Aged 29/16, S/o Thomas,
CTL Quarters, Mulankuzha kara,
Nattakom Village.

A7 Binoy, Aged 40/16, S/o Nadeshan,
Kavanalkkadavil (H), Mulankuzha kara,
Nattakom Village.

A8 Thomas P T, Aged 30/16, S/o Babu,
Pulimoottil (H), Mulankuzha kara,
Nattakom Village.

(By Adv.K Madhavan Pillai)

Charge

: Offence punishable u/s.143, 147, 148 and 326 r/w

149 of IPC.

Plea : Not guilty

Finding : Not guilty

Sentence or order : Accused are acquitted u/s.248(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
29.04.16	01.05.16	03.05.16	06.05.16	14.11.19	28.04.26	30.04.26	---

Description of Accused

Name of accused	Age	Father's Name	Calling	Residence	Taluk
Nikhil	27/16	Sudeshan	Driver	Nedumparambil	Kottayam
Sajith	29/16	Haridas	Coolie	Kavanayil	Kottayam
Aneesh	36/16	Ponnappan	Coolie	Kuzhikkattumattam	Kottayam
Ponnappan	66/16	Govindan	Coolie	Kuzhikkattumattam	Kottayam
Jissmon	30/16	Sudhakaran	Coolie	Kavanal	Kottayam
Siby Thomas	29/16	Thomas	Coolie	CTL Quarters	Kottayam
Binoy	40/16	Nadesan	Coolie	Kavanalkkadavil	Kottayam
Thomas P T	30/16	Babu	Coolie	Pulimoottil	Kottayam

This case coming up for hearing before me on 28.04.2026 and posted for judgment to 30.04.2026 and the court on the same day delivered the following:-

J U D G M E N T

This case is instituted on a final report filed by the Sub Inspector of Police, Chingavanam Police Station in crime No.1004/2016 alleging offence punishable u/s.143, 147, 148 and 326 r/w 149 of IPC.

2) Prosecution case in brief is as follows:- On 29.04.2016 at 6.45 p.m, the accused, on account of previous enmity towards the de facto complainant, formed themselves in to an unlawful assembly near Cement junction in Nattakam Village and A1 hacked the de facto complainant on his head with a sword stick whereas A2 beat him on his leg with an iron bar. A3 hacked the de facto complainant with a chopper causing injuries to his hands and legs. Further, A3 hacked CW2 on his head with a chopper and A4 caused fracture to the left forearm of CW2 by beating with an iron rod. Thus, the accused have committed the offences punishable under sections 143, 147, 148 and 326 r/w 149 of IPC.

3) On filing the final report, summons was issued to the accused. The accused appeared and copies of prosecution records were furnished to them. After hearing both sides and after considering the prosecution records, charges

under above offences were framed, read over and explained to the accused to which they pleaded not guilty and claimed to tried.

4) In evidence, PW1 to PW9 were examined and Exts.P1 to P10 and MO1 to MO3 were marked from the side of the prosecution. On closing the prosecution evidence, 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. No defence evidence was adduced.

5) Heard both sides.

6) The points that arise for determination are:-

- i. Whether the accused formed themselves into an unlawful on 29.04.2016 at 6.45 p.m near Cement junction in Nattakam Village and thereby committed the offence punishable under section 143 of IPC?
- ii. Whether the accused in furtherance of their common object committed rioting on 29.04.2016 at 6.45 p.m near Cement junction in Nattakam Village and thereby committed the offence punishable under section 147 of IPC?
- iii. Whether the accused, in furtherance of their common object, committed rioting armed with deadly weapons on 29.04.2016 at 6.45 p.m near Cement junction in Nattakam Village and thereby committed the offence punishable under section 148 of IPC?
- iv. Whether the accused in furtherance of their common object, voluntarily caused grievous hurt to CW1 and CW2 by using dangerous weapons like sword stick, chopper and iron rod on 29.04.2016 at 6.45 p.m near Cement junction in Nattakam Village and thereby committed the offence

punishable under section 326 of IPC?

v. Sentence or order, if any ?

7) Heard both sides.

8) **Point nos.1 to 4:-** For the sake of convenience point nos.1 to 4 are considered together. Learned Assistant Public Prosecutor argued that the prosecution proved the case beyond a doubt by adducing reliable oral evidence supported by documentary evidence. Learned defence counsel on the other hand argued that evidence of witnesses is ridden with contradictions and their evidence can not be relied on. Learned defence counsel argued that the accused are falsely implicated in this case.

9) To prove the case the prosecution examined altogether nine witnesses in this case. PW1 is the defacto complainant. He deposed that he sustained injuries in the incident. But he could not recollect the date of incident. Ext.P1 is the FIS given by him. He turned hostile to the prosecution by stating that the accused in this case have not attacked him.

10) PW2 is another injured witness. PW1 is his friend. According to him, on 29.04.2016 at 6.45 p.m, the accused attacked PW1. When he tried to intervene, the accused attacked him also. According to him A3 hacked him on his head with MO1 chopper. A6 and A8 beat him with MO2 rafter. He also identified MO3 iron rod used by the accused.

11) As rightly argued by the learned defence counsel evidence of PW2 is ridden with contradictions. Contrary to the evidence given before the court, in the statement given to the police, he stated that A1 hacked him with sword stick and A2 beat him with an iron rod on his forearm. He has no consistent version regarding the overt acts of the accused as well as weapon used by them which creates doubt regarding his version. Further, wound certificate of PW2 is not produced before the Court. Ext.P5 is the treatment certificate of PW2. PW6, Causality Medical Officer in Orthopedics department at Medical College Hospital, Kottayam treated PW2 on 30.04.2016. He treated PW2 for fracture of humerus and issued Ext.P5 treatment certificate. He has not noticed any head injury to PW2. PW7 SCPO at Chingavanam Police Station recorded Ext.P1(b) body note of PW2, who has been under treatment at Medical College Hospital, Kottayam. In Ext.P1(b) dressed wounds noted on both sides of PW2's head. But how it escaped the attention of PW6 is not known. In the absence of wound certificate, the nature of the wound on PW2's head cannot be ascertained. Thus ,medical evidence does not corroborate the oral evidence of PW2. Therefore, it is not safe to rely on the evidence of PW2.

12) PW4 is an occurrence witness. She deposed that she had seen the incident on 29.04.2016 at 6.45 p.m at Cement Junction. According her, eight persons attacked PW1 and PW2 with chopper, rafter and iron rod. Her evidence is contrary to the evidence of PW2 that only A2, A3, A4, A6 and A8 attacked him. He categorically stated that the other accused have not attacked him, which

negates the evidence of PW4 that all the eight accused persons participated in the attack. Further, she identified MO1 to MO3 in the court. As per her evidence, she watched the incident from a distance. Naturally, it is not possible for her to identify the weapons during that clash. So, her evidence that she identified MO1 to MO3 in the Court is not believable. Further she identified the accused in the dock. In the cross examination, she deposed that the accused have not used chopper, which is also contrary to the evidence of PW2 that the accused hacked him with a chopper. In the above circumstances, PW4 can not be treated as a reliable witness. PW3 is another occurrence witness. But he has not supported the prosecution case.

13) PW9 Sub Inspector of Police at Chingavanam police station conducted investigation of this case. He registered Ext.P7 FIR. Further, he went to the spot of incident and prepared Ext.P3 scene mahazer. He arrested the accused. On the basis of confession statement of A1, he recovered MO1 to MO3 weapons. Relevant portion of the confession statement is marked as Ext.P6(a). His investigation revealed that the accused named Vishnu was not involved in the case and he deleted his name. Ext.P9 is the report in this regard. After completing the investigation he laid final report in the matter.

14) As per evidence of PW9, he recovered the MO1 to MO3 weapons on the basis of confession statement of A1. Regarding the procedures to be followed in the matter of recovery of weapons, in *Ramanand @ Nandlal Bharti v. State of Uttar Pradesh (2022 KHC 7083)*, the Honourable Supreme

Court held as follows:

“53. If, it is say of the investigating officer that the accused appellant while in custody on his own free will and volition made a statement that he would lead to the place where he had hidden the weapon of offence along with his blood-stained clothes then the first thing that the investigating officer should have done was to call for two independent witnesses at the police station itself. Once the two independent witnesses arrive at the police station thereafter in their presence the accused should be asked to make an appropriate statement as he may desire in regard to pointing out the place where he is said to have hidden the weapon of offence. When the accused while in custody makes such statement before the two independent witnesses (panch witnesses) the exact statement or rather the exact words uttered by the accused should be incorporated in the first part of the panchnama that the investigating officer may draw in accordance with law. This first part of the panchnama for the purpose of S.27 of the Evidence Act is always drawn at the police station in the presence of the independent witnesses so as to lend credence that a particular statement was made by the accused expressing his willingness on his own free will and volition to point out the place where the weapon of offence or any other article used in the commission of the offence had been hidden. Once the first part of the panchnama is completed thereafter the police party along with the accused and the two independent witnesses (panch witnesses) would proceed to the particular place as may be led by the accused. If from that particular place anything like the weapon of offence or

blood-stained clothes or any other article is discovered then that part of the entire process would form the second part of the panchnama. This is how the law expects the investigating officer to draw the discovery panchnama as contemplated under S.27 of the Evidence Act. In the case at hand, obviously the above procedures are not followed which vitiated the recovery of MO1 to MO3. PW9 deposed that he had shown the weapons to the witnesses for the purpose of identification. But PW2 and PW4 have categorically stated that the police have not shown them the weapons for the purpose of identification. Further, he has not subjected the MO1 to MO3 for scientific examination for the purpose of lifting finger prints or blood stains to connect the accused with the alleged incident. As already noticed, evidence of PW2 and PW4 lacks credibility which is further weakened by lack of medical evidence and scientific evidences. Thus, the prosecution failed to prove the case beyond a doubt and the accused persons deserve acquittal.

15) **Point no.5:-** In view of the finding on point nos.1 to 4, accused are found not guilty of the offences punishable u/s.143, 147, 148 and 326 r/w 149 of IPC.

In the result, accused are found not guilty of the offences punishable under sections 143, 147, 148 and 326 r/w 149 of IPC and they are acquitted under section 248(1) of the Code of Criminal Procedure, 1973. Their bail bonds stand discharged and they are set at liberty.

MO1 and MO3 shall be confiscated after the period of appeal and

MO2 shall be destroyed after the period of appeal.

(Dictated to the Confidential Assistant, typed by her, corrected and pronounced by me in open court, this the 30th day of April 2026)

Judicial First Class Magistrate - I
Changanacherry

APPENDIX

Witnesses examined for the Prosecution:-

PW1/CW1	- Sri.Bijumon	09.04.2024
PW2/CW2	- Sri.Saju	22.01.2025
PW3/CW3	- Sri.Shaji	22.01.2025
PW4/CW4	- Smt.Bindu	19.06.2025
PW5/CW5	- Sri.Siyad	19.06.2025
PW6/CW8	- Dr.Shajimon	25.08.2025
PW7/CW9	- Sri.Biju	25.08.2025
PW8/CW7	- Sri.V M Manoj	25.08.2025
PW9/CW10	- Sri.M S Shibu	13.10.2025

Exhibits marked for the Prosecution:-

P1	- FIS marked through PW1	09.04.2024
P1(a)	- Body note of PW1 marked through PW7	25.08.2025
P1(b)	- Body note of PW2 marked through PW7	25.08.2025
P2	- Statement portion of FIS marked through PW1	09.04.2024
P3	- Scene mahazer marked through PW5	19.06.2025
P4	- Treatment certificate marked through PW6	25.08.2025
P5	- Treatment certificate marked through PW6	25.08.2025
P6	- Seizure mahazer marked through PW8	25.08.2025

P6(a)	- Relevant portion of the confession statement marked through PW8	25.08.2025
P7	- FIR marked through PW9	13.10.2025
P8	- Arrest records marked through PW9	13.10.2025
P9	- Accused deletion report marked through PW9	13.10.2025
P10	- Address report marked through PW9	13.10.2025

Witness examined for the defence :-

Nil

Exhibits marked for the defence :-

Nil

Material Objects Marked:-

MO1	- Chopper
MO2	- Rafter
MO3	- Iron rod

Judicial First Class Magistrate -I
Changanacherry