

IN THE COURT OF THE JUDICIAL MAGISTRATE OF FIRST CLASS,
PATTAMBI

Present:- Smt. Neema Noor Mohamed, Judicial Magistrate of First Class.
Monday, this the 27th day of April, 2026/ 7th day of Vaisakha, 1948 S.E.

Summary Trial No. 705/2017.

State represented by the Sub Inspector of Police, Pattambi Police Station in Crime No. 376/2017. (By Smt. Resmi.V.S, Gr.II APP.)		Complainant
1. Rasheed, aged 51/17 years, S/o. Moideenkutty, Choondathodi House, Amayur P.O, Koppam Village, Pattambi Taluk, Palakkad. 2. Aboobacker Sidhique, aged 40/17 years, S/o. Aali, Choondathodi House, Amayur P.O, Koppam Village, Pattambi Taluk, Palakkad. 3. B.C. Biju, aged 40/17 years, S/o. Chellappan, Bishi Nivas, Amayur P.O, Koppam Village, Pattambi Taluk, Palakkad. 4. Abu Tahir, aged 31/17 years, S/o. Muhammed, Kalithodi House, Amayur P.O, Koppam Village, Pattambi Taluk, Palakkad. (By Adv. Sri. T.K. Suresh)		Accused
Offence	Punishable under sections 427 and 447 r/w 34 IPC.	
Plea	Not guilty	
Finding	Not guilty	
Sentence or order	All the accused are found not guilty for the offences punishable under sections 427 and 447 r/w 34 IPC and are acquitted of these offences under section 255(1) Cr.P.C. The bail bond executed by the accused stand cancelled and they are set at liberty forthwith.	

DATE OF

Offence	Complaint	Apprehension	Release on Bail	Comment - cement of Trial	Close of Trial	Order	Explanation for delay
22/05/17	01/06/17	22/01/22	22/01/22	23/06/22	23/04/26	27/04/26	No delay

DESCRIPTION OF ACCUSED

Name	Father's Name	Age	Residence	Taluk
Rasheed	Moideenkutty	51/17	Amayur	Pattambi
Aboobacker Sidhique	Aali	40/17	Amayur	Pattambi
B.C. Biju	Chellappan	40/17	Amayur	Pattambi
Abu Tahir	Muhammed	31/17	Amayur	Pattambi

J U D G M E N T

This is a case instituted upon the final report submitted by the Sub Inspector of Police, Pattambi Police Station in crime No. 376/2017 against accused 4 in numbers alleging the commission of offences punishable under Sections 427 and 447 r/w 34 IPC.

2. The summary of the prosecution case is as follows: On 14th and 15th of May, 2017, 1st to 4th accused, in furtherance of their common intention, criminally trespassed into the property comprised in Survey No. 280/2, having an extent of 26.87 acres, situated at Koppam Village, Amayur Desam. It is alleged that the accused unlawfully entered the said property and cut and removed certain trees standing therein, and subsequently sold the same for an amount of ₹58,500/-. It is further alleged that the accused, using a JCB machine, caused extensive damage to the property by rendering the land barren, thereby diminishing its utility and value. By such acts, the accused are stated to have caused wrongful loss to CW1 to the tune of ₹58,500/-. Thus the accused have committed the alleged offences in furtherance of their common intention.

3. On receipt of first information statement from PW1, PW8 registered first information report and after completion of investigation PW9 filed the final report before the court.

4. All the accused appeared before the court, they were released on bail and were represented by a counsel of their choice. The copies of all relevant case records

were furnished to the accused under section 207 of Cr.P.C. After hearing both parties and perusing the records, particulars of offence was read over and explained to him to which they pleaded not guilty and claimed to be tried.

5. From the side of prosecution, PW1 to PW9 were examined and Exts. P1 to P11 series and P12 to P14 series were marked. After completion of prosecution evidence, the accused were examined under Sec. 313(1)(b) Cr.P.C for enabling the accused personally to explain any circumstances appearing in the evidence against them.

6. The accused were then called upon to enter upon their defence and produce their evidence. From the side of defence, no oral and documentary evidence adduced.

7. After hearing both sides the following points arose for consideration;

1. *Whether the accused trespassed to the property of District Industries Department at Amayur as alleged by the prosecution to commit the offence punishable under section 447 IPC ?*
2. *Whether the accused committed mischief of ₹ 58,500/- to the department as alleged by the prosecution to commit the offence punishable under section 427 IPC?*
3. *Whether the accused committed any of the above offences in furtherance of their common intention to commit the offence punishable under section 34 IPC ?*
4. *If the accused are found guilty, what should be the proper sentence or order?*

8. **Point No. 1 to 3:-** These points are considered together for the sake of convenience and brevity. PW1 the victim, deposed that on 22/05/2017 he had given a written petition before the Circle Inspector of Police Station, Pattambi. The said petition was identified by him and marked as Ext. P1. According to PW1, earlier, under the Industrial Department, he had obtained approval from the Ministry of

Industries to lease out the property in dispute, and accordingly, he had leased it to one PW4. The said plot was later taken back by the Government in the year 2008. However, the said action was stayed, and the stay order remained in force. Subsequently, in April 2017, the stay order was set aside. The incident is stated to have occurred on 27/05/2017, and PW1 stated that Ext. P1 was submitted based on the complaint given by PW4. According to PW1, the case pertains to cutting down rubber trees and leveling the field to convert it into a playground. He further testified that he does not know specifically who cut down the trees. The allegations in Ext. P1 are based on the complaint given by PW4. Thereafter, PW1 stated that he could identify certain persons and mentioned the names of Siddiq and Biju as some of those who had cut down the trees, and that he could identify the other accused as persons residing near the spot. The property conveyed under a document of the year 1987 was identified by this witness and marked as Ext. P2, which was executed in favour of PW4. The plot, including the said property, was declared for industrial development, and a true copy of the Government Order to that effect was marked as Ext. P3. On 01/01/2006, the property was taken back from PW4 by the General Manager, and the true copy of the said order was marked as Ext. P4. On 24/09/2008, the said order was confirmed. Meanwhile, it is stated that PW4 had transferred the property without authorization. On 13/06/2017, the Government again issued a notification stating that the property was taken over. PW1 stated that the wrongful loss occurred on 27/05/2017. He also stated that he had not seen the culprits. During cross-examination, PW1 admitted that the complaint given by PW4 did not mention the names of any of the accused. He further stated that Ext. P1 was submitted to the department along with a covering letter. He also admitted that the property has no clear boundaries such as a compound wall or fence.

9. PW2 is the District Industrial Manager at Palakkad. At the relevant time, when he was working in that capacity, PW1 was the General Manager. According to PW2, he had shown the crime scene to the police. He further deposed that the land had been levelled by cutting down all the trees in order to make a ground for football.

10. PW3 deposed that he was the Assistant District Industrial Officer during the relevant period. He stated that he had visited the spot along with PW1 and had seen that the trees were cut and the land was levelled for use as a playground. During cross-examination, he stated that he could not recollect the exact date on which he had visited the spot along with PW1, and could only say that the visit took place in the year 2017, by which time the monsoon had commenced. He further testified that he was not able to say who had trespassed into the said property. He was also unable to recollect whether he had seen any documents pertaining to possession of the property. He added that he had visited the property as part of an inspection conducted by the Industrial Department.

11. PW4 deposed that she was a school teacher at Amayur since 1971. She stated that her father-in-law had owned about 12 acres of land in the industrial estate, which was named 'Salala City.' Out of the said 12 acres, 3 acres were given to the Industrial Department. She further stated that her father-in-law had purchased the property about 55 years ago for agricultural purposes. She deposed that she retired in the year 2004 and shifted to Thrissur, and thereafter she had not been regularly visiting the said property. She later came to know that the said property was trespassed upon by certain persons and that the trees therein had been cut. She stated that she had not directly witnessed the incident and had come to know about it only through local people. Thereafter, when she went to inspect the property, she saw that the trees had been cut and the land had been levelled. She testified that the matter was informed to the Industrial Department, but she does not know who made the physical changes to the property. She also testified that she had not given the names of any of the accused to the police and that she is not aware as to who had committed the said acts. During cross-examination, she stated that her father-in-law had purchased the property for consideration and that the documents pertaining to the same are with her. However, she deposed that she does not know the nature of the deed, though she is aware that it was a registered document. She further stated that she had not given any complaint to the Industrial Department and had only lodged a complaint before the

police. She denied the suggestion that she had submitted any petition before the Industrial Department. She admitted that there was a pending case between her and the Industrial Department with respect to the property and that there was a stay order against her. She further deposed that she had given the complaint to the police on the same day on which she came to know about the incident, but she was not able to recollect whether the petition was handwritten by her. She deposed that she is not able to say whether she was in possession or ownership of the property at the time of the incident and that she had not produced any documents in this regard. She initially stated that there was a common wall demarcating the property from adjacent properties, but later gave inconsistent versions regarding the use of the property, stating at one point that it was intended for industrial purposes and at another that it was purchased for agricultural purposes. She further stated that rubber trees had been planted in the property, but she had not obtained any permission from the Industrial Department for the same. She was unable to state when the rubber trees were planted, their age, or how many trees were cut. She also stated that she does not know when the trees were cut or who had cut them. She finally admitted that the complaint given to the police was based on hearsay information. She further stated that she does not remember when any industrial activity was commenced in the property and that she had not obtained any permission from the Government, being a public servant, to conduct any business.

12. PW5 stated that he had not witnessed the incident. According to PW5, who was cited as a prosecution witness, he was aware that a factory had been functioning on the said property and that, in the year 2017, there were trees standing on the land. He further stated that, during his childhood, PW4 had resided on the said property and that there were various types of trees, including teak trees. As this witness did not support the prosecution case, he was declared hostile, and the learned APP for the State cross-examined him.

13. PW6 is an independent witness who deposed that he has been residing at Amayur, where the property is situated, for the past 30 years and that he knew PW4

prior to the incident. According to PW6, PW4 had been residing in the said property for several years, though he does not know the exact extent of the property belonging to her. He further testified that PW4 is a teacher and that she was engaged in agricultural activities, including rubber plantation. He deposed that a group of local people had cut the trees and levelled the land to convert it into a playground. As this witness did not support the prosecution case, he was declared hostile and was cross-examined by the prosecution. During such cross-examination, he denied the suggestion that the accused had come to the property, cut and removed the rubber trees, and sold the same. He also stated that he does not know in what capacity PW4 was residing in the said property.

14. PW7 deposed that he was the Village Officer at Koppam during the relevant period. He stated that on 07/07/2017, as per the request of the Investigating Officer, he had visited the property situated in Survey No. 280/2 and had handed over the survey sketch and BTR relating to the said property to the Investigating Officer. The survey sketch was identified by him and marked as Ext. P5, and the BTR extract was marked as Ext. P6. During cross-examination, he stated that, based on the village records, he was not able to ascertain whether the property belongs to any private individual.

15. PW8 is a police official who deposed that, based on the petition given by PW1, he registered the present FIR, which is marked as Ext. P7, and that the investigation was thereafter conducted by PW9. During cross-examination, he testified that the date of occurrence shown in Ext. P7 is 22/05/2017, and clarified that the said date was mentioned as the petition submitted by PW1 did not specify the exact date of the incident. He further stated that the FIR was registered only on 01/07/2017. He also deposed that no petition from the Industrial Department was received in this regard. He further testified that the petition given by PW4 is silent as to the date, time, and specific details of the occurrence

16. PW9 is the final Investigating Officer who deposed that, on 02/06/2017, he visited the scene of occurrence and prepared the scene mahazar, which is marked as

Ext. P8. He thereafter questioned the witnesses and obtained the survey sketch and BTR from the Village Officer. He further deposed that he weighed the cut trees and prepared a receipt to that effect. He stated that the receipt relating to the amount for which the trees were sold was seized under seizure mahazar, marked as Exts. P9 and P10 respectively. The receipts showing the weight of the timber were marked as Ext. P11 series, and the bill reflecting the sale consideration of the timber was marked as Ext. P12. He also deposed that he had obtained relevant documents from the Industrial Department, Palakkad. He further stated that he arrested the accused under arrest memo marked as Ext. P13 and released them on bail bond marked as Ext. P14 series. He identified the accused in court. During cross-examination, he admitted that the petitioner, PW4, had not stated as to who had cut down the trees. The Investigating Officer himself admitted that PW4 did not have any established right over the disputed property, and that this fact had come out during the course of investigation. He deposed that the land had been allotted by the Industrial Department for industrial purposes, and that there are no documents to show that PW4 was in possession or ownership of the property. He further admitted that he had not verified any documents to ascertain whether there was any building on the disputed property. He also did not investigate how many rubber trees were cut and removed, nor did he ascertain the age of the said trees. He merely deposed that he understood that the trees were cut on the 14th and sold on the 15th, and that this information was obtained from PW4. Apart from this, he has no independent evidence to substantiate the same. He later clarified that none of the witness statements mention the specific dates of the incident. He also admitted that PW4's version regarding the identity of the accused is based on hearsay. He further deposed that he did not investigate who the alleged JCB driver was and does not know who had cut which trees. It is also brought out that the scene mahazar does not disclose who had shown the spot to the Investigating Officer. Ext. P11 is silent as to what exactly was weighed, and Ext. P12 does not specify what was weighed or the quantity thereof. Ext. P12 is only an estimate and does not provide concrete proof regarding the alleged sale.

Upon an overall appreciation of the oral and documentary evidence on record, this Court finds that the prosecution has failed to establish the guilt of the accused beyond reasonable doubt.

17. At the outset, the very foundation of the prosecution case regarding possession and ownership of the disputed property remains doubtful. PW4, who is projected as the person aggrieved, has categorically admitted that she is not aware whether she was in possession or ownership of the property at the relevant time and has not produced any document to substantiate the same. On the other hand, PW7, the Village Officer, has stated that from the village records, he was not able to ascertain whether the property belongs to any private individual. Further, the Investigating Officer (PW9) himself admitted that PW4 had no established right over the property and that the land was under the control of the Industrial Department. In such circumstances, the prosecution has failed to prove lawful possession, which is a crucial ingredient for the offences alleged.

18. Secondly, the prosecution has miserably failed to establish the identity of the accused as the perpetrators of the alleged acts. PW1, the de facto complainant, has clearly stated that he does not know who had cut the trees, and that the allegations in Ext. P1 are based on the complaint of PW4. PW4, in her evidence, has admitted that she had not witnessed the incident and that her complaint was based on hearsay information. She has also stated that she did not furnish the names of the accused to the police. PW3 was unable to state who had trespassed into the property. PW5 and PW6, independent witnesses, did not support the prosecution case and were declared hostile. In fact, PW6 attributed the act to a group of local persons and specifically denied the involvement of the accused. Thus, there is absolutely no reliable or direct evidence connecting the accused with the alleged occurrence.

19. Thirdly, the evidence on record suffers from serious inconsistencies and deficiencies regarding the occurrence itself. The date and time of the incident are not clearly established. PW8, who registered the FIR, has admitted that the date of occurrence was not mentioned in the complaint and that the FIR was registered much

later. Even the Investigating Officer admitted that none of the witness statements specify the exact date of occurrence. This creates a serious doubt regarding the prosecution version.

20. Further, the investigation conducted in the case is found to be perfunctory and incomplete. PW9 admitted that he did not ascertain the number of trees allegedly cut, their age, or their value through any scientific or reliable method. He did not investigate who operated the JCB allegedly used in the commission of the offence. The documents relied upon by the prosecution are also insufficient. Ext. P11 does not clearly indicate what was weighed, and Ext. P12 is only an estimate and does not establish the actual sale or value of the alleged timber. The scene mahazar also does not disclose who had identified the place of occurrence.

21. It is also pertinent to note that the prosecution case regarding the acts of the accused is based largely on hearsay evidence, which is inadmissible unless corroborated by reliable material evidence. In the present case, there is no such corroboration.

22. In view of the above deficiencies, this Court is of the considered opinion that the prosecution has failed to prove (i) the possession of the property by the de facto complainant, (ii) the occurrence in the manner alleged, and most importantly, (iii) the involvement of the accused in the alleged offences. Accordingly, the accused are entitled to the benefit of doubt and thereby entitled for acquittal. Hence the points are found against the prosecution.

23. **Point No. 4:-** In my findings on aforesaid points, I find that all the accused found not guilty of the offence punishable under sections 427 and 447 and are acquitted for the said offence under section 248(1) Cr.P.C.

In the result,

1. ***All the accused are found not guilty for the offences punishable under sections 427 and 447 r/w 34 IPC and are acquitted of these offences under section 255(1) Cr.P.C.***

2. The bail bond executed by the accused stand cancelled and they are set at liberty forthwith.

Dictated to the Confidential Assistant, transcribed by her, corrected and pronounced by me in open court, this the 27th day of April, 2026.

Sd/-
Judicial Magistrate of First Class,
Pattambi.

APPENDIX

Witnesses examined for the Prosecution:-

PW1:	Rajmohan, aged 56 years, S/o. Govindan, Akathethara, Palakkad.	First Informant CW1
PW2:	Joseph, aged 57 years, S/o. Kuriyan, Ettumanur, Kottayam.	Eye witness CW2
PW3:	Basheer.P.A, aged 55 years, S/o. Abdul Latheef, P.K, Yakkara, Palakkad.	CW3
PW4:	PW4, aged 75 years, S/o. Mathew, Thrissur.	CW5
PW5:	Kunjumammed, aged 53 years, S/o. Muhammedkutty, Koppam, Pattambi.	CW7
PW6:	Hari, aged 39 years, S/o. Vasu, Koppam, Pattambi.	CW10
PW7:	Manoj.I.G, aged 47 years, S/o. Govindan Pillai, Madavoor, Varkala.	Official witness CW25
PW8:	SI Laisad Muhammed, aged 44 years, S/o. Muhammed Sadique, Komalapuram, Ambalapara.	Police witness CW26
PW9:	ASI K.S. Muhammed Basheer, aged 58 years, S/o. Said Muhammed, Mankara, Palakkad.	Police witness CW27

Witnesses examined for the Defence:- NIL

Exhibits marked for Prosecution:-

P1 : 22/05/2017 Complaint (PW1)

P2 : 24/02/1975 Copy of order of Director of Industries and commerce (PW1)

P3 : 16/05/1987 Copy of order of Director of Industries and commerce (PW1)
 P4 : 01/08/2006 Proceedings of General Manager District Industries centre (PW1)
 P5 : .. Survey sketch (PW7)
 P6 : .. BTR receipt (PW7)
 P7 : 01/06/2017 First information report (PW8)
 P8 : 02/06/2017 Scene mahazar (PW9)
 P9 : 06/07/2017 Seizure mahazar of receipt (PW9)
 P10 : 09/08/2017 Seizure mahazar of bill (PW9)
 P11 series : 14/05/2017 Receipts issued by Alif weigh bridge (3 in numbers) (PW9)
 P12 : 15/05/2017 Bill (PW9)
 P13 : 06/07/2017 Arrest memo of accused (PW9)
 P14 series: 06/07/2017 Bail bonds (4 in numbers) (PW9)

Exhibits marked for Defence:- NIL

Sd/-
 Judicial Magistrate of First Class,
 Pattambi.

// True Copy//

Judicial Magistrate of First Class,
 Pattambi.