

**IN THE COURT OF THE JUDGE  
SPECIAL COURT FOR SC/ST (POA) ACT/  
ADDITIONAL SESSIONS COURT MANNARKKAD.**

Present : Sri. Jomon John, Judge.

Thursday the 23<sup>rd</sup> day of April, 2026.

03<sup>rd</sup> day of Vaisakha, 1948 S.E

**Sessions Case No. 152/2023**

Complainant	: Rugmini K R D/o Rankaswami, House No.4/323, Anakkatty, Mattathukad (PO), Agali. (Rep.by. Adv. Sri. P.M Jayakumar)
Name of Accused	: 1. Sudhakaran S/o Vellakutty, aged 41 years, Mannoor Veedu, Mattathukad (PO), Anakkatty. 2. Firoze S/o Aboobacker, aged 38 years, Parayankattil Veedu, Mattathukad (PO), Anakkatty. 3. Shemeer S/o Sulaiman, aged 28 years, Four-cent Colony, Mattathukad (PO), Anakkatty. 4. Harshad S/o Sidhique, aged 27 years, Four-cent Colony, Mattathukad (PO), Anakkatty. 5. Aboobacker S/o Kunjumon, aged 66 years, Parayankattil Veedu, Mattathukad (PO), Anakkatty. 6. Sidhique S/o Khader, aged 56 years, Four-cent Colony, Mattathukad (PO), Anakkatty. 7. Sulaiman S/o Haneefa, aged 61 years, Four-cent Colony, Mattathukad (PO), Anakkatty. 8. Mallika W/o Sukumaran, aged 44 years, Four-cent Colony, Mattathukad (PO), Anakkatty. 9. Sebiya D/o Khader, aged 51 years, Four-cent Colony, Mattathukad (PO), Anakkatty. 10.Selma W/o Majeed, aged 51 years, Four-cent Colony, Mattathukad (PO), Anakkatty. 11.Fareeda D/o Aboobacker, aged 31 years, Four-cent Colony, Mattathukad (PO), Anakkatty.
Charge	: Offences Punishable under sections 341, 323, 447, 427 r/w 34 of the Indian Penal Code, U/Ss. 3(1)(s)

		and 3(2) (va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.
Plea of the accused	:	Not guilty
Finding of the judge	:	All accused are found not guilty of the offences punishable under section U/s.341, 323, 447, 427 r/w 34 of the Indian Penal Code, U/Ss. 3(1)(s) and 3(2) (va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.
Sentence or order	:	All accused are acquitted U/s.235 of Cr.PC. The bail bonds executed by these accused shall be in force for a period of six months from this date as per section 437A Cr.P.C.
Prosecution conducted by	:	Sri. RajeevN, Special Public Prosecutor, Mannarkkad.
Accused defended by	:	Adv. Sri. Muhammedali Mattamthadam.

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

This is a private complaint filed by the complainant alleging the commission of offences punishable U/Ss.341, 447, 427 r/ w 149 of the Indian Penal Code, U/Ss. 3(1) (s) and 3(2)(va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

2. Complainant's case can be summarised as follows:- The de facto complainant, Rugmini, is a member of Irula Tribe. Her parents are residing in 4 cent Unnathi in Anakkatty. All the accused are the neighbours of her parents. Regarding a public pathway right over the property in possession of the parents of the de facto complainant, there was a Civil Suit vide OS.103/2010 before the jurisdictional Munsiff Court between a few accused and the parents of the de facto complainant. Things being so, on 17-10-2018, under the mediation of the President and the Secretary of the Village Panchayath along with the Sub Inspector of Police Sholayur, the parents of the de facto complainant agreed to allocate a pathway having a width of three feet along the disputed property in favour of all accused for their enjoyment. Thereafter, the parents of the de facto complainant drew a barbed wire fencing along the boundary of the pathway. However, at 9 am on 03-11-2019, while the parents of the de facto complainant were digging a ditch along the disputed property for drawing water line, all the accused, along with 50 more identifiable person, criminally trespassed into their property and dismantled the barbed wire fencing having been already

drawn along the side of the pathway. Thereafter, the perpetrators constructed a new road along the disputed property after neglecting the just obstruction of the parents of the de facto complainant. In the above transaction, 3<sup>rd</sup> accused voluntarily caused hurt to the mother of the de facto complainant by pulling her down. The accused persons also abused the father of the de facto complainant by calling his caste name within public view. They also intimidated him. By dismantling the barbed wire fencing, all the accused caused a wrongful loss of Rs.50,000/- to the parents of the de facto complainant. Immediately, after the alleged occurrence, police party from Sholayur Police Station arrived at the place of occurrence at the instance of the sister of the de facto complainant. However, police did not cognizance upon the matter as there existed the civil dispute regarding the right over the property. Subsequently, the de facto complainant lodged a written complaint before the police on 04-12-2019. However, later, it was referred. Therefore, the de facto complainant filed this complaint alleging the offences punishable U/Ss.341, 447, 427 r/w 149 of the Indian Penal Code, U/Ss.3(1) (s) and 3(2)(va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

3. After conducting the enquiry U/s. 200 Cr.P.C, my learned predecessor has recorded a finding that there are sufficient ground to proceed against all the accused for the offences punishable U/Ss.341, 447, 427 r/ w 149 of the Indian Penal Code, U/Ss. 3(1) (s) and 3(2) (va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989. (In short, herein after, “the SC/ST (POA) Act”). On issuances of process to all the accused, they appeared before court. They were enlarged on bail. The copies of all relevant prosecution records were furnished to all the accused. Thereafter, the learned Special Public Prosecutor opened this case by describing the charge brought against all the accused and stating by what evidence, he proposed to prove their guilt. Upon consideration of the records of the case and documents submitted therein and after hearing the submissions of all the accused and the prosecution, a charge was framed against all the accused for the offences punishable U/Ss.341, 447, 427, 323 r/ w 34 of the Indian Penal Code, U/Ss. 3(1) (s) and 3(2)(va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989. When it was read over and explained to all the accused, they pleaded not guilty. To prove its case, the prosecution examined PW1 to PW6 and Ext.P1 to Ext.P4 documents were marked.

4. On close of the prosecution evidence, the accused were questioned U/s. 313 Cr.P.C so as to enable them to explain about all the incriminating circumstances brought out in evidence against them. All the accused maintained their innocence. Although the prosecution and all the accused were heard U/s. 232 Cr.PC, no order of acquittal was recorded thereunder as there is evidence against all the accused to prove their guilt. Although all accused were called upon to enter their defence and to adduce evidence, if any, no oral or documentary evidence was adduced by them.

5. Heard both sides.

6. Points those arise for consideration:-

1. Whether the prosecution has succeeded in establishing the guilt of all the accused for the commission of the offences charged against them?.
2. What is the punishment, if any, to be awarded to all the accused?

7. **Point No.1:-** As per the prosecution allegation, the parents of the de facto complainant was wrongfully restrained, assaulted and abused with casteiest remarks by all accused during the course of the alleged occurrence. Therefore, it is significant to note that the offences punishable U/s.3 of the SC/ST (POA) Act are said to be committed against the parents of the de facto complainant. To establish an offence punishable U/s. 3 of the SC/ST (POA) Act, primarily, the prosecution has to establish the caste identity of the victim as well as the accused. Here in this case, PW1, the then Tahasildar of Attappady Tribal Taluk, was examined to prove the caste identity of the de facto complainant. As per the evidence of PW1, the de facto complainant, Rugmini is a member of Irula Tribe. Ext.P1 is the Form-III certificate issued by PW1 in this regard.

8. At this juncture, it is appropriate to note that although the caste identity of the de facto complainant is proved through the substantial evidence of PW1 read with the contents of Ext.P1 Form-III certificate, it is insufficient to establish the caste identity of the parents of the de facto complainant who are the victims in the alleged occurrence. On a bare perusal of the contents of the complaint lodged by the de facto complainant, the father of the de facto complainant is a member of Chakliya Tribe. However, prosecution has miserably failed to produce any positive evidence to show the caste identity of the father of the de facto

complainant. Therefore, the primary fact regarding the caste identity of the victims remains not proved. Therefore, the complicity of all accused for committing any of the alleged offences punishable U/s. 3 of the SC/ST (POA) Act would remain not proved.

9. PW2 is the Village Officer of Kottathara, who vouchsafed regarding the caste identity of all accused persons. Since the caste identity of the victims remains not proved, the substantial evidence of PW2 lost its significance.

10. PW3-Rugmini is the de facto complainant in this case. She has substantiated that she belongs to Irula Tribe and that her father belongs to Chakliya Tribe. It is quite unknown how PW3 becomes a member of Irula Tribe when her father is a member of a Chakliya Tribe. Anyway, as per the evidence of PW3, at about 9 am on 03-12-2019, her parents were digging a ditch along their property for installing water pipes. By that time, all the accused along with a group of assailants wrongfully obstructed her parents from digging their property. Thereafter, the assailants trespassed into their property and unplugged away the barbed wire fencing installed therein. Subsequently, the accused persons constructed a new cartable road along the property of her parents. When the parents of PW3 attempted to prevent the accused persons, they were abused by calling their caste name. PW1 had a definite case before court that the 1<sup>st</sup> accused, Sudhakaran made casteiest remarks and exalted intimidation on her father whereas the 3<sup>rd</sup> accused, Shameer beat her mother down. All the accused were armed with weapons. Therefore, her frightened mother escaped from the scene towards the nearby Anakkatty junction where she could meet her younger daughter. Later, the mother of PW3 and her younger daughter returned to the place of occurrence. Since all the accused continued their mischief in the property, the younger sister of PW3 informed the matter to Sholayur police. After half an hour, police party from Sholayur Police Station reached at the place of occurrence. Then all the accused persons retreated from there.

11. Regarding the alleged occurrence, PW3 lodged Ext.P4 complaint before court. It is her evidence that earlier the parents of PW3 obtained Ext.P3 Decree in their favour when the civil dispute regarding the pathway along the place of occurrence was agitated before the Munsiff Court.

12. However, during cross examination on PW3, she frankly admitted that she was not present at the place of occurrence during the alleged transaction. It is her evidence that she was permanently residing at Kanuvai in Coimbatore. She continued that she arrived at the place of occurrence, at about 10 am and she got hearsay information from her parents and her sister regarding the alleged occurrence. Therefore, what is perceived from the evidence of PW3 is that she arrived at the place occurrence only after an hour from the alleged occurrence. Therefore, her evidence regarding the alleged occurrence cannot be considered as a direct one. Therefore, the probative value of the evidence of PW3 is meager. More particularly, since her evidence regarding the alleged occurrence is a hearsay, it is inadmissible.

13. PW4-Subbathal is the mother of the de facto complainant. Of course, she had acquaintance with all the accused persons. It is her evidence that at 9 am on 03-12-2019, PW4, along with her husband, was digging a ditch in their property to install water pipe. Then the 2<sup>nd</sup> accused, Firoz and 4<sup>th</sup> accused Harshad obstructed them. Then the husband of PW4, asked the 1<sup>st</sup> accused, Sudhakaran that why the fencing had been dismantled. Then, the infuriated 1<sup>st</sup> accused abused the husband of PW4 by calling his caste name. Simultaneously, the 3<sup>rd</sup> accused, Shameer pulled PW4 down. In the fall, PW4 was sustained injury on her hand. Subsequently, PW4 escaped from the scene. At that time, her daughter Vasantha was alighting from a private bus and saw PW4. Therefore, PW4 and Vasantha returned to the place of occurrence. Immediately, Vasantha contacted the police and consequentially, police arrived at the place of occurrence, who advised PW4 to lodge complaint before the court. Later, PW4 went to hospital for getting medicine for her injuries. As per the version of PW4, the alleged occurrence was witnessed by one Rajesh and an another identifiable person.

14. During cross examination on PW4, she testified that she had gone alone to hospital for treatment. She has further clarified that she ran away up to the private bus stand of Anakkatty, where she met her daughter, Vasantha.

15. PW5-Vasantha is the daughter of PW4. PW5 is a teacher and she used to go to her school on a private bus by name 'SRG'. As usual, at about 9 am on 03-12-2019 also, PW5 was on board in the bus. She was on board, while the bus was parked at the bus stand in Anakkatty. While so, she heard a wailing which she, later identified as the wailing of her

mother. Suddenly, PW5 alighted from the bus and reached at her mother. Then PW5 was informed that a group of assailants had dismantled the fencing and assaulted PW4. Therefore, immediately, PW5 along with PW4 reached at the place occurrence where she could meet almost 50 identifiable persons who were armed with agricultural tools like chopper, spade, axe etc. Therefore, PW5 immediately, contacted the Sub Inspector of Police, Sholayur. As a result, after half an hour, the Sub Inspector along with 3 or 4 constables inspected the place of occurrence. However, the police advised the victims to approach the court since a civil dispute was pending in respect of the right over the place of occurrence.

16. It is the further evidence of PW5 that when she reached at the place of occurrence, all the accused were abused her father by calling his caste name. Further, the 7<sup>th</sup> accused, Sulaiman was brandishing a chopper.

17. PW5 further testified that the alleged occurrence was witnessed by one Rajeev and one Hari.

18. During cross examination on PW5, it is understood that the place of occurrence is very adjacent to Anakkatty private bus stand where there might be more than 100 persons at the time of the alleged occurrence. However, PW5 asserted that no one had rushed to the place of occurrence by hearing the sound of commotion and altercation. PW5 further disclosed that PW3 had arrived at the place of occurrence after she intimated PW3 regarding the alleged occurrence over phone. It is also testified by PW5 that PW4, her mother, had never gone to hospital after the alleged occurrence.

19. PW6-Hari is the eye witness, who was mentioned by PW5. PW6 hails from Anakkatty and he is the neighbour of PW3, Rugmini. PW6 further testified that he had acquaintance with all the accused persons. However, when a definite question was put to PW6, Hari, he denied that he had witnessed any incident as alleged by the prosecution or by PW3-Rugmini.

20. It is pertinent to note that PW6-Hari never gave any previous sworn statement before court while the enquiry on Ext.P4 complaint was made by the court U/s.202 Cr.P.C. Therefore, prosecution could not contradict the evidence of PW6. Therefore, the credit of PW6 could not be impeached and the substantial evidence remains as credible one.

21. At this juncture, it is appropriate to consider the prosecution case in the defence point of view. It is an admitted fact that regarding a pathway passing along the place

occurrence, there was a civil dispute pending before the Civil Court between the parents of PW3 and all the accused. PW3 asserted that she had obtained Ext.P3 decree in her favour. During cross examination on PW3, it is elicited that regarding the pathway right, there existed a long standing dispute of more than 20 years with all the accused persons. She further admitted that the electric line was drawn across the disputed property. It is further admitted by PW3 that the public water line is also installed across the disputed property.

22. The evidence of PW3 and PW5 regarding the presence of police personnels subsequent to the alleged occurrence remains undisputed. However, it is elicited from their mouth that the police also advised them to approach the Civil Court for the mischief as there existed the civil suit. During cross examination, PW3 further admitted that she had lodged another civil suit against some of the accused persons and the same is pending at present.

23. It is the counter contention of all accused that the present case is only a cooked up story in order to pressurize the accused persons in the civil suit.

24. What is perceived generally from the evidence of PW3, PW4 and PW5 is that the place occurrence is a disputed property. All accused claim that it is a public road whereas these witnesses claim title over it. Things being so, the alleged occurrence happened. It is an admitted fact that the civil dispute had an age of more than 20 years. Therefore, it is inferred that these material witnesses are in loggerheads with the accused persons for a long term in connection with the civil dispute. Therefore, without independent corroboration, the evidence of PW4 and PW5 cannot be acted upon. Similarly, while apprising the evidence of PW5, it is manifested that she had not seen the alleged occurrence. However, it is gathered that PW5 reached at the place of occurrence subsequent to the alleged occurrence where she could see more than 50 persons. Therefore, the evidence of PW5 regarding the presence of all accused at the place of occurrence cannot be considered as a reliable evidence to prove their in the alleged occurrence.

25. Now, there remains the evidence of PW4 alone. While apprising her evidence, it is understood that she made exaggerations before court. According to her evidence, she sustained injury on her hand on a fall for which she went to hospital subsequent to the alleged occurrence. However, the evidence of PW5 would negative that PW4 went to hospital for treatment. That apart, there is no whisper in the evidence of PW4 that any of the accused persons dismantled the barbed wire fencing of PW4 and her husband. Besides that,

since there existed a genuine civil dispute regarding the right and enjoyment of the place of occurrence, it cannot be considered that an offence of criminal trespass was committed unless the possession over it is established.

26. All the more, when the evidence of PW6-Hari is considered, the whole credibility of PW4 was shattered. It is the assertion of PW5 that PW6-Hari had witnessed the alleged occurrence. However, PW6-Hari unambiguously and in unequivocal terms testified in the witness box that he had not seen any such incident. He expressed his ignorance about the entire occurrence. In the evidence of PW6, there is nothing to gather that he testified so before court since he had any vendetta towards PW3 to PW5. Therefore, the substantial evidence of PW6 would definitely contradict the entire evidence of PW3 to PW5.

27. Therefore, if the evidence of PW3 to PW5 is considered in the light of the independent evidence offered through PW6, it would give a clear insight that prosecution has failed to prove the alleged occurrence through consistent and cogent evidence. If the evidence of PW6 alone is considered, it would lead to draw an inference that the accused persons had never committed any of the alleged offences. On the other hand, if the evidence of PW3 to PW5 is admitted in its entirety as true and correct, a contradictory view would arise against the accused persons. Therefore, the cumulative effect of the prosecution evidence is that it would provide room for two views out of which one would point towards the innocence of the accused persons. It is the trite principle of law that if two views are possible from the prosecution evidence, the lenient view, that favours the accused, shall be accepted by the court. Here in this case also, as the prosecution evidence advances two views out of which one suggests the innocence of the accused persons, the said view is accepted which would constrain the court to record an acquittal against all accused persons. Therefore, it is held that the prosecution has failed to prove the guilt of all the accused beyond all reasonable doubt. Hence, **Point No. 1** is answered against the prosecution.

28. **Point No. 2:-** In the result, all the accused are found not guilty of the offences punishable U/Ss.341, 447, 427, 323 r/w 34 of the Indian Penal Code, U/Ss. 3(1) (s) and 3(2) (va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 and they are acquitted for the same U/s. 235 Cr.P.C. The bail bonds executed by these accused shall be in force for a period of six months from this date as per section 437A Cr.P.C.

*Dictated to the Confidential Assistant, typed and transcribed by her, corrected and pronounced by me in open court on this the 23<sup>rd</sup> day of April, 2026.*

Judge,  
Special Court for SC/ST (POA) ACT/  
Additional Sessions Court  
Mannarkkad.

### APPENDIX

#### Witnesses Examined for the Prosecution:-

<b>Prosecution Witness No.</b>	<b>Name of Witness</b>	<b>Date of examination</b>	<b>Description</b>
PW1	Shanavas Khan	12-09-2025	Tahasildar, Attappady Tribal Taluk.
PW2	Biju K N	12-09-2025	Village Officer, Kottathara
PW3	Rugmini	23-02-2026	The de facto complainant
PW4	Subbathal	23-02-2026	Mother of the de facto complainant
PW5	R Vasantha	23-02-2026	Daughter of PW4
PW6	Hari	06-03-2026	Eye witness

#### Exhibits marked for the Prosecution:-

<b>Exhibit No.</b>	<b>Description of the Exhibit</b>	<b>Proved by/Attested by</b>
Ext.P1	Form-III certificate (Caste certificate of complainant)	PW1
Ext.P2(series)	Caste certificate of A1 to A11	PW2
Ext.P3	Certified copy of decree in OS.103/2010	PW3
Ext.P4	Complaint	PW3

**Material Objects marked** : Nil

**Witness examined for the defence** : Nil

**Exhibits marked for the defence** : Nil

**Tabular Statement as per Rule 207 of Cr.P.C. of Kerala**

1. Serial No. : \_\_\_\_\_
2. Name of Police Station and : .....
- Crime No. of the offences : .....

## 3. Description of the accused

Name	Father's Name	Age	Residence
1. Sudhakaran	Vellakutty	41	Anakkatty
2. Firoze	Aboobacker	38	Anakkatty
3. Shemeer	Sulaiman	28	Anakkatty
4. Harshad	Sidhique	27	Anakkatty
5. Aboobacker	Kunjumon	66	Anakkatty
6. Sidhique	Khader	56	Anakkatty
7. Sulaiman	Haneefa	61	Anakkatty
8. Mallika	W/o Sukumaran	44	Anakkatty
9. Sebiya	Khader	51	Anakkatty
10.Selma	W/o Majeed	51	Anakatty
11.Fareeda	Aboobacker	31	Anakkatty

4. Date of Occurrence : 03-12-2019  
Date of complaint : 09-12-2019  
Date of arrest : 09-12-2019  
Released on bail : 31-03-2023  
Commencement of trial : 12-09-2025  
Close of trial : 06-03-2026  
Date of judgment : 23-04-2026  
Explanation of delay : No delay.

Judge,  
Special Court for SC/ST (POA) ACT/  
Additional Sessions Court  
Mannarkkad.

**Fair/Copy of Order  
in SC -152/2023  
Dated 23-04-2026**