

IN THE COURT OF SESSION, PATHANAMTHITTA DIVISION

Present: Smt.Minimol.F, Additional District & Sessions Judge -III
Friday the 13th day of March 2026/ 22nd day of Phalguna 1947 S.E.

CRIMINAL APPEAL No.17/2024

(Appeal filed against the Judgment dated 11.01.2024 of the Judicial First Class Magistrate, Ranny in CC.No.1427/2015)

Appellant/ Accused : Sarasamma, W/o.Sreedharan Nair, aged 65 years,
Villamackal House, Mandirampadi,
Thulappally Kara, Kollamula Village, Ranni Taluk.

(By Adv. P.Sudhakaran Pillai)

Respondent/
Complainant : State of Kerala, Represented by the Public
Prosecutor, Pathanamthitta.

(By Adv. Binny.B, Addl.Public Prosecutor)

Offence U/s. 374 of Code of Criminal Procedure.

Sentence or order
of the Trial court :

Accused 2 is found not guilty of offence under section 447 IPC and is acquitted u/s.248(1) Criminal Procedure code. 2nd accused is found guilty of offences u/s.341, 324, 427 r/w 34 IPC and she is convicted u/s 248(2) of Criminal Procedure Code and she is sentenced to undergo simple imprisonment for a period of 1 month for the offence under section 341 of Indian Penal Code, to undergo simple imprisonment for a period of 1 year for the offence under sections 324 r/w 34 of Indian Penal Code, undergo simple imprisonment for a period of 1 year for the offence under section 427 of Indian Penal Code. The sentences shall run concurrently. Charge against A1 got abated.

Result of the Appeal : The Appeal allowed in part

This Criminal Appeal is having been finally heard on 13.03.2026 and the Court on the same day, delivered the following:-

JUDGMENT

This is a criminal appeal preferred by the 2nd accused in CC.No.1427/2015 on the file of the Judicial First Class Magistrate Court, Ranni against the judgment dated 11.01.2024 convicting and sentencing the accused under section 248(2) Cr.P.C for the offences punishable under sections 341, 324 and 427 r/w 34 of Indian Penal Code.

2. The 2nd accused is the Appellant. The State of Kerala represented by the Public Prosecutor, Pathanamthitta is the respondent.

3. The case of the prosecution in the final report in brief is as follows;

The accused 1 and 2, in furtherance of their common intention, with intent to trespass into the property of PW1, commit mischief there in and to manhandle her at 12.00 noon on 22.09.2015 trespassed into her property situated on the western side of the property of one Karikkode Babu. Thereafter, the 2nd accused wrongfully restrained PW1

by caught hold of her with her both hands. While so, the 1st accused beat on her right wrist with an iron rod causing pain. As a result she fell down. When she tried to get up from the floor by holding onto the nighty of the 2nd accused, the 1st accused beat on her left shoulder with iron rod causing pain. Thereafter the accused 1 and 2 cut and destroyed the plantain seedlings planted in the said property by causing loss of ₹6,000/-. Thus the accused are alleged to have committed the aforesaid offences.

4. PW7, the Senior Civil Police Officer of Pampa Police Station, recorded Ext.P1 First Information Statement and P1(a) body note of PW1. PW5, the Sub Inspector of Pampa Police Station registered the case as per Ext.P1 and Ext.P3 is the First Information Report. He conducted investigation, recorded the statement of witnesses and prepared Ext.P2 scene mahazar. Ext.P5 is the report showing the name and address of the accused. Ext.P6 is the wound certificate of PW1. He completed the investigation and submitted the final report before the Judicial First Class Magistrate Court, Ranni. The learned Magistrate took cognizance of the offences punishable under sections 447, 341, 324 and 427 r/w 34 of Indian Penal Code and filed as CC.No.1427/2015. Issued summons to the accused 1 and 2. On appearance of the accused 1 and 2 before that court copy of all relevant records were furnished to them

under section 207 Cr.P.C. Thereafter the learned magistrate framed charge for the offences punishable under Sections 447, 341, 324 and 427 r/w 34 of Indian Penal Code after hearing both sides and perusing the prosecution records. The charge read over and explained to the accused 1 and 2, to which, they pleaded not guilty and claimed to be tried.

5. On the side of the prosecution PW1 to PW7 were examined. Exts.P1 to P6 were marked. During trial, the 1st accused died, copy of death certificate produced and the charge against him was abated. After closing the evidence for the prosecution the 2nd accused was questioned under section 313(1)(b) Cr.P.C for the purpose of enabling the circumstances appeared against her in the evidence. She denied all the circumstances appeared against her in the evidence. Her case is that she is innocent. Thereafter she was called up on to enter up on her defence under section 243 of Cr.P.C. But no defence evidence was adduced from her side.

6. After raising necessary points, hearing both sides and appreciating the evidence, the learned Magistrate found the 2nd accused guilty under section 248(2) Cr.P.C for the offences punishable under sections 341, 324 and 427 r/w 34 of Indian Penal Code and convicted

her and sentenced to under go simple imprisonment for a term of one month for the offence punishable under Section 341 of Indian Penal Code and sentenced to simple imprisonment for a term of 1 year each for the offences punishable under Section 324 and 427 r/w 34 of Indian Penal Code. The sentences of imprisonment shall run concurrently.

7. Aggrieved by the Judgment of conviction and sentence the 2nd accused preferred the appeal on the following grounds;

That the judgment of conviction and sentence passed against the appellant is against the law, facts and evidence. The trial court ought to have found that the 2nd accused is not guilty. The trial court convicted and sentenced the 2nd accused without any evidence. The trial court failed to appreciate the evidence in this case in its correct perspective. On going through the entire evidence it is very clear that the prosecution has suppressed important facts and the accused 1 and 2 were falsely implicated in the case. Hence this appeal seeking to set aside the judgment of conviction and sentence passed by the trial court.

8. Heard both sides.

9. The points for determination are:

1. Did the prosecution prove that the appellant/ 2nd accused

in furtherance of common intention with the 1st accused wrongfully restrained PW1 and committed the offence punishable under section 341 of Indian penal Code?

2. Did the Prosecution prove that the 1st accused in furtherance of common intention with the 2nd accused voluntarily caused hurt to PW1 with an iron rod, a dangerous weapon and committed the offence punishable under Section 324 r/w 34 of Indian Penal Code?
3. Did the Prosecution prove that the 2nd accused in furtherance of common intention with the 1st accused cut and destroyed the plantain seedlings planted by PW1 in the property causing loss of ₹ 6,000/- and committed the offence punishable under Section 427 of Indian Penal Code?
4. Is there any ground to interfere with the judgment of conviction and sentence passed by the learned Magistrate under section 248(2) Cr.P.C for the offences punishable under sections 341, 324 and 427 r/w 34 of Indian Penal Code ?

10. **Point Nos.1 to 4**: The case of prosecution is that the accused in furtherance of their common intention with intent to trespass into the property of PW1, commit mischief therein and to attack her at 12.00 on 22.09.2015, trespassed into her property situated on the western side of the property of one Karikkode Babu. Thereafter, the 2nd accused wrongfully restrained her by caught hold of her with her both hands. While so, the 1st accused beat on her right wrist with an iron rod causing pain. As a result she fell down. When she tried to get up from the floor by holding onto the nighty of the 2nd accused, the 1st accused beat on her left shoulder with the iron rod. Thereafter they cut and destroyed the plantain seedlings planted in the property by her, causing loss of ₹6,000/-. PW1 deposed before court that the incident was happened in between 11.30 AM and 12.00 noon on 22.09.2015 at the property belongs to her father. She stated that due to the enmity that she is possessing the property, cultivates it and taking the income, the accused 1 and 2 trespassed into the property, the 2nd accused wrongfully restrained her and the 1st accused beat on her right wrist and left shoulder with iron rod, causing pain. In the cross-examination of PW1 no question or suggestion put to deny the said case of PW1 before court. It goes to show that the accused is not disputing the said case of PW1 before court and in Ext.P1. PW1 deposed before court that she gave

Ext.P1 statement before the police regarding the alleged incident. On going through Ext.P1 and the version of PW1, it can be seen that her version before court is fully corroborated with Ext.P1. In the cross-examination of PW1, the accused has no case that Ext.P1 is a false statement. No question or suggestion put PW1 to deny Ext.P1. So it can be seen that the accused is not disputing Ext.P1 statement.

11. PW7 who recorded Ext.P1 statement and P1(a) body note of PW1 deposed before court that he recorded Ext.P1 and P1(a) body note at the Government Hospital Kanjirappally on 25.09.2015. The incident happened on 22.09.2015 in between 11.30 AM and 12 noon. According to PW1, she went to Government Hospital, Kanjirapally on the same day and admitted there. PW6 deposed before court that while she was working as Chief Medical Officer at General Hospital, Kanjirappally, she examined PW1 at 03.00 PM on 22.09.2015 and issued Ext.P6 wound certificate. She deposed in tune to Ext.P6 that the patient complained of pain, swelling on right wrist joint, complained of pain left shoulder joint, pain in neck. The version of PW1 before court is corroborated with Ext.P6 wound certificate. During the cross-examination of PW6, nothing was brought out to disbelieve her version before court and Ext.P6.

12. PW7 deposed before court that the information regarding the incident was received from Government Hospital, Kanjirappally. Accordingly he went to said hospital and recorded Ext.P1 and Ext.P1(a) body note of PW1. PW5, the Investigating Officer also deposed that after getting information regarding the incident from the Government Hospital, Kanjirappally, PW7 recorded Ext.P1 statement and P1(a) body note of PW1. Thereafter he registered the case as per Ext.P1. In the cross-examination of PW7, the case of accused is that the accused 1 and 2 did not commit the offences as alleged. He denied the said case of the accused. During the cross-examination of PW1, the accused has no such case. In the cross-examination of PW1 the case of accused is that they are falsely implicated in this case by influencing the police due to the enmity that they are possessing the property of the father of PW1. She denied the said case of the accused. But during the cross-examination of PW1 and PW7, the accused has no case that Ext.P1 is a false statement. The case of 2nd accused at the time of questioning under Section 313(1)(b) of Cr.PC is that she is innocent in this case. At the time of questioning under Section 313 (1)(b) of Cr.PC, the 2nd accused has no case that she and the 1st accused are falsely implicated in this case, due to the enmity that they are possessing the property of father of PW1. It goes to show that the said case of accused during the

cross-examination of PW1 is a false case.

13. PW2 and PW3 deposed before court that they did not witness the alleged incident and turned hostile to the prosecution. PW4 deposed that he signed in Ext.P2 scene mahazar. In the cross-examination he deposed that he does not know the contents in Ext.P2. PW5 deposed before court that he went to the place of occurrence and prepared Ext.P3 scene mahazar. In the cross-examination, he deposed that the scene of occurrence was not shown to him by PW1. But on going through the version of PW1 before court, it can be seen that her statement is consistent right from the time when she had made initial statement under Section 154 Cr.PC before the police till the time of her deposition before court. Her statement is quite natural and is also consistent with the case of the prosecution. She was cross examined by the learned defence counsel, however, nothing favourable could be elicited from her cross examination. She had successfully withstood the test of her cross examination and there are no material discrepancies and contradictions in her statement which go to the root of the prosecution case. The version of PW1 in the examination-in-chief regarding the alleged incident remains totally unimpeached. After going through her statement minutely, the court could not find any material contradiction therein which may affect the core of the

prosecution case.

14. The version of PW1 before court clearly goes to show that her version before court is wholly reliable and trustworthy. Her version before court itself is sufficient to prove the prosecution case beyond any reasonable doubt. Therefore, the court finds that there is no ground to interfere with the judgment of conviction passed by the trial Court in this case. Therefore, the judgment of conviction passed by the trial Court is confirmed. The 2nd accused is the elder sister of PW1. Now she is aged 69 years. Considering the age of the 2nd accused at this stage and relation between herself and PW1 the court finds that the sentence of imprisonment imposed by the trial Court for the offences punishable under Sections 341, 324 and 427 of Indian Penal Code can be modified. Hence, the sentence of imprisonment for the offence punishable under section 341 is modified to sentence of fine of ₹500/-. In default of payment fine amount, she shall undergo simple imprisonment for 5 days. The sentence of imprisonment for the offence punishable under Section 324 of IPC is modified to sentence of imprisonment till rising of court and fine of ₹ 2000/-. In default of the payment of the fine amount, she shall undergo simple imprisonment for 20 days. The sentence of imprisonment for the offence punishable under Section 427 of IPC is modified to fine of ₹1,000/-. In default of payment of fine amount, she

shall undergo simple imprisonment for 10 days. If the fine amount is realized, the entire amount shall be disbursed to PW1 as compensation under Section 357(1)(b) of Cr.PC.

In the result, appeal allowed in part.

(Typed and corrected by me and pronounced in open Court, on this the 13th day of March, 2026.)

Sd/-
MINIMOL.F

ADDL. DISTRICT AND SESSIONS JUDGE- III

APPENDIX - NIL.

Sd/-
ADDL. DISTRICT AND SESSIONS JUDGE- III

Typed by : Athma Raj.T.R
Compared by : Remi Assis

Fair/Copy of Judgment in
Criminal Appeal No.17/2024,

Dated:13.03.2026.