

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

Present: Smt. Arundhathi Dileep, Judicial First Class Magistrate

Friday the 10th day of April, 2026/ 20th day of Chaithra 1948 S.E.

CC 45/2016.

Complainant : State represented by the Sub Inspector of Police,
Keezhvaipur as per Crime No. 424/2015 of
Keezhvaipur Police Station.
[By Assistant Public Prosecutor, Thiruvalla].

Accused : 1. Varghese K Abraham @ Sunny, Aged 42/15
S/o K M Abraham
Koodathil Meppurathu House, Vallamala Muri,
Kunnanathanam Village.
2. Manu mon, Aged 24/15
S/o Kunjumon
Manu Sadanam
Chengaroor Chira, Kunnanathanam Village.
(By Adv. S N Harikrishnan)

Offences : Under sections 447 and 506(i) r/w section 34
of the Indian Penal Code.

Plea : Not Guilty.

Finding : Not Guilty.

Sentence/Order : Accused are acquitted under section 255(1) of the
Code.

DESCRIPTION OF THE ACCUSED

Name	Father's name	Occupation	Residence	Age
Varghese K Abraham	K M Abraham	Not Applicable	Kunnanthanam	42/15
Manu Mon	Kunjumon	Not Applicable	Kunnanthanam	24/15

RELEVANT DATES

Offence	Complaint	Apprehension	Release on bail	Commencement of Trial
14/04/2015	30/04/2015	27/02/2020	27/02/2020	27/02/2020
Close of trial		Sentence of order	Explanation for delay	
07/04/2026		10/04/2026	No delay	

This case having been finally heard on 07/04/2026, the court on this day delivered the following:-

J U D G M E N T

1. ***The accused faces indictment for the offences punishable under sections 447, 294(b) and 506(i) r/w section 34 of the Indian Penal Code (hereinafter as IPC) as per Crime No. 424/2015 of Keezhvaipur Police Station.***

2. ***The prosecution case in brief is as follows :-*** Accused Nos.1 and 2 due to enmity in CW4, husband of CW1 having questioned them with regard to the theft of bunch of bananas and tender coconut from their property and in furtherance of their common intention had criminally trespassed into her courtyard at Chengaroor Chira in Kunnanthanam Village and had threatened to kill her and CW4. The accused had thus committed the above said offences.

3. On the basis of Ext.P1 First Information Statement given by CW1, CW6, Sub Inspector of Police, Keezhvaipur Police Station registered the case as Crime number 424/2015 and conducted the investigation and laid the final report before the Court. Cognizance was taken by the court under section 190(1)(b) of Code of Criminal Procedure (hereinafter as Code) and case was taken on file as CC 45/2016.

4. On appearance of the accused before the Court, copies of all the prosecution records were furnished to them as envisaged under section 207 of the Code. They were enlarged on bail. They were defended by lawyer of their choice. After hearing both sides and on perusal of entire prosecution records, particulars of the offences were read over and explained to the accused ***under sections 447 and 506(i) r/w section 34 of the Indian Penal Code*** to which they pleaded not guilty and claimed to be tried. The offence under section 294(b) of IPC was deleted since ingredients of the offence was not attracted in this case.

5. To bring home the guilt of the accused prosecution examined *PW1 to PW3* and marked *Exts P1 to P5*. The evidence of CW2 and CW3 could not be recorded as they were abroad at the time of the trial. The evidence of CW5 could not be recorded as he was laid up at the time of the trial. After completion of the prosecution evidence, the accused were examined u/s 313(1)(b) of the Code so as to enable them to explain about the incriminating circumstances that had surfaced against them. They denied all the incriminating circumstances appearing in evidence against them and pleaded innocence. No evidence was adduced from the side of the defence.
6. *Heard both sides. Perused the records.*
7. *From the above facts and the prosecution evidence adduced, the following points arise for consideration :-*
 1. *Whether the accused in furtherance of their common intention had criminally trespassed into the property of CW1 and thereby committed the offence punishable u/s. 447 of IPC ?*
 2. *Whether the accused in furtherance of their common intention had threatened to kill CW1 and CW4 and thereby committed the offence punishable u/s. 506(i) of IPC?*
 3. *Are the accused liable for conviction? If so, what shall be the appropriate sentence to be imposed in the event of conviction?*
8. *Point Nos.1 and 2:-* These points can be considered jointly for the sake of convenience.
9. CW1 was examined as PW1. She stated on oath that the alleged incident had took place on 12/04/2015 at 3.00 P.M. Accused Nos.1 and 2 were employed in the

property in front of their house for work for about 6 months. She had enquired with the accused with regard to the theft of their bunch of bananas and tender coconut. Due to the said enmity accused had criminally trespassed into her sit out and had threatened to kill her. The accused were under the influence of alcohol. She had lodged the Ext.P1 FIS. In cross examination she stated that along with her husband she had went to the police station and lodged the Ext.P1.

10. CW4 who was examined as PW2 is the husband of PW1. His evidence shows that the alleged incident had took place on 12/04/2015 after 1.00 P.M. The accused Nos.1 and 2 with a sword stick had threatened to kill him. They had entered into their sit out and had stamped on their door. In cross examination he stated that they had lodged the complaint on the alleged day of the incident.
11. CW6 was examined as PW3. On 12/04/2015 he was working as Sub Inspector of Police at Keezhvaipur Police Station. On the basis of the Ext.P1 FIS he had registered the case by Ext.P2 FIR. He had prepared the Ext.P3 scene mahazar and Ext.P4 report specifying the name and address of the accused. He had conducted the investigation of the case and recorded the statement of the witnesses. He had arrested the accused and released them on bail on Ext.P5 bond. He had completed the investigation and filed charge sheet before the court. He also identified the accused Nos.1 and 2 in the dock.
12. The kernel of the prosecution case is that accused Nos.1 and 2 due to previous enmity had criminally trespassed into the property of PW1 and had threatened to kill PW1 and PW2. The prosecution relies on the evidence of PW1 and PW2 to prove the occurrence. It is the case of the PW1 that accused had criminally trespassed into her sit out and had threatened to kill her. While the evidence of PW2 discloses that accused had threatened him showing a sword stick. But PW1 has no such case.

13. It is pertinent to note that prosecution had not placed on record any evidence to prove the possession of the property in question. In *Anilakumari v. State of Kerala, Ors, 2019(3) KHC 311*, it was held that ***“The ingredients of the offence of criminal trespass are: (1) Entry into or upon property in the possession of another (2) If such entry is lawful, then unlawfully remaining upon such property (3) Such entry or unlawful remaining must be with intent - (i) to commit an offence; or (ii) to intimidate, insult or annoy the person in possession of the property”***. In the instant case, possession of the property is not proved before the court. In the circumstances, as the possession of the property in question is not proved before the court, ingredients of the offence under Section 447 IPC is not established in this case.
14. It is further the case of the prosecution that accused had threatened to kill PW1 and PW2. A perusal of evidence on record discloses that there exists contradiction in the evidence of PW1 and PW2 in this aspect. Though PW1 had deposed that accused had threatened to kill her, the evidence of PW2 shows that accused had threatened to kill him showing a sword stick. In *Aravind Vaidyar Cheriyaakken Smaraka Marma Chikilsalayam v. State of Kerala, 2016(1) KLD 398*, it was held that ***“In order to attract an offence under section 506(i) IPC, the prosecution has to prove that the accused intimidated PW1 as defined under section 503 IPC. The essential ingredients are (1) there should be a threat of injury to a person (i) to his person, reputation or property (ii) to the person or reputation of any person in which the person is interested (2) that the threat must be with intend to (i) cause alarm to that person or (ii) to cause that person to do an act which he is not legally bound to do as the means to avoiding the accused of such threat (iii) to cause that person to omit to do any act which that person is legally entitled to do as means of avoiding the causing of such threat. If one person threatening***

another person, in a particular set of action however a mere threat without causing any alarm does not amount to a criminal intimidation. But if the threat is made with intend to cause alarm to another person threatened, the offence will automatically come into play. It is immaterial whether the recipient of threat caused alarm or not. Therefore, the soul of the definition of criminal intimidation is the intention which has to be gathered from the surrounding circumstances and the words used by the person intimidating”. The evidence of PW1 and PW2 does not in any manner shows that any alarm was caused to them by the treat of the accused. Hence, the ingredients of the offence under section 506(i) of IPC is also not proved before the court.

15. On an over all consideration of the entire materials on records, I hold that prosecution had miserably failed to prove its case beyond reasonable doubt. Accordingly, point Nos. 1 and 2 stands not proved and are found against the prosecution.

16. **Point No. 3:**

On the basis of the findings on Point Nos.1 and 2, the question of sentence is out of consideration. Therefore this point is also found against the prosecution and in favour of the accused.

In the result the accused are found not guilty of the offences punishable under sections 447 and 506(i) r/w section 34 of the Indian Penal Code and they are acquitted under section 255(1) of the Code. The bail bonds stand cancelled and they are set at liberty.

Dictated to the Confidential Asst., transcribed by her, corrected and pronounced by me in open Court on this the 10th day of April, 2026.

Sd/-

Judicial Magistrate of the First Class,

Thiruvalla

APPENDIX

A. Prosecution Witness

Rank	Name	Whether Eye witness, Police Witness, Expert Witness, Medical Witness, Other Witness
PW1	: K P Saramma examined on 03/08/2022.	Informant
PW2	: Joseph P D examined on 03/08/2022.	Occurrence witness
PW3	: G Santhoshkumar examined on 03/12/2025.	Police witness

B. Defence Witness

Rank	Name	Whether Eye witness, Police Witness, Expert Witness, Medical Witness, Other Witness
Nil	: Nil	Nil

C. Court Witness

Rank	:	Name	Whether Eye witness, Police Witness, Expert Witness, Medical Witness, Other Witness
Nil	:	Nil	Nil

List of Prosecution/Defence/Court Exhibits**A. Prosecution Exhibits**

Sl.No	:	Exhibits Number	Description
P1	:	FIS through PW1 dated	
P2	:	FIR through PW3 dated	
P3	:	Scene Mahazar through PW3 dated	
P4	:	Address Report through PW3 dated	
P5	:	Bail Bond through PW3 dated	

B. Defence Exhibits

Sl.No	:	Exhibits Number	Description
	:	Nil	Nil

C. Court Exhibits

Sl.No	:	Exhibits Number	Description
	:	Nil	Nil

D. Material Objects

<i>Sl.No</i>	<i>:</i>	<i>Exhibits Number</i>	<i>Description</i>
	<i>:</i>	<i>Nil</i>	<i>Nil</i>

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***Judicial Magistrate of the First Class,
Thiruvalla***