

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

Present: Smt. Arundhathi Dileep, Judicial Magistrate of the First Class

Thursday the 26th day of March, 2026/ 05th day of Chaithra 1948 S.E.

CC 1429/2014.

Complainant	:	State represented by the Sub Inspector of Police, Peurmpetty as per Crime No. 407/2014 of Peurmpetty Police Station. [By Assistant Public Prosecutor, Thiruvalla]
Accused	:	1. Madhu, Aged 38/14 S/o Pappi Chathannallil House, Nedumpala, Kulathoor Muri, Kottangal Village. 2. Pappi, Aged 57/14 [Split up] S/o Bhaskaran Chathannallil House, Nedumpala, Kulathoor Muri, Kottangal Village. (By Adv. Bijo Thomas George)
Offences	:	Under sections 447 and 324 r/w section 34 of the Indian Penal Code.
Plea	:	Not Guilty.
Finding	:	Guilty [A1]
Sentence/Order	:	

- 1. Accused No. 1 is found guilty of the offence under section 324 r/w section 34 of IPC and is convicted of the said offences u/s 248(2) of the Code of Criminal Procedure.**

2. *Accused No.1 is sentenced to undergo simple imprisonment for six months and a fine of Rs.5,000/- and simple imprisonment for 15 days in default of payment of fine for the offence under section 324 r/w section 34 of IPC.*
3. *The entire fine amount levied upon the accused shall be paid as compensation to PW2.*
4. *Accused No. 1 is found not guilty for offence under section 447 of IPC and is acquitted u/s. 248(1) of the Code of Criminal Procedure.*
5. *Case against accused No.2 is split up and refiled as CC 2243/2014.*

DESCRIPTION OF THE ACCUSED

<i>Name</i>	<i>Father's name</i>	<i>Occupation</i>	<i>Residence</i>	<i>Age</i>
Madhu	Pappi	Not Applicable	Kottangal	38/14
Pappi	Bhaskaran	Not Applicable	Kottangal	57/14

RELEVANT DATES

Offence	Complaint	Apprehension	Release on bail	Commencement of Trial
20/06/2014	14/07/2014	10/07/2019	10/07/2019	10/07/2019
Close of trial		Sentence of order	Explanation for delay	
25/03/2026		26/03/2026	No delay	

This case having been finally heard on 25/03/2026, the court on this day delivered the following:-

J U D G M E N T

2. *The accused faces indictment for the offences punishable under sections 294(b), 447 and 324 r/w section 34 of the Indian Penal Code (hereinafter as IPC) as per Crime No. 407/2014 of Perumpetty Police Station.*

PROSECUTION CASE

3. The accused Nos.1 and 2 due to enmity in CW1 having questioned them for tearing the seat of his bike had on 20/06/2014 at 8.00 P.M., had hurled abuses at him and criminally trespassed into the courtyard of his house at Nedumpala. Thereafter the 1st accused had inflicted a cut to him with a chopper causing injury to his head above his ears and left middle finger. The 2nd accused had pushed him. The accused had thus committed the aforesaid offences.

INVESTIGATION

4. On the strength of Ext.P1 First Information Statement given by CW1, CW8, Sub Inspector of Police, Perumpetty Police Station registered the case as Crime No. 620/2014 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 for offences under sections 447 and 324 r/w section 34 of the IPC and case was taken on file as CC 1429/2014. The offence under section 294(b) of IPC was deleted since ingredients of the offence was not attracted in this case.

INQUIRY

5. On appearance of the accused Nos.1 and 2 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, charge was framed under **sections 447 and 324 r/w section 34 of the Indian Penal Code** and was read over and explained to the accused to which they pleaded not guilty and claimed to be tried.

TRIAL

6. To bring home the guilt of the accused prosecution examined **PW1 to PW7**, marked **Exts. P1 to P6** and **MO1**. CW2 had expired before the commencement of the trial. After completion of the prosecution evidence, the accused were examined under section 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. The 1st accused had further submitted that CW1 is his neighbour and he is engaged in theft and sale of drugs. Being a politician he had preferred complaint against the accused at the Police Station and Excise Office and they had conducted enquiry against him. **Ext. D1** was marked from the side of the defence.
7. **Heard both sides. Perused the records.**
8. **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 on 20/06/2014 at 8.00 P.M., criminally trespassed into the courtyard of CW1 and thereby committed the offence punishable u/s. 447 of IPC ?*
2. *Whether the accused in furtherance of their common intention had on 20/06/2014 at 8.00 P.M., voluntarily caused hurt to CW1 with a chopper and thereby committed the offence punishable u/s. 324 IPC?*
3. *Are the accused liable for conviction? If so, what shall be the appropriate sentence to be imposed in the event of conviction?*

EVIDENCE ON RECORD

9. **Point Nos.1 to 3:-** These points can be considered jointly for the sake of convenience. The witnesses paraded by the prosecution to pin the guilt upon the accused are as follows;
10. CW4 who was examined as PW1 is the mother of CW1. Her evidence shows that the alleged incident had took place during 2014 at 7.00 P.M. Her daughter Monisha had informed her about the incident. When she reached home she found CW1 lying in pool of blood. He sustained injury to his ears and side of the head. He was admitted at District Hospital, Ranni. She also identified the accused in the court.
11. In cross examination PW1 deposed that she is residing at a distance of 1 kilo meters from the house of CW1. She had not witnessed the accused attacking CW1. The house of CW1 is situated in a colony and several people are residing

near to the house of CW1. She had taken CW1 to hospital. The accused are her neighbours. There exists case against CW1 for committing theft of the water pump belonging to the water authority.

12. CW1 was examined as PW2. He stated that the alleged incident had took place on 20/06/2014 at 8.00 P.M. The accused Nos.1 and 2 are his neighbours and they had attacked him. On the morning of the said day, when he was leaving for his work he found that the seat of his bike was torn and when he was talking about the same to his mother and sister, accused Nos.1 and 2 had came there and pushed him and the 1st accused had inflicted a cut on the left side of his head with a chopper. He had also bitten on his left middle finger. The 2nd accused had also pushed him. At that time his sister and grand mother was also present with him. He had seen the accused in the light from his courtyard. Along with his sister he went to the police station and had lodged the Ext.P1 FIS. He also identified MO1 as the chopper which was used for attacking him.

13. During cross examination PW2 admitted that Ext.D1 is the news item regarding the theft of a pump set belonging to the water authority by him. His mother had remarried and is residing at a distance of 3 kilo meters from his house. He had given Ext.P1 statement while at the police station. He was taken to hospital in the police jeep and he was admitted at the hospital for three days. Accused does not had any previous enmity with him. His father-in-law is residing near to his house. There are around 32 houses near to his house. At the time of the incident none of his neighbours had gathered. He had not stated the name of the accused to the doctor but had stated that they are his neighbours. He denied the suggestion that he is engaged in theft and sale of drugs and had falsely implicated the accused for lodging complaint against him. It was also suggested that he had sustained injury while cutting tree and it was denied by PW1.

14. CW3 who was examined as PW3 is the sister of PW2. She stated that the alleged incident had took place on 26/06/2016 at 8.00 P.M., at the courtyard of her house. She is residing along with PW2 and their grand mother. On the said day, after retuning from work PW2 had asked them about the tearing of the seat of his bike. At that time, accused Nos.1 and 2 had entered into their courtyard and the 1st accused who came with a chopper had inflicted a cut above the left ear of PW2. Along with PW2 she went to the police station and they had took PW2 to the hospital. She also identified the accused and MO1 in the court.
15. In cross examination PW3 deposed that they are residing in a colony and there exists several houses near to their house. Their neighbours had gathered at the time of the incident. Father-in-law of PW2 is residing on the northern side of their house and accused are residing on the back side of their house. Accused does not had any previous enmity with them. She also admitted that there existed case against PW2 for committing theft of the pump set belonging to water authority. She also denied the suggestion that accused was falsely implicated as the 1st accused who is a politician had lodged complaint against PW2 for selling ganja.
16. CW7 was examined as PW4. On 20/06/2014 he was working as Additional Sub Inspector of Police at Perumpetty Police Station. On the said day PW2 had came to the station for lodging complaint and he was taken to the hospital as he had sustained grievous injuries. He had recorded the Ext.P1 FIS on 21/06/2014 at Government Hospital, Ranni and had prepared the Ext.P1(a) body note. He had seen injury on the right side of head of PW2 above his ears and injury to his left middle finger.

17. CW6 was examined as PW5. On 20/06/2014 while she was working as Assistant Surgeon at Taluk Hospital, Ranni she had examined PW2 at 10.00 P.M., who was brought with history of assault at 8.30 P.M., on the said day by a known person with a chopper on right temple region and a bite on left middle finger. On examination she noted a lacerated wound of 15 x 5 cm on right temple region. In her opinion the said injury could be caused as alleged and she had issued Ext.P2 certificate. In cross examination PW5 deposed that PW2 had not mentioned the name of the assailants and number of persons involved in the incident. The injury sustained by PW2 can be caused to a person working as head load worker in a granite quarry. PW2 was admitted in the hospital.
18. CW5 who was working as PW6 had deposed that he had attested his signature in the Ext.P3 mahazar.
19. CW8 was examined as PW7. On 21/06/2014 he was officiating as Station House Officer at Perumpetty Police Station. On the basis of Ext.P1, he had registered the case by Ext.P4 FIR. He had prepared the Ext.P3 scene mahazar and had recovered the chopper from the scene of occurrence. He had forwarded the chopper to the court in Ext.P5 form. He had recorded the statement of the witnesses. He had arrested the accused and released them on bail on Ext.P6 bond. He had completed the investigation of the case and had filed charge sheet before the court.
20. During cross examination PW7 stated that he came to know about the incident when PW2 had come to the police station with injury. PW2 had come to the police station on the night of 20/06/2014 between 8.30 and 9.00 P.M. Blood was oozing from the head of PW2 while he came to the station. The place of

occurrence is a colony and there exists several houses near to the house of PW2. He had not made any neighbours of PW2 as witnesses in this case. He had not enquired about the title deeds of the place of occurrence.

SUBMISSIONS ON BEHALF OF THE DEFENCE

21. To hammer home the case of the defence, the learned counsel has raised the following submissions:-

1. The Ext.P4 FIR was registered on 21/06/2014 at 13.00 hours., and the body note was prepared on 20/06/2014 at 13.00 hours. Going by Ext.P4, the alleged incident had took place on 21/06/2014 at 8.00 P.M. Also, PW7 the investigating officer had deposed that he had submitted the charge sheet after verifying the contents of the Ext.P4. The materials on record shows that FIR and body note were prepared before the alleged incident and the said discrepancies in the Ext.P4 and body note creates doubt about the prosecution case.
2. PW2 had went to the police station soon after the incident and his evidence shows that he had given statement on 20/06/2014 at the police station. But the police had not registered the FIR at that time. Also, PW4 had deposed during his cross examination that he had recorded the statement of PW2 at the Government Hospital, Ranni. The aforesaid inconsistencies also casts doubt on the prosecution case.
3. In the Ext.P3 scene mahazar it was stated that it was PW2 who had shown the place of occurrence to the police. But the evidence of PW5 discloses that PW2 was admitted in the hospital on 20/06/2014. Also, there is no reference of any source of light in the Ext.P3.

4. The prosecution case is silent regarding how MO1 was recovered by the police and in the Ext.P2 it was stated that PW2 was brought to the hospital by his father Johnson. But he was not cited as a witness by the prosecution. Also, no independent witness was examined by the prosecution though the alleged incident had took place in a colony.
5. PW5 had deposed that the injury caused to PW2 could be sustained by a person who is working at quarry. PW1 and PW3 had admitted that PW2 is working in a quarry but the version of PW2 is that he is engaged in timber work and there is possibility of sustaining injury during his work. PW2 had falsely implicated the accused after he had sustained injury during his work.
6. Going by the prosecution version accused does not had any previous enmity with PW2 and hence there is no motive for the alleged incident.
7. The accused was falsely implicated by PW2 as the 1st accused who is a politician had approached the local police for assisting people in the locality to lodge complaint against PW2 who is engaged in the sale of ganja and other drugs. Also, Ext.D1 news item shows that PW2 had committed theft of pump set belonging to Kerala Water Authority and it was admitted by PW1 and PW3 in the box. Ext.D1 shows that PW2 is a hardened criminal.

SUBMISSION ON BEHALF OF THE ASSISTANT PUBLIC PROSECUTOR

22. Per contra, the learned Assistant Public Prosecutor vehemently argued that the evidence of prosecution witnesses discloses that soon after the incident PW2 had went to the police station and he was taken to the hospital by the police and later the Ext.P4 was registered. The medical evidence on record corroborates the oral

testimony of witnesses. It was also submitted that PW2 during cross examination had deposed that he had seen the accused in the light from his courtyard. Therefore, the argument of the defence that source of light is not mentioned in the Ext.P3 scene mahazar does not assumes any relevance. It was also stated that PW2 had specifically deposed that accused had attacked him for talking about him and hence it cannot be stated that accused does not had any motive. With regard to the discrepancies pointed out in the FIR and scene mahazar. It was submitted that the prosecution case cannot be swept under the carpet for the fault in the investigation. The learned Assistant Public Prosecutor had also relied on the decision in **2024 KHC 7184, *Rajanish v. State of Kerala***.

APPRECIATION OF EVIDENCE

23. The kernel of the prosecution allegation is that accused Nos.1 and 2 in furtherance of their common intention had criminally trespassed into the courtyard of PW2 and with the MO1 chopper had inflicted a cut on his head and had bitten on his left middle finger and had also pushed him. While in the box, PW2 had stood by his version in the Ext.P1 FIS. He stated that on 20/06/2014 at 8.00 P.M., accused Nos.1 and 2 had came to his house and the 1st accused had inflicted a cut on the right side of his head and had bitten on the middle finger of his left hand and the 2nd accused had pushed him. In cross examination he stated that he was taken to the hospital by the police in their jeep and was admitted at the hospital for three days. He also identified MO1 as the chopper used by the 1st accused. The prosecution had examined PW1 and PW3 to prove the occurrence. PW1 is the mother of PW2. She was informed about the alleged incident by PW3. Her evidence shows that when she came to her house, she found PW2 lying in blood and he had sustained injury to his head. She also stated that accused are

her neighbour. PW3 sister of PW2 had deposed that the 1st accused had inflicted a cut with a chopper above the left ear and he had sustained bleeding and they went to the police station. PW2 was taken to the hospital by the police.

24. The medical evidence in this case consists of evidence of PW5 and Ext.P2 wound certificate. PW5 had deposed that she had examined PW2 on 20/06/2014 at 10.00 P.M., with history of assault on 20/06/2014 at 8.30 P.M., with chopper on right temple region and bite on left middle finger. PW5 deposed that PW2 had sustained a lacerated wound of 15 x 5 cm on right temple region.
25. The specific case of the defence is that 1st accused is a politician and the accused are falsely implicated for complaining about PW2 regarding his sale of drugs to the police. The defence had also marked Ext.D1 news item showing that PW2 had committed theft of pump set belonging to Water Authority. The fact that PW2 had committed theft of the pump set as stated in Ext.D1 news was admitted by PW1 to PW3 during their cross examination.
26. It is pertinent to note that no material contradiction or omission could be brought out during the cross examination of prosecution witnesses. PW2 had given a detailed narration of how the incident had commenced, progressed and culminated. PW2 had deposed that soon after the incident he had went to the police station along with PW3 and he was taken to hospital by police. PW3, PW4 and PW7 had also attested the said fact.
27. The main contention of the defence was that there exists discrepancy in the date mentioned in the Ext.P1(a) body note as well as Ext.P4 FIR. It was pointed out that Ext.P1(a) body note was prepared on 20/06/2014 and in the Ext.P4 the date

of incident was shown as 21/06/2014. It is the case of the prosecution that the alleged incident had took place on 20/06/2014 at 8.00 P.M. The evidence of PW4 shows that on the said day PW2 had came to the police station and informed about the alleged incident and considering the grave injury sustained by him, he was taken to Government Hospital, Ranni and he had recorded the Ext.P1 FIS. Ext.P4 as well as evidence of PW7 discloses that the FIR was registered on 21/06/2014 at 13.00 hours. In the Ext.P4, however the date of the incident was mentioned as 21/06/2014 at 8.00 P.M. However, considering the evidence of PW2, PW5, PW4 and PW7 it can be seen that the aforesaid discrepancy is only a clerical error and does not in any manner discredit or disprove the case of the prosecution. Similarly, it was pointed out that in the Ext.P3 scene mahazar it was stated that the place of occurrence was shown by PW2 who was at that time admitted at the hospital and PW2 had also pleaded ignorance regarding who had pointed out the place of occurrence to the police. The aforesaid contradiction is also an error that occurred at the time of preparation of Ext.P3.

28. In this regard, it is pertinent to note the decision of the Hon'ble High Court in *Rajeesh @ Makku v. State of Kerala, 2024 KER 87164*, wherein the Hon'ble High Court had observed that *"By a series of judicial pronouncements, it is well settled that glitches in the investigation or fault in the investigation alone are not a reason to acquit an accused. If the prosecution case is fully established from the testimony of the eyewitness, the illegality or irregularity in the investigation will certainly pale into insignificance. In State of Karnataka v. Yarappa Reddy (1999 (3) KLT 456 SC), the Hon'ble Apex Court held as follows: "Conclusion of the court in a case cannot be allowed to depend solely on the probity of investigation. It can be a guiding principle that, as*

investigation is not the solitary area for judicial scrutiny in a criminal trial, the conclusion of the court in the case cannot be allowed to depend solely on the probity of investigation. It is well settled that, even if the investigation is illegal or even suspicious, the rest of evidence must be scrutinized independently of the impact of it. Otherwise criminal trial will plummet to the level of the investigating officers ruling the roost. The court must have predominance and per – eminence in criminal trials over the action taken by investigating officers. Criminal justice should not be made the casualty for the wrongs committed by the investigating officers in a case. In other words, if the court is convinced that the testimony of a witness to the occurrence is true the court is free to act on it albeit in investigating officers suspicious role in the case".

29. Another argument of the defence is that though PW2 had deposed that 1st accused had bitten on his left middle finger, no such injury was mentioned in the Ext.P2 wound certificate. PW4 who had prepared the Ext.P1(a) body note had mentioned that PW2 had sustained injury to his left middle finger. Merely because the said injury does not find mention in the Ext.P2, it cannot be held that PW2 had not sustained such an injury particularly when PW2 had categorically deposed that the 1st accused had bitten on his left middle finger.

30. During cross examination of PW1 and PW2 it was elicited by the defence that they had not stated the name of the accused to the doctor. I find the said contention of the defence to be untenable and unsustainable for the reason that the doctor was a prosecution witness for the limited purpose of injury report and not a prosecution witness with regard to the occurrence. (See; *Chandrasekhar v.*

State of Tamil Nadu, AIR 2017 SC 2600, Pattipati Venkaiah v. State of A.P., (1985) 4 SCC 80, Chandanapurath Rajeevan v. State of Kerala 2024(2) KLD 110).

31. The defence had also raised a contention that the evidence of the prosecution witnesses shows that the alleged incident had took place in a colony and neighbours of PW2 were not examined. It was also stated that Ext.P2 shows that PW2 was taken to hospital by his father and he was not examined by the prosecution. Hence, the non examination of independent witnesses in this case is fatal to the case of the prosecution. In *Guru Dutt Pathak v. State of Uttar Pradesh, AIR 2021 SC 2257*, the Hon'ble Apex Court held that *"One another ground given by the learned trial Court while acquitting the accused was that no independent witness has been examined. The High Court has rightly observed that where there are clinching evidence of eyewitnesses, mere non-examination of some of the witnesses/independent witnesses and/or in absence of examination of any independent witnesses would not be fatal to the case of the prosecution.*

In the case of Manjit Singh v. State of Punjab (2019) 8 SCC 529, it is observed and held by this Court that reliable evidence of injured eyewitnesses cannot be discarded merely for reason that no independent witness was examined.

In the recent decision in the case of Surinder Kumar v. State of Punjab (2020) 2 SCC 563, it is observed and held by this Court that merely because prosecution did not examine any independent witness, would not necessarily lead to conclusion that accused was falsely implicated.

In the case of Rizwan Khan v. State of Chhattisgarh (2020) 9 SCC 627, after

referring to the decision of this Court in the case of State of H.P. v. Pardeep Kumar (2018) 13 SCC 808, it is observed and held by this Court that the examination of independent witnesses is not an indispensable requirement and such non-examination is not necessarily fatal to the prosecution case”.

32. In *Biju Abraham, Anr v. State of Kerala, 2025(1) KHC 721*, it was held that *“The law is well settled that absence of independent witness by itself would not give clean chit to an accused if the testimony of an injured witness itself is wholly reliable. Law does not insist for plurality of witnesses and the legal mandate is to address on reliable evidence”.*

33. Notably, PW2 is an injured witness and his evidence should be considered with special regard and weight. The Hon’ble Supreme Court in *Balu Sudam Khalde,Ors v. State of Maharashtra, AIR 2023 SC 1736* held that *When the evidence of an injured eye-witness is to be appreciated, the under - noted legal principles enunciated by the Courts are required to be kept in mind:*

(a) The presence of an injured eye-witness at the time and place of the occurrence cannot be doubted unless there are material contradictions in his deposition.

(b) Unless, it is otherwise established by the evidence, it must be believed that an injured witness would not allow the real culprits to escape and falsely implicate the accused.

(c) The evidence of injured witness has greater evidentiary value and unless compelling reasons exist, their statements are not to be discarded lightly.

(d) The evidence of injured witness cannot be doubted on account of some embellishment in natural conduct or minor contradictions.

(e) If there be any exaggeration or immaterial embellishments in the evidence of an injured witness, then such contradiction, exaggeration or embellishment should be discarded from the evidence of injured, but not the whole evidence.

34. A close scrutiny of evidence on record discloses that PW2 had steadfastly stood by his version in the box. His evidence could not be impeached in any manner by the defence. Though, it is brought on record that he was involved in a theft case, nothing has been brought forth to show that he was convicted for the said case. Moreover, merely because PW2 was implicated in another offence, it cannot be held that he is not a reliable and trustworthy witness particularly when there is nothing on record to discredit him. Needless to say that defence had argued that PW2 is employed in the quarry and the injury sustained by him could be caused during the course of his work. PW5 had also deposed that the injury sustained by PW2 could be caused by a person working as a head load worker in a granite quarry. But, the evidence on record is in defiance to such a probability. The fact that PW2 went to the police station soon after the incident with injuries was attested by the official witnesses. In the glare of the clinching and reliable evidence of PW2, the aforementioned arguments of the defence pales into insignificance.

35. Yet another contention of the defence was that the Ext.P3 scene mahazar does not mention about any source of light in the place of occurrence. The evidence of

PW2 discloses that he had seen the accused in the light from his courtyard. Notably, accused are the neighbours of PW2 and there is not dispute regarding their identity. Hence, the fact that any source of light is not mentioned in the Ext.P3 is not a sufficient ground to blow the case of the prosecution out of water.

36. The defence had also highlighted the evidence of PW2 during cross examination that accused does not have any previous enmity with him and therefore there is no motive for the alleged incident. During his examination-in-chief PW2 had stated that “ ഞാൻ പ്രതികളെ പറ്റി പറഞ്ഞത് കൊണ്ട് എന്നെ ഉപദ്രവിച്ചതാണ്”. The reason for the attack of the accused was well stated by PW2.

37. An analysis of evidence of PW1 to PW3 reveals that though they had been cross examined at length, nothing could be elicited to impeach their evidence. The substantive evidence of the witnesses are same and did not suffer from any infirmities. The main fabric of the prosecution story remained unshaken during their cross-examination. PW1 to PW3 corroborate each other regarding the occurrence and they have narrated the incident in a detailed manner. There is also no ground to doubt the presence of PW3 in the place of occurrence. Their evidence inspires the confidence of this court and they have firmly established the foundation of the prosecution case. The medical evidence brought on record had fully corroborated the ocular evidence on record and had fortified the case of the prosecution. Considering the entire gamut of the prosecution case, I am of the considered opinion that the direct unimpeachable and impeccable evidence of PW2, the star witness of the prosecution coupled with evidence of PW3 that received strong corroboration from the medical evidence and the evidence of PW4 and PW7 who had lend a strong corroboration to his version had proved the prosecution case to the hilt.

38. Now the question to be considered is whether the offences alleged are made out from the proved facts before the court. The first and foremost allegation of the prosecution is that accused Nos.1 and 2 had criminally trespassed into the courtyard of PW2 and committed the offence punishable under section 447 of IPC. Prosecution has not procured any document to show the possession of the property wherein PW2 and PW3 were residing. PW2 stated that “ സംഭവം നടന്ന വീട് എന്റെ അമ്മയുടെ പേരിലാണ്. അതിന്റെ പ്രമാണം ഒന്നും പോലീസിന് കാണിച്ചുകൊടുത്തിട്ടില്ല”. PW7 had also deposed during his cross examination that he had not verified any documents proving the possession over the place of occurrence. 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, offence under section 447 of IPC is not established in this case.
39. With regard to the offence under section 324 of IPC., it was alleged by the prosecution that the 1st accused had inflicted a cut on the head of PW2 with MO1 chopper. The medical evidence on record revealed that he had sustained a lacerated wound of 15 x 5 cm on his right temple region. MO1 was recovered and produced before the court and it was identified by PW2 and PW3. This court had also the occasion to see the MO1. It was a chopper having sharp edge. In *Anuj Singh v. State of Bihar, AIR 2022 SC 2817*, it was held that *“It is a well-known fact that the term “hurt” simply means performing an act which leads*

to physical pain, injury or any disease to a person. At times, hurt may be caused voluntarily or it can be caused by using dangerous weapon or mean. To establish an offence under section 324 Indian Penal Code, the presence of following ingredients is a must which are as follows:

- 1. Voluntary hurt caused to another person by the accused, and*
- 2. Such hurt was caused:*
 - 1. By any instrument used for shooting, cutting or stabbing, or any other instrument likely to cause death, or*
 - 2. By fire or other heated instruments, or*
 - 3. By poison or other corrosive substance, or*
 - 4. By any explosive substance, or*
 - 5. By a substance that is dangerous for the human body to swallow, inhale, or receive through blood, or*
 - 6. By an animal.*
 - 7. When a person commits an offence of voluntarily causing hurt by dangerous weapons and means under section 324 of Indian Penal Code, then such person shall be punished with imprisonment for a period of three years, or with fine.*

40. Needless to mention, MO1 being a chopper is an instrument used for cutting and qualifies the mandate of an instrument as laid by section 324 IPC. The account of injury sustained by PW2 as evident from the medical evidence is in consonance with the testimony of the prosecution witnesses. The ocular evidence coupled with the medical evidence on record clearly establishes that accused had caused hurt to PW2 when he had inflicted a cut on his head with MO1 chopper. Therefore, ingredients of the offence under section 324 of IPC is clearly established in this case.

41. The evidence of PW2 and PW3 establishes that both the accused had trespassed into their courtyard and had attacked PW2. In *Krishnamurthy v. State of Karnataka (2022) 7 SCC 521*, it was held that : “Section 34 of the Indian Penal Code makes a co-perpetrator, who had participated in the offence, equally liable on the principle of joint liability. For section 34 to apply there should be common intention between the co-perpetrators, which means that there should be community of purpose and common design or pre-arranged plan. However, this does not mean that co-perpetrators should have engaged in any discussion, agreement or valuation. For section 34 to apply, it is not necessary that the plan should be pre-arranged or hatched for a considerable time before the criminal act is performed. Common intention can be formed just a minute before the actual act happens. Common intention is necessarily a psychological fact as it requires prior meeting of minds. In such cases, direct evidence normally will not be available and in most cases, whether or not there exists a common intention has to be determined by drawing inference from the facts proved. This requires an inquiry into the antecedents, conduct of the co-participants or perpetrators at the time and after the occurrence. The manner in which the accused arrived, mounted the attack, nature and type of injuries inflicted, the weapon used, conduct or acts of the co-assailants/perpetrators, object and purpose behind the occurrence or the attack etc. are all relevant facts from which inference has to be drawn to arrive at a conclusion whether or not the ingredients of section 34 of the Indian Penal Code are satisfied. We must remember that section 34 of the Indian Penal Code comes into operation against the co-perpetrators because they have not committed the principal or main act, which is undertaken/performed or is attributed to the main culprit or perpetrator. Where an accused is the main or final perpetrator, resort to section 34 of the

Indian Penal Code is not necessary as the said perpetrator is himself individually liable for having caused the injury/offence. A person is liable for his own acts. section 34 or the principle of common intention is invoked to implicate and fasten joint liability on other co-participants". It has come out in the evidence that accused Nos.1 and 2 had actively participated in the alleged incident. Therefore section 34 of IPC is also established in this case.

42. Considering the overall evidence on record, I hold that prosecution had established its case beyond reasonable doubt. Prosecution was successful in establishing the commission of offence under section 324 r/w section 34 of IPC. Accordingly Point No.2 is found in favour of the prosecution and against the accused. However, offence under section 447 of IPC is not proved before the court. Therefore, point No.1 is found in favour of the accused and against the prosecution.

43. **Point No. 3**

In the light of the findings on point Nos. 1 and 2 the accused is found guilty of the offence under section 324 r/w section 34 of the Indian Penal Code and is convicted for the said offence u/s 248(2) of the Code.

The accused had unleashed the attack against PW2 without any provocation and they had caused injury to the unarmed PW2 with MO1 chopper. Considering the facts and the circumstances of the case and overt act of the accused, I am not inclined to invoke the benevolent provisions of the Probation of Offenders Act.

Dictated to the Confidential Asst., typed by her, corrected and pronounced by me in open Court on this the 26th day of March, 2026.

Sd /-

*Judicial Magistrate of the First Class,
Thiruvalla.*

44. The 1st accused and his learned counsel was heard on sentence. The accused had pleaded for leniency. The 2nd accused had failed to appear before the court to hear the sentence despite sufficient opportunities. It is well settled that courts have to keep in view the interest of the victim and society at large when awarding punishment. The Hon'ble Supreme Court in *Hazara Singh v. Raj Kumar, Ors, AIR 2013 SC 3273* held that *"The cardinal principle of sentencing policy is that the sentence imposed on an offender should reflect the crime he has committed and it should be proportionate to the gravity of the offence"*. Therefore I am of the view that for the offence under section 324 r/w section 34 IPC simple imprisonment for six months and a fine of Rs.5,000/- and simple imprisonment for 15 days in default of payment of fine will meet the ends of justice.

45. *In the result,*

1. *Accused No. 1 is found guilty of the offence under section 324 r/w section 34 of IPC and is convicted of the said offences u/s 248(2) of the Code of Criminal Procedure.*

2. *Accused No.1 is sentenced to undergo simple imprisonment for six months and a fine of Rs.5,000/- and simple imprisonment for 15 days in default of payment of fine for the offence under section 324 r/w section 34 of IPC.*
3. *The entire fine amount levied upon the accused shall be paid as compensation to PW2.*
4. *Accused No. 1 is found not guilty for offence under section 447 of IPC and is acquitted u/s. 248(1) of the Code of Criminal Procedure.*
5. *Case against accused No.2 is split up and refiled as CC 2243/2014.*

Dictated to the Confidential Asst., typed by her, corrected and pronounced by me in open Court on this the 26th day of March, 2026.

Sd/-

*Judicial Magistrate of the First Class,
Thiruvalla*

A P P E N D I X

A. Prosecution Witness

Rank	Name	Whether Eye witness, Police Witness, Expert Witness, Medical Witness, Other Witness
PW1 :	Ponnamma examined on 19/06/2023.	Occurrence witness
PW2 :	Vineeth T R examined on 09/09/2024.	Informant

PW3 :	<i>Monisha examined on 14/11/2024.</i>	<i>Occurrence witness</i>
PW4 :	<i>E. A Gopi examined on 02/04/2025.</i>	<i>Police witness</i>
PW5 :	<i>Dr. Sethulekshmi S examined on 13/05/2025.</i>	<i>Medical witness</i>
PW6 :	<i>Rajest P K examined on 16/07/2025.</i>	<i>Mahazar witness</i>
PW7 :	<i>Varghese Alexander examined on 06/10/2025.</i>	<i>Police witness</i>

B. Defence Witness

<i>Rank</i>	<i>:</i>	<i>Name</i>	<i>Whether Eye witness, Police Witness, Expert Witness, Medical Witness, Other Witness</i>
<i>Nil</i>	<i>:</i>	<i>Nil</i>	<i>Nil</i>

C. Court Witness

<i>Rank</i>	<i>:</i>	<i>Name</i>	<i>Whether Eye witness, Police Witness, Expert Witness, Medical Witness, Other Witness</i>
<i>Nil</i>	<i>:</i>	<i>Nil</i>	<i>Nil</i>

List of Prosecution/Defence/Court Exhibits

A. Prosecution Exhibits

<i>Sl.No</i>	<i>:</i>	<i>Exhibits Number</i>	<i>Description</i>
<i>P1</i>	<i>:</i>	<i>FIS through PW1 dated 21/06/2014.</i>	
<i>P1(a)</i>	<i>:</i>	<i>Body Note through PW4 dated 21/06/2014.</i>	
<i>P2</i>	<i>:</i>	<i>Wound Certificate through PW5 dated 20/06/2014.</i>	
<i>P3</i>	<i>:</i>	<i>Scene Mahazar through PW6 dated 21/06/2014.</i>	
<i>P4</i>	<i>:</i>	<i>FIR through PW7 dated 21/06/2014.</i>	
<i>P5</i>	<i>:</i>	<i>Property List through PW7 dated 21/06/2014.</i>	
<i>P6</i>	<i>:</i>	<i>Bail Bond through PW7 dated 02/07/2014.</i>	

B. Defence Exhibits

<i>Sl.No</i>	<i>:</i>	<i>Exhibits Number</i>	<i>Description</i>
<i>D1</i>	<i>:</i>	<i>Newspaper article [Subject to proof] through PW2.</i>	

C. Court Exhibits

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

D. Material Objects

<i>Sl.No</i>	<i>:</i>	<i>Exhibits Number</i>	<i>Description</i>
		MO1 :	Chopper

Sd/-

Judicial Magistrate of the First Class,
Thiruvalla

// True copy //

Judicial Magistrate of the First Class,
Thiruvalla