

IN THE COURT OF SESSION, THRISSUR DIVISION**Present:- Parvathy Vijayan, Additional Assistant Sessions Judge, Irinjalakuda.****Saturday the 6th day of June, 2026/16th day of Jyeshtham, 1948 SE****Sessions Case No.862/2019****(C.P. 58/2019 of the Judicial First Class Magistrate Court, Chalakudy)**

- Complainant** : State of Kerala – Represented by Sub Inspector of Police, Athirappilly Police station. (Crime No. 43/2019 of Athirappilly Police Station.)
- By Addl. Public Prosecutor Sri. Jogy George.**
- Accused** : 1. Aneesh @ Undamani, S/o Andavan, Akathethara House, Kanimangalam Village, now residing at Padayattil Tower, Ambalanada, West Chalakudy.
2. Vijeesh, S/o Andavan, Akathethara House, Kanimangalam Village, now residing at Madhuramattom, Meloor Village.
3. Lalitha, W/o Andavan, Akathethara House, Kanimangalam.
- By Adv. Reshma Divakaran**
- Offence** : U/Ss. 448, 341, 323, 324 and 307 r/w 34 IPC.
- Plea of accused** : Not guilty.
- Finding of the Court** : Not guilty.
- Sentence or Order** : The accused are found not guilty of the offences punishable U/Ss. 448, 341, 323, 324 and 307 r/w section 34 IPC and accused are acquitted of the said offence u/s 232 Cr.P.C and the accused are set at liberty. Their bail bonds stand cancelled.

This Sessions case having been come up for final hearing before me on 30.05.2026 in the presence of the Additional Public Prosecutor and counsel for the accused and the court on 06.06.2026 delivered the following:-

JUDGMENT

This case arose from a final report in Crime 43/2019 registered by the Athirappilly Police Station.

2. The facts leading to the case are that on 10.04.2019 at about 10.00 p.m., accused due to enmity towards CW1 and family trespassed into the courtyard of CW1 with intention to cause death of CW2 and A1 had beaten CW2 and dragged to road, and A3 threatened and instructed A1 to kill and first accused in furtherance of the common intention of other accused stabbed CW2 on his left shoulder with a knife with an intention to cause his death. Also CW3 who obstructed accused No.2 was bitten by Accused No.3. Thus the accused are alleged to have committed offence under sections 448, 341, 323 and 307 r/w section 34 of IPC.

3. The case was originally taken on file as CP 58/2019 of Judicial First Class Magistrate Court, Chalakudy. The accused were released on bail. The copies of relevant records were given to them and as the offence alleged are exclusively triable by the court of sessions, their case was committed to the Hon'ble Sessions Court and numbered as SC 862/2019 and made over to this court for disposal.

4. The copies of relevant records were given to them and accused person was heard under Section 227 Cr.P.C., and they did not argue for discharge. As there is sufficient ground to proceed against the accused the charge was then framed for the offenses under Sections 448, 341, 323, 324 and 307 r/w section 34 IPC. They pleaded not guilty and claimed to be tried.

5. To bring home the guilt of the accused out of CW1 to CW26 witnesses, PW1 to PW4 were examined and exhibits P1 to P20 were marked. As PW1 to PW3 who are the injured and material witnesses turned hostile to the prosecution, learned Additional Public Prosecutor given up other witnesses

CW4 to CW25. PW2 is the injured. After closing the prosecution evidence, the accused were examined under section 313(1)(b) Cr.P.C. They denied all the incriminating evidence brought out against them in the prosecution evidence.

6. Heard the accused under section 232 CrPC. The following points arise for consideration:

1. Whether all the accused, on 10.04.2019 at 10.00 p.m, in furtherance of their common intention, wrongfully trespassed into the courtyard of PW1 and thereby committed an offence punishable u/S. 448 r/w S. 34 of the Indian Penal Code?
2. Whether the accused, in prosecution of their common intention, at the same time and same place, wrongfully restrained PW2 and thereby committed an offence punishable u/s.341 r/w.149 of the Indian Penal Code?
3. Whether the first accused, at the same time on the same day at same place, in prosecution of their common intention, voluntarily caused simple hurt to PW2 by stabbing and thereby committed an offence punishable under section 323 of the Indian Penal Code?
4. Whether the first accused, at the same time and same place, in prosecution of their common intention, stabbed on the stomach of PW2 with such intention to cause death of PW2 and thereby committed an offence punishable u/S.307 of Indian Penal Code?
5. Whether accused No 3 had voluntarily caused hurt by dangerous weapon on PW3 and thereby committed an offence punishable u/S.324 of Indian Penal Code?
6. Whether accused commit the offence in furtherance of their common intention as alleged and thereby committed an offence punishable u/S.34 of Indian Penal Code?
7. Sentence or Order to be passed?

7. Point Nos.1 to 5:- The prosecution case is that on 10.04.2019 at about 10.00 p.m., accused due to enmity towards CW1 and family trespassed into the courtyard of CW1 with intention to cause death of CW2 and A1 had beaten CW2 and dragged to road, and A3 threatened and instructed A1 to kill and first accused in furtherance of the common intention of other accused stabbed CW2 on his left shoulder with a knife with an intention to cause his death. Also CW3 who obstructed accused no 2 was bitten by Accused No.3.

8. PW1 deposed that injured is her sister's husband. She deposed that the incident happened on 10.04.2019 at 10.00 p.m. She deposed that her sister's husband got stabbed and had taken treatment in St. James Hospital Chalakudy and Medical College Hospital, Thrissur. She deposed that she had not seen the incident. She deposed that she had given statement to the police and had identified her signature in Ext.P1. She deposed that she had not given statement to the police as required. She had seen the incident where Anish, Vinish and their mother was injured. Learned Additional Public Prosecutor requested to permit to declare witness hostile and allowed. She deposed that first accused is her son-in-law. She deposed that matter is settled and has no complaint against the accused. She denied that she is giving false statement before the court as the accused are their relatives.

9. PW2 and deposed that his house is at Athirappilli. He deposed that he had seen the incident relating to this case. He deposed that he was also stabbed with a knife in the incident relating to this case. He deposed that incident happened on 10.04.2019 at 10.00 p.m. at the road of house of his sister. He deposed that he had taken treatment at Medical College Hospital, Thrissur. He also deposed that he had not given statement to the police as to who had injured him. He deposed that he does not know who had stabbed him. He further deposed that he knows the accused and had not given statement to the police as accused had injured him. Learned Additional Public

Prosecutor requested to permit to declare witness hostile and allowed. He deposed that matter is settled and has no complaint against the accused. He denied that she is giving false statement before the court as the accused are their relatives.

10. PW3 is the wife of PW1. She deposed that she knows the incident that happened to her husband and got stabbed on his back using a knife. Thereafter she deposed that she had not seen the incident. She deposed that she does not know who had injured her husband. Learned Additional Public Prosecutor requested to permit to declare witness hostile and allowed. She deposed that she had given statement to the police. She deposed that she had not given statement to the police as Vinish, Aneesh and their mother injured her husband. She deposed that she knows the accused and are relatives. She denied that she is giving false statement before the court as the accused are their relatives.

11. PW4 deposed that CW25 was Sub Inspector of Athirappilly Police Station during the time of incident that happened in this case. He deposed that CW25 had recorded the statement of CW1 and CW24 on the basis of statements Crime No.43/2019 of Athirappilly Police Station was recorded under Sections 341, 323, 448, 307 and 34 IPC and Ext. P2 FIR was registered. He had identified the signature of CW25 in Ext P2. The investigation of the case was taken over by CW25 and had visited the place of occurrence. PW4 had identified the signature of CW25 in Ext. P3 scene mahazar. Thereafter, material objects were seized and Ext.P24 seizure mahazar was prepared by CW25. The accused were arrested and Exhibit P5 arrest memo was prepared by CW25 and PW4 had identified the signature of CW25. Thereafter Ext. P6 series inspection memo was prepared by CW25 had identified the signature of CW25 in Ext. P7 arrest intimation. PW4 also had identified Ext. P8 property list prepared by CW25 along with his signature. PW4 deposed that confession

statement of first accused was recorded and had prepared Ext. P9 seizure mahazar for recovery of weapons used in the incident. The extract of the confession statement of accused is marked as Ext. P10. The name and address of the accused was reported by CW25 as per Ext. P11 and had identified signature of CW25. The wound certificate was collected by CW22 and had identified the same as per Ext. P12 wound certificate and had produced before the court. The sketch was collected from CW14 and was marked as Ext. P13. The ownership certificate was collected from CW15 and had marked as Ext P14. The clothes which were worn by the accused at the time of incident were collected and prepared Exts. P15 and P16 seizure mahazars by CW25. PW4 had collected the blood samples and the discharge certificate of the accused were collected as per Ext. P17. Discharge certificates were seized as per the property list Ext. P18. The forwarding note of blood samples is marked as Ext. P19 and the report is marked as Ext. P20. After investigation, charge sheet was filed by CW25 and had identified his signature.

12. In the present case, PW2, the injured witness and the alleged eyewitness PW1 and PW3 have turned hostile to the prosecution by denying the identity of the accused. Therefore, even though the prosecution could prove that some incident had occurred on the alleged day and that PW2 sustained injuries, the prosecution has failed to prove that it was the accused who committed the alleged offence. When the injured witness and all the material witnesses have resiled from their earlier statements and there is no substantive evidence identifying the accused as the perpetrator of the alleged offence, the prosecution has failed to establish any link connecting the accused with the crime.

13. In a criminal trial, the burden is on the prosecution to prove the guilt of the accused beyond reasonable doubt. In the present case, there is no credible and consistent evidence establishing that the accused were the

perpetrators of the alleged assault. In the absence of reliable identification and corroborative evidence connecting the accused with the crime, the prosecution has failed to prove the charges beyond reasonable doubt. The identity of the accused remains unestablished and, therefore, the benefit of doubt must necessarily go to them. Accordingly, the accused are entitled to acquittal of all the charges under Sections 448, 341, 323, 324 and 307 r/w section 34 IPC.

14. The prosecution has failed to link the accused to the crime beyond reasonable doubt. In view of the foregoing discussion and the hostile nature of the key witnesses, it is clear that the prosecution has failed to prove the allegations against the accused beyond all reasonable doubt. So there is no evidence to prove the guilt of the accused.

15. **Point No.7:** In the light of the above discussion I hold that the prosecution has failed to prove the allegation against the accused beyond reasonable doubt. In the result, accused are found not guilty of the offences punishable u/ss 448, 341, 323, 324 and 307 r/w section 34 IPC and the accused are acquitted of the said offences u/s 232 CrPC and they are set at liberty. Their bail bonds stand cancelled. The material objects shall be disposed as per law after the period of appeal.

(Dictated to the confidential assistant, transcribed and typed by her, corrected by me and pronounced in open court on this the 6th day of June, 2026.)

Sd/-

**Parvathy Vijayan,
Additional Assistant Sessions Judge,
Irinjalakuda.**

APPENDIX

A. Prosecution witnesses:-

Prosecution witness No.	Name	Description
1	Sindhu	First informant

2	Sivadasan	Injured
3	Bindu Sivadasan	Witness
4	M.K.Ramesh	Investigating Officer

A. Prosecution Exhibits:-

Exhibit No	Description of the exhibit	Proved by/ Attested by
1	FIS	PW1
2	FIR	PW4
3	Scene mahazar	PW4
4	Seizure mahazar	PW4
5	Arrest memo	PW4
6 series	Inspection memo	PW4
7	Arrest notice	PW4
8	Seizure mahazar	PW4
9	Seizure mahazar	PW4
10	Extract of 161 statement	PW4
11	Full address report	PW4
12	Wound certificate	PW4
13	Sketch	PW4
14	Ownership certificate	PW4
15	Seizure mahazar	PW4
16	Seizure mahazar	PW4
17	Discharge certificate	PW4
18	Property list	PW4
19	Forwarding note	PW4
20	Chemical Analysis Report	PW4

B. Defence Witness:- Nil.**B. Defence Exhibits:-** Nil.**Material Objects :-** Nil.**FOOT NOTE**

Crime No & Name of Police Station	Cr. 43/2019 of Athirappilly Police Station.
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DESCRIPTION OF THE ACCUSED

Sl. No.	Name of accused	Name of Father/Husband	Occupation	Residence	Age
1.	Aneesh @ Undamani	Andavan	--	Akathethara House, Kanimangalam Village, now residing at Padayattil Tower, Ambalanada, West Chalakudy.	
2.	Vijeesh	Andavan		Akathethara House, Kanimangalam Village, now residing at Madhuramattom, Meloor Village.	
3.	Lalitha	Andavan		Akathethara House, Kanimangalam.	

DATE OF

Occurrence	: 10.04.2019
Complaint	: 11.04.2019
Commitment	: 06.09.2019
Arrest	: 11.04.2019
Released on bail	: 19.06.2019
Commencement of trial	: 17.03.2026
Closure of trial	: 30.05.2026
Judgment pronounced	: 06.06.2026
Sentence/Order	: 06.06.2026.
Copy given to accused	: Nil
Explanation for delay.	: No delay.

Sd/-

**Parvathy Vijayan,
Additional Assistant Sessions Judge,
Irinjalakuda.**

*// True Copy //**By Order,**Sheristadar.*