

**IN THE COURT OF THE SESSION, THRISSUR SESSIONS
DIVISION**

Present:-

Sri. V. Vinod, Asst. Sessions Judge, Chavakkad.

Tuesday, the 23rd day of June, 2025.

(2nd Jyeshtha, 1947 S.E.)

SESSIONS CASE NO. 636/2023

Complainant : State rep. by :Sub Inspector of Police,
Vadanappilly police station.
(Cr. No. 497/2022 of Vadanappilly
Police station)

Accused : 1. Nazim.A. Nazar, S/o. Abdul Nazar,
Rayamarakkar House,
Chettikkad Desom,
Thrithalloor., Thrissur.
2. Uwais.A., S/o. Abdul Nazar,
Rayamarakkar House,
Chettikkad Desom,
Thrithalloor., Thrissur

The Sessions Court delivered the following:-

ORDER

The accused in this case are facing trial for the offence punishable under Sections 341, 323, 324, 326, 308 r/ w 34 of IPC.

2. The case of the prosecution in brief is as follows: On 9.00 pm of 24.7.2022 from near tamarind tree situated in the property of Nandilath Parambil Lalitha the accused infurtherance of their common intention wrongfully restrained Mujeeb , S/o. Abdulla and 2nd accused attacked him with a knuckle duster on his face. Again he was attacked with knuckle duster on his head. That was evaded. If it was

not evaded it would have caused his death. On seeing the public gathering the accused ran away. Mujeeb was first taken to M.I. Hospital. Thereafter he was taken to the Mother Hospital, Thrissur. He sustained fracture to his jaw bone.

3. Based on the statement given by Muhammed Shafi, S/o. Kunjalu a case was registered against the accused for the aforesaid offences. The S.I. of police, Vadanappilly conducted the investigation. After the close of the investigation a final report was filed against the accused for the aforesaid offences before the JFCM Court, Chavakkad. The case was taken on file as learned Magistrate as CP. 5/2023. Upon appearance, both the accused were supplied with copy of report and documents as per Sec. 207 Cr.P.C. As the offence is exclusively triable by the Court of Sessions, the case was committed by the learned Magistrate to the Court of Sessions Thrissur u/s. 209 Cr.P.C. The case was taken on file of the Court of Sessions, Thrissur as S.C. 636/2023 and made over to this court for disposal.

4. Both accused appeared before this court.

5. Heard the learned counsel for the accused and the prosecution. Perused the records.

6. On going through the records, I am satisfied that there are materials to presume that the accused have committed offences punishable

under Sec. 341, 323, 326 r/w 34 of IPC. However, with regard to offence punishable under Sec. 324 r/w 34 of IPC the accused No.2 assaulted the victim once with a knuckle duster. That assault fell on the jaw of the victim and he sustained fracture. For which already Sec. 326 r/w 34 of IPC is made out against the accused. Since the 2nd assault did not fall on the body of the victim, offence under Sec. 324 r/w 34 of IPC is not made out against the accused. Hence they are discharged of the offence punishable under Sec. 324 r/w 34 of IPC.

7. Concerning offence punishable under Sec. 308 r/w 34 of IPC, the weapon alleged to have been used is a knuckle duster. It is the case of the prosecution that if the 2nd assault done by the accused aiming at the head of the victim if was not evaded would have caused the death of the victim. This is nothing but the conclusion drawn by the prosecution witnesses. With regard to offence punishable under Sec. 308 of IPC a person is punished for the intention to commit the culpable homicide. The intention will have to be gathered from the circumstances of the case. The weapon used is a knuckle duster. Normally it is not a weapon which is sufficient to commit a culpable homicide or murder. Of course it

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can cause fracture to the bone or skull. But in the normal course it will not sufficient to cause death.

9. From the facts of the case what can be gathered is that the intention of the accused were to cause hurt to the victim rather than to commit culpable homicide. Hence I am of the considered view that the offence punishable under Sec. 308 r/w 34 of IPC is not made out against the accused. Hence the accused is discharged of the offence punishable under Sec. 308 r/w 34 of IPC. Charge will have to be framed against the accused under sections 341, 323, 326 r/w 34 of IPC.

(Dictated to the Confidential Assistant, transcribed by her, corrected and pronounced by me in open court, on this the 23rd day of June, 2025).

Id/-
V. VINOD,
ASSISTANT SESSIONS JUDGE.

/ True copy/

Sd/-

ASSISTANT SESSIONS JUDGE.

