

IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE, CHAVAKKAD
Present: Smt. Saarika Sathyan V., Judicial First Class Magistrate,
Dated this, Wednesday the 25th day of March, 2026/ 4th Chaithra, 1947

CC 2426/2017

Complainant : State Rep. by the Sub Inspector of police, Chavakkad Police Station in Crime No. 175/2017 of that police station.
(By APP- Chavakkad)

Accused : 1. Muneer, 30/17, S/o. Hassan Koya, Blangad Thazhath House, Edakkazhiyur Desom, Edakkazhiyur Village.
 2. Hafasath, 50/17, W/o. Hassan Koya, Blangad Thazhath House, Edakkazhiyur Desom, Edakkazhiyur Village.
(Rep. By Adv. Akthar Ahammed)

Offence : U/s. 341, 448, 294(b), 506(ii), 354A(I)(iv) r/w 34 of IPC.

Plea : Not guilty.

Finding : Accused are found not guilty of offences punishable under sections 341, 448, 294(b), 506(ii), 354A(I)(iv) r/w 34 of the Indian Penal Code.

Sentence or Order : Accused are acquitted under section 248(1) Cr.P.C.

Description of the Accused:

Sl. No	Name and Rank	Father's Name	Occupation	Residence	Age
1	Muneer	Hassan Koya	-	Edakkazhiyur	30/17
2	Hafasath	W/o. Hassan Koya	-	Edakkazhiyur	50/17

Dates on which

Occurrence	Complaint	Apprehension	Release on bail	Commencement of trial	Commencement of evidence	Close of trial	Sentence or Order	Period of Detention undergone during investigation, inquiry or trial for the purpose of section 428 of Cr.P.C.
12/02/17	05/07/17	14/02/19		04/02/20	24/07/23	18/03/26	25/03/26	-

This case having been heard finally on the 25th day of March, 2026 the court on the same day delivered the following:-

J U D G M E N T

1. This is a case in which final report has been filed by the Sub Inspector of police, Chavakkad Police Station in Crime No. 175/2017 of that police station, for offences punishable under sections 341, 448, 294(b), 506(ii), 354A(I)(iv) r/w 34 of IPC.
2. The prosecution case in brief is that, on 12/02/2017 at 16.30 hours, accused nos. 1 and 2 criminally trespassed into the portico of the house of CW1 bearing no. XIV/398 of Punnayur Gramapanchayath and uttered obscene words towards her and tried to chop CW2 with an iron sword and forcefully caught on his neck and threatened to kill him. When CW1 tried to restrain the accused, accused pushed her and accused no.2 outraged the modesty of CW1 in public by uttering obscene words towards her. Accused are therefore alleged to have committed offences punishable under sections 341, 448, 294(b), 506(ii), 354A(I)(iv) r/w 34 of IPC.
3. This case was taken on file of this Court as CC 2426/2017. On appearance of the accused, copies of all relevant prosecution records were furnished to them under section 207 of the Code of Criminal Procedure, 1973. Accused were enlarged on bail. Accused are represented by a lawyer of their choice. Upon perusal of the prosecution records and after hearing both sides, charge was framed for offences punishable under sections 341, 448, 294(b), 506(ii) r/w 34 of IPC were read over and explained to the accused, to which they pleaded not guilty and claimed to be tried. Charge for the offences punishable u/s. 354A(I)(iv) IPC was not framed, as ingredients not attracted.
4. On the side of the prosecution, PW1 to PW6 were examined and Exts. P1 to P8 and MO1 were marked.
5. After closing of the prosecution evidence, accused were examined u/s. 313 of Cr.P.C. regarding the incriminating circumstances. Accused denied the incriminating circumstances brought against them.

6. On the side of the defence, no witness was examined and no documents were marked.

7. Heard both sides. Perused records. The points that arise for consideration in this case are-

- I. Did the accused criminally trespass into the house of CW1 as alleged?
- II. Did the accused wrongfully restrain CW2 as alleged?
- III. Did the accused utter obscene words towards CW1 as alleged?
- IV. Did the accused threaten CW1 as alleged?
- V. If accused are found guilty, what is the order as to sentence?

Point Nos. I to III:

8. PW1 deposed that, she is the complainant in this case and the alleged incident occurred on 12/02/2017 at about 01.30 – 02.00 p.m. at the house of her third son Fakrudheen, while she was sitting in the house. Muneer came with a sword to the courtyard and uttered obscene words. Many people gathered there and restrained him and took him from there. He came for chopping and when he uttered obscene words, she fainted. She further deposed that, she can identify Muneer and the sword, which is marked as MO1. She filed Ext.P1 complaint before the police. She further deposed that, the mother of Muneer also came along with him and she also uttered obscene words. She identified Ext.P2 statement which she had given to JFCM-III, Thrissur. The reason for the incident was that, the Village Officer had stayed the property and accused misunderstand that, she was behind the stay.

9. PW2 deposed that, he had seen the alleged incident and Muneer came to his house for chopping his mother Fathima and brother Musthafa with a sword. Some people restrained Muneer. Muneer is his neighbour and he can identify Muneer.

10. PW3 and PW4 turned hostile to the prosecution stating that, they did not see the alleged incident.

11. PW5 deposed that, at the time of alleged incident he was working as the CPO of

Chavakkad Police Station and he had signed in Ext.P3 seizure mahazar. He identified MO1 weapon seized as per the seizure mahazar. He added that, Thankaraj had also signed as a witness .

12. PW6 deposed that, on 13/02/2017, while he was working as the S.I. of Chavakkad Police Station, as per Ext.P1 complaint filed by the defacto complainant, he had registered Ext.P4 FIR. Thereafter, he took over the investigation and prepared Ext.P5 scene mahazar. He submitted Ext.P2, statement of the defacto complainant under section 164 Cr. P.C. and Ext.P6 address report of the accused, before the court. On 05/03/2017 he arrested the accused and seized the MO1 weapon as per Ext.P8 property list. The bail bond is marked as Ext.P7. After completing the investigation, he had filed final report before the court.

13. The first allegation levelled against accused is one punishable under section 341 of IPC. Section 341 of IPC deals with punishment for wrongful restraint. The section reads as follows:

“Whoever wrongfully restrains any person shall be punished with simple imprisonment for a term, which may extend to one month, or with fine which may extend to five hundred rupees, or with both.” Section 339 of IPC defines Wrongful restraint as ‘Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said wrongfully to restrain that person.’

14. While deposing, the defacto complainant i.e PW1 and PW2 had not deposed that accused had restrained PW1. Therefore, in the absence of sufficient evidence, culpability for the alleged offence will not sustain.

15. The next allegation levelled against accused is that of House trespass. Section 442 of IPC defines House trespass as - Whoever commits criminal trespass by entering into or remaining in any building, tent or vessel used as a human dwelling or any building used

as a place for worship, or as a place for the custody of property, is said to commit "house-trespass".

16. Section 448 states that - Whoever commits house-trespass shall be punished with imprisonment of either description for a term which may extend to one year, or with fine or which may extend to one thousand rupees, or with both.

17. According to PW1 accused had come to the house of her son Fakrudheen with a sword and uttered obscene words and threatened to chop her. In the case herein no documents has been produced to prove that the house is in the possession or ownership of PW1. Therefore, in the absence of such evidence an allegation under section 448 of IPC will not sustain.

18. The other allegation levelled against accused is that accused had uttered obscene words towards PW1.

19. In *Latheef v. State of Kerala*: 2014 (2) KHC 604 : 2014 (2) KLD 21 : 2014 (2) KLT 987 it was held as follows: "Abusive words or humiliating words or defamatory words will not as such amount to obscenity as defined under the law. Of course there is no doubt that the words alleged to have been used by the revision petitioner are in fact abusive and humiliating. But to make it obscene, punishable under S.294(b) IPC it must satisfy the definition of obscenity. S.294 IPC does not define obscenity. Being a continuation of the subject dealt with under S.292 IPC the definition of obscenity under 292(1) IPC can be applied in a prosecution under S.294 IPC also. To make punishable, the alleged words must be in a sense lascivious, or it must appeal to the prurient interest, or will deprave and corrupt persons. In *P. T. Chacko v. Nainan Chacko* reported in 1967 KHC 231 : 1967 KLT 799 this Court held that, "the test of obscenity is whether the tendency of the matter charged as obscenity is to deprave and corrupt those whose minds are open to such immoral influences." In *Sangeetha Lakshmana v. State of Kerala* reported in 2008 (1) KHC 812 : 2008 (2) KLT 745 : 2008 (1) KLD 339 this Court held

thus, “in order to satisfy the test of obscenity, the words alleged to have been uttered must be capable of arousing sexually impure thoughts in the minds of its hearers.” Thus it is quite clear that, to make obscene the alleged words must involve some lascivious elements arousing sexual thoughts or feelings or the words must have the effect of depraving persons, and defiling morals by sex appeal or lustful desires. I find that the words alleged to have been used by the revision petitioner in this case are really abusive and humiliating, but those words cannot be said to be obscene. As already stated, every abusive word or every humiliating word cannot, by itself, be said to be obscene as defined under the Indian Penal Code.”

20. Thus it is evident that to make an offence under section 294 (b) of IPC the ingredients have to be attracted. In the given case, there is nothing to attract the offence as explained in the above decision. PW2 has not deposed as to said fact also. Hence, a prosecution for said offence will not sustain.

21. The other offence levelled against accused is one punishable under section 506 (i) of IPC. From the deposition of PW1 there is nothing to suggest that the ingredients for the offence of criminal intimidation as defined under section 503 IPC has been made out. There is nothing to suggest that the accused had spoken any words so as to cause alarm or that it had caused alarm in PW1. There is nothing to suggest that the words had been spoken by the accused with intent to cause PW1 to do any act which he is not legally bound to do, or to omit to do any act which PW1 is legally entitled to do, as the means of avoiding the execution of such threat. In such circumstances, there cannot be a prosecution for an offence punishable under section 506 IPC, as ingredients necessary to constitute an offence of criminal intimidation as defined under section 503 has not been made out.

22. Going through the evidence on record it is found that the prosecution has failed to establish the guilt of accused beyond reasonable doubt. In a criminal case it is the bounden duty of the prosecution to prove the guilt of the accused beyond reasonable

doubt. In the case herein the evidence adduced from the side of the prosecution is not cogent enough to discharge this burden. Hence these points are found against the prosecution.

Point V

23. In view of the findings as regards points I to IV, there is no question of passing any sentence as against accused.

24. Accused are found not guilty of offences punishable under sections 341, 448, 294(b), 506(ii), r/w 34 of the Indian Penal Code. They are acquitted under section 248(1) Cr.P.C. Their bail bonds stand cancelled. They are set at liberty.

25. MO1 sword shall be destroyed, after the appeal period.

(Dictated to the confidential Assistant, taken down and transcribed by her corrected and *pronounced by me in open court on this, the 25th day of March, 2026.*)

Sd/-
Judicial First Class Magistrate,
Chavakkad.

APPENDIX

Prosecution witnesses

PW1	Fathima	Defacto Complainant (CW1)
PW2	Suhara	Witness (CW3)
PW3	Musthafa	Witness (CW4)
PW4	Shahul Hameed	Witness (CW5)
PW5	Sivakumar	Official Witness (CW9)
PW6	M.K. Ramesh	Investigating Officer (CW10)

Defence witnesses:

Nil

Court witnesses:

Nil

Prosecution Exhibits:

1	Ext.P1/PW1	FIS, dated 12/02/2017.
2	Ext.P2/PW1	164 statement.
3	Ext.P3/PW5	Seizure Mahazar, dated 05/03/2017.
4	Ext.P4/PW6	FIR, dated 13/02/2017.
5	Ext.P5/PW6	Scene Mahazar, dated 14/02/2017.
6	Ext.P6/PW6	Address report, dated 30/06/2017.
7	Ext.P7/PW6	Bail bond, dated 23/03/2017.
8	Ext.P8/PW6	Property List, dated 05/03/2017.

Defence exhibits:

Nil

Court exhibits:

Nil

Material objects:

MO1: Sword.

/True Copy /

Sd/-
Judicial First Class Magistrate,
Chavakkad.

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