

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE, CHAVAKKAD**  
**Present: Smt. Saarika Sathyan V., Judicial First Class Magistrate,**  
**Dated this, Monday the 17<sup>th</sup> day of March, 2026/ 25<sup>th</sup> Phalguna 1947**

**ST No. 1980/2018**

Complainant : State Rep. by the Sub Inspector of Police, Guruvayoor Police Station in Crime No.586/2018 of that police station.

**(By APP- Chavakkad)**

Accused : 1. Sajeeb, 38/18, S/o. Pankajakshan, Muthuveetil House, Kandanassery, Thrissur.

2. Reejas, 27/18, S/o. Jamal, Panikkaveetil House, Ariyannur, Thrissur.

3. Suresh, 25/18, S/o. Preman, Karuppamparambil House, Kandanassery, Thrissur.

4. Aneesh, 31/18, S/o. Vasu, Kunnathulli House, Ariyanur, Thrissur.

5. Shihad, 24/18, S/o. Khalid, Puthuveetil House, Kandanassery, Thrissur.

6. Shanoop, 24/18, S/o. Murali, Kuzhipparambil House, Chovvallur, Thrissur.

7. Binu, 27/18, S/o. Johnson, Tharakan House, Koonamoochi, Thrissur.

8. Jamshad, 26/18, S/o. Aboobacker, Muslim House, Kandanassery, Thrissur. (Split up)

**(By Adv. Nimmy K.V.)**

Offence : U/s. 143, 147, 153 r/w 149 of IPC and Sec. 6 of Kerala Public Ways (Restriction of Assemblies and Procession Act) 2011.

Plea : Not guilty.

**Finding** : Accused nos. 1 to 7 are found not guilty of offences punishable under sections 143, 147, 153 r/w 149 of IPC and Sec. 6 of Kerala Public Ways (Restriction of Assemblies and Procession Act) 2011.

**Sentence or Order** : Accused nos. 1 to 7 are acquitted under section 248(1) of Cr.P.C. Since accused no.8 is absconding, case against him is split up and refiled as ST 819/2026.

**Description of the Accused:**

Sl. No	Name and Rank	Father's Name	Occupation	Residence	Age
1	Sajeeb	Pankajakshan	-	Kandanassery	38/18
2	Reejas	Jamal	-	Ariyannur	27/18
3	Suresh	Preman	-	Kandanassery	25/18
4	Aneesh	Vasu	-	Ariyannur	31/18
5	Shihad	Khalid	-	Chovvallur	24/18
6	Shanoop	Murali	-	Koonamoochi	24/18
7	Binu	Johnson	-	Kandanassery	27/18

**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.
09/09/18	04/10/18	31/01/2019		23/12/21	15/02/24	16/03/26	17/03/26	

This case having been heard finally on the 17<sup>th</sup> 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, Guruvayoor police station in crime No.586/2018 of that police station, for offences

punishable under sections 143, 147, 153 r/w 149 of IPC and Sec. 6 of Kerala Public Ways (Restriction of Assemblies and Procession Act) 2011.

2. The prosecution case in brief is that, on 09/09/2018 at 19.00 hours, accused nos. 1 to 8, unlawfully assembled in furtherance of their common object, with an intention to commit rioting, without any prior permission, did unauthorized obstruction of public ways by conducting procession through Choondal - Guruvayoor public road and destroyed the flag of Congress party. Accused are thereby alleged to have committed offences punishable u/s. 143, 147, 153 r/w 149 of IPC and Sec. 6 of Kerala Public Ways (Restriction of Assemblies and Procession Act) 2011.

3. This case was taken on file of this Court as ST 1980/2018. Case against accused no.8 was split up. On appearance of the accused nos. 1 to 7, copies of all relevant prosecution records were furnished to them under section 207 of the Code of Criminal Procedure, 1973. Accused nos. 1 to 7 are enlarged on bail. Accused nos. 1 to 7 are represented by a lawyer of their choice. Upon perusal of the prosecution records and after hearing both sides, charge was framed for the offences punishable under sections 143, 147, 153 r/w 149 of IPC and Sec. 6 of Kerala Public Ways (Restriction of Assemblies and Procession Act) 2011. When the charge was read over and explained to the accused nos. 1 to 7, they pleaded not guilty and claimed to be tried.

4. On the side of the prosecution, PW1 to PW3 were examined and Exts. P1 to P4 and MO1 were marked.

5. After closing of the prosecution evidence, accused nos. 1 to 7 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 document was marked.

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

- I. Did the prosecution prove that accused nos. 1 to 7 were members of unlawful assembly?
- II. Did the accused commit rioting as alleged?
- III. Did accused conduct procession without any prior permission as alleged?
- IV. Did accused destroy the flag of Congress party as alleged?
- V. Whether the act of accused was in prosecution of the common object of the unlawful assembly as alleged?
- VI. If accused nos. 1 to 7 are found guilty, what is the order as to sentence?

**Point Nos. I to V:**

8. PW1 deposed that, on 09/09/2018, while he was working as the CPO of Guruvayoor Police Station, on that day he along with S.I. Fakrudheen was doing law and order duty, at 07.00 p.m. When they reached at Koonamoochi centre, about 30 CPM, DYFI workers blocked the road by conducting procession and they destroyed the flags of Congress party. After the procession, the workers went and they also returned. When they reached at police station, S.I. registered crime against the accused persons. He identified the accused present in the dock.

9. PW2 deposed that, he had seen the alleged incident and the incident was on 08/08/2018 at Koonamoochi centre. He was standing in front of Jose Fabrics and he had seen some persons destroying and putting fire on the flags of Congress party. He had signed in Ext.P1 scene mahazar. He had also witnessed seizing the flag by the police. He had given statement to the police that, he can identify the accused.

10. PW3 deposed that, on 09/09/2018 while he was working as the S.I. of Guruvayoor Police Station, he was conducting patrolling duty along with CPO Vineesh and Home Guard Joy and when they reached at Koonamoochi junction at 19.00 hours, Sajeev, Riyas, Suresh, Santhosh and Shihad and 30 known people of CPIM, DYFI workers with an intention to commit rioting, unlawfully assembled and without any prior permission, caused obstruction to public by conducting procession and destroyed the flags of Congress party. Due to lack of sufficient police party, they were not arrested. He registered Ext.P2 FIR after reaching the station. Ext.P1 is the scene mahazar prepared by

him. He arrested the accused, who surrendered before the court and released them on bail. Ext. P3 is the bail bond. He can identify the accused and seized flags are marked as MO1. He submitted Ext.P4 address report of accused before the court. After completing investigation, he had filed final report before the court.

11. The main allegation levelled against accused is one punishable under section 153 of IPC.

12. Section 153 of IPC reads as follows:- Whoever maliciously, or wantonly, by doing anything which is illegal, gives provocation to any person intending or knowing it to be likely that such provocation will cause the offence of rioting to be committed, shall, if the offence of rioting be committed in consequence of such provocation, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both; and if the offence of rioting be not committed, with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

13. A perusal of the above provision indicates that the primary ingredients required to be satisfied to attract the offence under S.153 IPC are:

- '1) The accused did an illegal act.
- 2) The act was done maliciously or wantonly.
- 3) The act was done with the intention to provoke or knowing that it will provoke a person to cause the offence of rioting.'

14. The prosecution case is that accused in furtherance of their common object obstructed the public way and had destroyed the flag of Congress party. In the case at hand, it is pertinent to note that no complaint with regard to destruction of flag has been filed by any member of Congress party. No person belonging to Congress party has been arrayed as a witness. It is found that the element of intention to provoke a person to cause the offence of rioting which is essential to attract an offence under s.

153 of IPC is lacking in this case. Therefore, it is found that prosecution for the said offence will not sustain.

15. Now the question that has to be considered is whether a case of unlawful assembly has been made out or not. As already stated, the gist of the allegation that has been levelled against the accused is that they had assembled, marched in procession causing hindrance to public way and had destroyed the flag of Congress party. As stated above, there is no ingredients to constitute an offence punishable under section 153 of the Indian Penal Code. In order to determine whether there exist sufficient materials to proceed against the accused for the offence of unlawful assembly, section 141 of the Indian Penal Code has to be looked at. Section 141 of the Indian Penal Code reads as follows:-

**“141. Unlawful assembly.**—*An assembly of five or more persons is designated an “unlawful assembly”, if the common object of the persons composing that assembly is—*

- i. *(First) — To overawe by criminal force, or show of criminal force, the Central or any State Government or Parliament or the Legislature of any State, or any public servant in the exercise of the lawful power of such public servant; or*
- ii. *(Second) — To resist the execution of any law, or of any legal process; or*
- iii. *(Third) — To commit any mischief or criminal trespass, or other offence; or*
- iv. *(Fourth) — By means of criminal force, or show of criminal force, to any person, to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right; or*
- v. *(Fifth) — By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do. Explanation.—An assembly which was*

*not unlawful when it assembled, may subsequently become an unlawful assembly.”*

16. In the case at hand, on a perusal of the evidence and the available record, it can be seen that none of the ingredients necessary to constitute an offence of unlawful assembly as defined under section 141 of the Indian Evidence Act has been made out. Though it is stated that the accused have marched in procession the same can only be characterised as a protest. Such a protest has, prima facie, not taken the form of an unlawful action in the evidence or available records. No particular illegality or unlawfulness is evidenced from the records available, as regards the alleged assembly of the accused, to warrant the continuance of prosecution as against them for an offence of unlawful assembly. In the absence of a proof of unlawful assembly, there cannot be a successful prosecution for an offence either under section 143 or section 147 r/w 149 of the Indian Penal Code and section 6 of KPW Act.

17. On analysing the evidence on record it is found that the witnesses examined by the prosecution failed to establish the prosecution case. There is nothing on record to disclose that the accused had committed the offences alleged by the prosecution. Having considered the evidence on record, I am of the view that the prosecution has failed to prove the guilt of the accused. For the said reason, these points are found against the prosecution.

**Point No. VI:-**

18. As I have already found that the prosecution has failed to prove the involvement of the accused in the alleged offences, there is no question of passing any sentence against them.

In the result, the accused nos. 1 to 7 are found not guilty of offences punishable under sections 143, 147, 153 r/w 149 of IPC and Sec. 6 of Kerala Public Ways (Restriction of Assemblies and Procession Act) 2011. Accused nos. 1 to 7 are acquitted under section 248(1) of the Criminal Procedure Code, 1973. Their bail bonds stand cancelled and they are set at liberty. The case against accused no.8 is split up and refiled

as ST 819/2026.

MO1 flags 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 17<sup>th</sup> day of March, 2026.)*

Sd/-

Judicial First Class Magistrate,  
Chavakkad.

### **APPENDIX**

#### **Prosecution witnesses**

PW1	Vineesh	Official Witness (CW1)
PW2	Job	Witness to scene mahazar 9CW4)
PW3	K.A. Fakrudheen	Investigating Officer (CW5)

#### **Defence witnesses:**

Nil

#### **Court witnesses:**

Nil

#### **Prosecution Exhibits:**

1	Ext.P1/PW2	Scene Mahzar, dated 10/09/2018.
2	Ext.P2/PW3	FIR, dated 09/09/2018.
3	Ext.P3/PW3	Bail bond.
4	Ext.P4/PW3	Address report, dated 26/09/2018.

#### **Defence exhibits:**

Nil

#### **Court exhibits:**

Nil

#### **Material objects:**

MO1: Flag

Sd/-

Judicial First Class Magistrate, Chavakkad.

/True Copy /

Judicial First Class Magistrate, Chavakkad.