

**IN THE COURT OF THE JUDICIAL MAGISTRATE OF THE FIRST CLASS
KODUNGALLUR**

Present:- Smt. Sherin R A., Judicial I Class Magistrate

Dated this the 1st day of April 2026/11th day of Chaithra 1948 SE

ST. 324 OF 2020

State represented by the Sub Inspector of Police , Valapad P.S in Cr.No. 363/2019 (By Asst . Public Prosecutor Kodungallur)	:	Complainant
1. Disang, aged 26, S/o Bhaskaran Kookkaparambil house, Kothakulam beach desom, Valapad Village. 2. Rahul @ Akru, aged 24, S/o Vinod Thekkepanakkal house, Disco centre desom, Valapad Village. 3. Harikrishnan, aged 24, S/o Pratapan Kareparambil house, Kothakulam beach desom, Valapad Village. (By Adv. Sri.K.B.Deepak Syam)	:	Accused
Offence	:	U/s. 447,427 r/w 34 of IPC
Plea	:	Not guilty
Finding	:	Not guilty
Order	:	Accused are acquitted of the offences punishable U/Ss. 447,427 r/w 34 IPC u/s.255(1) Cr.P.C. Their bail bonds stand cancelled and they are set at liberty.

Description of the accused

Sl.No	Name	Father's Name	Occupation	Residence	Age
1	Disang	Bhaskaran	Nil	Kothakulam beach	26
2	Rahul @ Akru	Vinod	Nil	Disco centre desom	24
3	Harikrishnan	Pratapan	Nil	Kothakulam beach	24

Date of

Occurrence	Complaint	Appearance or apprehension	Release on bail	Commencement of trial	Close of trial	Sentence or order	Explanation for delay	Period of detention undergone during investigation, inquiry or trial for the purpose of section 428 Cr.P.C
27.7.2019	28.7.2019	25.9.2019	25.9.2019	25.3.2024	30.3.2026	1.4.2026	No delay	Nil

This case having been finally heard on today the court delivered the following:

JUDGMENT

This case was taken on file on the basis of the final report submitted by the S.I. of Police, Kodungallur Police Station in Crime No.363/2019, registered against the accused alleging commission of offences punishable under Sections 447 and 427 read with Section 34 of the IPC.

2. The prosecution case, in brief, is that accused Nos.1 to 3, in furtherance of their common intention and out of previous enmity towards PW3 for having given a statement against the father of the first accused in Crime No.364/2019, on 27.07.2019 at about 10.00 a.m., with an intention to mislead the investigation in the said crime, trespassed into the courtyard of the house of PW1 situated in Valapad Village and pelted stones at the house bearing No.XVIII/278 of Valapad Grama Panchayat, thereby breaking the window pane glass and causing damage to PW1 to the tune of Rs.5,000/-. Thus, the accused are alleged to have committed the aforesaid offences in furtherance of their common intention.

3. On receipt of the FIS from PW1, CW5 registered the crime against the accused and, after completing the investigation, filed the final report before the Court.

4. On appearance, the accused were released on bail and were represented by a counsel of their choice. Copies of all relevant prosecution records were furnished to them under Section 207 of Cr.P.C. After hearing both sides and upon perusal of the records, particulars of the offences were read over and explained to the accused, to which they pleaded not guilty and claimed to be tried.

5. On the side of the prosecution, PW1 to PW4 were examined, and Exts.P1 and P2 and MO1 to MO4 were marked. After closing the prosecution evidence, the accused were questioned under Section 313(1)(b) Cr.P.C. They denied all the incriminating circumstances put to them and maintained that they are innocent.

6. The accused were called upon to enter upon their defence. No evidence was adduced on the side of the defence.

7. Heard both sides.

8. The following points arise for consideration:

1. Whether the accused committed criminal trespass into the house of PW1 bearing No. XVIII/278 of Valapad Grama Panchayat, as alleged by the prosecution?
2. Whether the accused committed mischief by damaging the window pane glass, thereby causing a loss of ₹5,000/- to PW1, as alleged by the prosecution?
3. Whether the accused committed the aforesaid offences in furtherance of their common intention, as alleged by the prosecution?
4. If the accused are found guilty, what is the sentence or order to be passed?

9. **Point Nos. 1 to 3:** PW1 is the aggrieved first informant. PW2 is the de facto complainant in Crime No.364/2019. PW3 is the witness who had given a statement against the father of the first accused in Crime No.293/2019. PW4 is the scene mahazar witness. CW6 (by mistake repeatedly mentioned as CW5 in the witness memorandum) is the Sub Inspector of Police, Valapad Police Station. However, despite repeated coercive steps, his presence could not be secured.

10. PW1 Shiji deposed that on 27.07.2019 at about 10.00 p.m., while she was watching television inside her house along with her daughter and son, she suddenly heard a loud noise resembling that of an explosion. The source of the sound was not immediately identified. Out of fear, they remained still for some time. After a short while, she noticed a piece of granite stone entering the room where her daughter was

sitting. Her son then stated that someone was pelting stones at the house. Thereafter, they went to the adjacent room and found granite pieces and pieces of concrete blocks lying inside. According to her, stones were thrown from the eastern side towards one room and from the southern side towards another room. Three window glass panes of the house were broken—two on the eastern side and one on the southern side. She also noticed that the wooden frame of one window was damaged and had to be replaced. PW1 stated that she suffered a total loss of about Rs.5,000/-. She further deposed that she had given a statement to the police regarding the incident, which was marked as Ext.P1. She identified the granite pieces, concrete block pieces, stones, sand, and broken glass pieces, which were seized by the investigating officer. Two granite pieces were marked as MO1 series (two in number), two concrete block pieces as MO2 series (two in number), two stones as MO3 series (two in number), and broken window glass pieces as MO4 series (numerous and uncountable). PW1 further stated that she did not initially know the reason behind the incident, but later understood that there was a dispute in the locality relating to road widening and that certain persons were aggrieved by her refusal to surrender land. According to her, that was the reason for the incident.

11. During cross-examination, PW1 admitted that she had not actually witnessed the act of stone pelting. She also admitted that she had not gone outside the house to ascertain what was happening and had not seen who had thrown the stones.

12. She further admitted that she had not mentioned the dispute relating to road widening and her refusal to surrender land in her statement to the police.

13. PW2 Manoharan deposed that on 27.07.2019 at about 10.50 p.m., the window panes of his house were broken by throwing a soda bottle. According to him, earlier a coconut tree from the property of one Bhaskaran had fallen on his house, in connection with which a case was pending. He stated that, in that context, Bhaskaran's son, Disang, had come to his house and threatened him about one week prior to the incident. PW2 admitted that he did not know who had thrown the soda bottle at his house. He further stated that he later came to know that the house of Ullas (PW1) situated nearby was also damaged by pelting stones. PW2 identified Disang (A1) during cross-examination. However, he admitted that he had not directly witnessed the incident of pelting stones either at his house or at the house of PW1. He also admitted that he had not lodged any complaint with the police regarding the alleged threat made by the first accused.

14. PW3 Anitha deposed that PW2 Manoharan is her husband. On 27.07.2019 at about 10.50 p.m., while she was alone in the house and sleeping, she was awakened by a loud noise, as if something had struck the house. Frightened, she cried out. Suspecting theft, she came out of the room and found broken glass pieces inside the hall. Due to fear, she did not step outside the house. PW3 further deposed that a few days prior to the incident, one Disang had come to their house and threatened her

husband in connection with an issue relating to the falling of a coconut tree, stating that he would not allow them to live peacefully. She also stated that she saw Disang on the day following the incident with an injury on his hand.

15. In cross-examination, PW3 admitted that she had not lodged any complaint with the police regarding the alleged threat. She also stated that she had informed the police about noticing the injury on the first accused in her statement, but had no explanation when it was suggested that no such statement was recorded. She further admitted that she had not seen any of the accused at the time of the occurrence and had not witnessed the act of pelting stones at the house of PW1.

16. PW4 Suresh deposed that he had signed the scene mahazar prepared by the police. He identified his signature therein, which was marked as Ext.P2.

17. In the case on hand, the prosecution relies mainly on the oral testimonies of PW1 to PW3 and the material objects recovered during investigation. PW1, the aggrieved witness, has deposed regarding the occurrence and the damage caused to her house. Her evidence would show that stones were found inside the house and that certain window panes were broken. However, her testimony reveals that she had not witnessed the actual act of stone pelting, nor had she seen any of the accused at or near the place of occurrence at the relevant time. Her version is thus only with respect to the aftermath of the incident and not the occurrence. PW2 and PW3, though examined to support the prosecution case, also do not advance the case in any

material manner. Both of them have admitted that they had not witnessed the act of stone pelting. Their evidence is only to the effect that they heard noises and later noticed damage to their house as well. The alleged prior threat spoken to by them is not supported by any contemporaneous complaint or independent evidence. PW4 is only a witness to the scene mahazar and his evidence is purely formal in nature, not touching upon the occurrence or the involvement of the accused.

18. There is no evidence to establish that the accused were present at the scene of occurrence or that they had committed the acts alleged. The chain of circumstances is thus incomplete and insufficient to point unerringly towards the guilt of the accused.

19. The prosecution has failed to establish the essential ingredients of the offences alleged, as well as the involvement of the accused, beyond reasonable doubt. Therefore I am of the considered view that the prosecution has failed to establish the guilt of the accused. The points are found accordingly against the prosecution.

20. **Point No.4:** In view of my findings on point Nos 1 to 3, this point does not arise for consideration.

1. In the result, accused are found not guilty for the offences under section 447,427 r/w 34 of IPC and they are acquitted of the said offences u/s.255(1) Cr.P.C.
2. The bail bonds stand cancelled and accused are set at liberty

forthwith.

3. MO1 to MO 4 shall be destroyed on expiry of appeal period.

Dictated to the Confidential Assistant transcribed and typed by her, corrected and pronounced by me in open court on this the 1st April 2026

JUDICIAL FIRST CLASS MAGISTRATE,
KODUNGALLUR.

APPENDIX

Prosecution witness

PW1	Shiji	CW1	First informant
PW2	Manoharan	CW2	Defacto complainant in cr.364/2019
PW3	Anitha	CW3	Occurrence witness
PW4	Suresh	CW4	Mahazar witness

Defence witness : Nil

Court witness : Nil

Prosecution Exhibits:

1	P1	F.I. Statement	PW1
2	P2	Scene mahazar	PW4

Defence Exhibits: Nil

Court Exhibits : Nil

Material Objects :

1. Granite pieces (2)
2. Concrete pieces (2)
3. Stones (2)
4. Glass pieces

JUDICIAL FIRST CLASS MAGISTRATE,
KODUNGALLUR.