

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

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

Dated this the 27th day of April, 2026/07th Vaisakha, 1948 SE

Calendar Case No.535 OF 2015

<p>State represented by the Sub Inspector of Police, Kodungallur Police Station in crime No.2468/2014</p> <p style="text-align: center;">(By APP, Kodungallur)</p>	<p>Complainant</p>
<p>A1. Unnikannan @ Ajith, aged 24/14, S/o.Sivan, Kottamthuruthi House, Parayamparambu Colony, Chanthappura, Lokamaleswaram Village. (Absconding)</p> <p>A2. Sijappan @ Sajith, aged 26/14, Kottamthuruthi House, Parayamparambu Colony, Chanthappura Desom, Lokamaleswaram Village. (Absconding)</p> <p>A3. Anish, aged 23/14, S/o.Shunmughan, Malinnali House, St Thomas Church East, Kolopura Desom, Chanthappura, Lokamaleswaram Village. (Absconding)</p> <p>A4. Saneesh, aged 24/14, S/o.Dasan, Chennara House, Chanthappura Desom, Lokamaleswaram Village.</p> <p>A5. Sanil, aged 26/24, S/o.Dasan, Chennara House, Chanthappura Desom, Lokamaleswaram Village.</p> <p>Adv.Sri.P.H.Mahesh</p>	<p>Accused</p>

Offence	Punishable under sections 143, 147, 148, 452, 294(b), 506(ii), 354,427,323 and 324 r/w Sec.149 of Indian Penal Code.
Plea	Not guilty
Finding	Accused Nos 4 and 5 not guilty
Sentence or order	Accused nos 4 and 5 are acquitted under section 248(1) of Criminal Procedure Code. Accused Nos 1 to 3 are absconding. Hence, case against accused Nos 1 to 3 are split up and refiled as CC 287/2026.

DESCRIPTION OF ACCUSED

Sl. No.	Name of Police station and the Crime No. of the offence.	Name and Rank of accused	Father's Name	Occupation	Residence	Age					
1	Kodungallur Police Station in Crime No.2468/2014	A1.Unnikannan @ Ajith	Sivan	.....	Chanthappura	24/14				
		A2. Sijappan @ Sajith	Sivan	.....	Chanthappura	26/14				
		A3.Anish	Shunmughan	....	Kolopura	23/14				
		A4. Saneesh	Dasan	.....	Chanthappura	24/14				
		A5. Sanil	Dasan	.....	Chanthappura	26/14				
DATE OF											Period of detention undergone during investigation
Occurrence	Complaint	Apprehension/ Appearance	Release on bail	Commencement of trial	Commencement of evidence	Close of trial	Sentence or order	Commitment	Service of copy of judgment or finding	Explanation of delay	

									g on accus ed		ation, inquiry or trial for the purpose of section 428 of Cr.P.C.
03.08. 2014	15.12. 2014	A2 & A3 27.06. 2025 A4 & A5 06.01 2016 A1. 14.01. 2016	A2 & A3 27.06. 2025 A4 & A5 06.012 016 A1. 14.01. 2016	03. 10.2 016	18.04 .2023	24.04 .2026	27. 04.2 026	.....	.....	No delay	.....

This case having been finally heard on 24.04.2026, the court delivered the following:

J U D G M E N T

This is a case instituted upon the final report submitted by the Sub Inspector of Police, Kodungallur Police Station in Crime No.2468/2014 alleging the commission of offences punishable under Sections 143, 147, 148, 452, 294(b), 506(ii), 354,427,323 and 324 r/w Sec.149 of Indian Penal Code.

2. The summary of the prosecution case is as follows:- Accused persons 5 in

numbers formed themselves in an unlawful assembly after possessing dangerous weapons, on 03.08.2014 at about 10.30 hours, with the intention to cause bodily injury to CW1 and his family members, criminally trespassed into his rented house situated at Chanthappura and 1st accused uttered obscene words against CW1 and caught hold on the neck of CW3 and kicked on his chest and thereby he fell down. When CW1 tried to intervene the attack, first accused hit on the head of CW1 with an iron pipe, causing injuries. When PW2 tried to intervene the attack, the first accused hit on her head and under her left eye with an iron pipe, causing injuries. Accused Nos 2 and 4 caught hold and pulled on the hand and body of PW2, causing outraged her modesty. Thereafter, accused nos 3 and 4 hit on the body of PW1 and 3rd accused hit on the back side of the neck of PW3 with bare hands and 4th accused hit on the back of PW3 and 3rd accused causing cut injury on the hand, neck and abdomen with a knife and also threatened that he would kill him by showing a knife. The accused No.2 hit on the back side of the head of CW5 with iron channel, causing injuries to him. Accused No 5 hit on the back of PW1 and hit on his back with bare hand, causing injuries to him. Prosecution further alleged that the accused No.1 destroyed the window pane glass of the house and destroyed the wall situated southern side of the house, causing loss to the tune of Rs.8,000/-. Thus the accused are alleged to have committed the aforesaid offences.

3. On the basis of the F.I.Statement given by CW1, PW14 registered the case and after completing investigation submitted final report against the accused for the

offences punishable u/S. 506(i), 294(b) & 353 of the Indian Penal Code.

4. On appearance of the accused, they were released on bail. Accused 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 parties and perusing the records, charge was framed 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 PW14 were examined and Exts. P1 to P15 were marked. MO1 to MO3 were identified.

6. Accused Nos 4 and 5 were questioned u/s. 313(1) (b) of Cr.P.C, as to the incriminating evidence appearing in evidence against them. They denied all the circumstances and maintained to be innocent. Accused were then called upon to enter upon their defence and produce their evidence.

7. After hearing both sides the following points arise for consideration;

1. Whether the accused, formed an unlawful assembly along with the other accused, as alleged by the prosecution?
2. Whether the accused, being members of an unlawful assembly, committed rioting, as alleged by the prosecution?
3. Whether the accused were armed with deadly weapons while committing rioting, as alleged by the prosecution?
4. Whether the accused trespassed into the house of PW1 as alleged by the prosecution?
5. Whether the accused voluntarily caused hurt to PW1, PW3 and CW5 as alleged by the prosecution?
6. Whether the accused voluntarily caused hurt to CW1, PW2, CW4 and

CW5 with dangerous weapons as alleged by the prosecution?

7. Whether the accused uttered obscene words against CW1 as alleged by the prosecution?
8. Whether the accused criminally intimidated CW5 with death by showing a knife as alleged by the prosecution?
9. Whether the accused outraged the modesty of PW2 as alleged by the prosecution?
10. Whether the accused committed mischief by damaging the window pane glass and wall thereby causing a loss of ₹8,000/- to PW1, as alleged by the prosecution?
11. What are the offences if any, proved to have committed by the accused ?
12. Whether the accused committed the offence in prosecution of their common object as alleged?
13. If the accused are found guilty, what should be the proper sentence or order?

8. **Point Nos. 1 to 12:-** CW 1 to CW 7 are the injured among which CW1 is the informant. CW1 and CW 4 are reported to be no more. CW 2 , CW 3 , CW 6 and CW 7 were examined as PW 1 to PW4. Despite repeated coercive steps CW5 not turned up for evidence. PW5 is the scene mahasar witness. PW6 is the seizure mahasar witness. PW7 is the owner of the place of occurrence house who rented out the house to PW1. PW8 is the doctor who examined CW1 and PW2. PW9 is the doctor who examined CW5. PW10 is the doctor who examined PW1 and CW4. PW 11 is the Village Officer of Lokamalleswaram village who issued the sketch of the place of occurrence. PW2 is the SCPO of Kodungallur police station who recorded the F I statement of CW1. PW14 is the Sub inspector of Kodungallur police station

who registered this case. PW14 and PW13, the additional Sub Inspector of Kodungallur police station, conducted the investigation and upon completing the investigation PW14 submitted the final report.

9. PW1, Dilmon, deposed that the first and second witnesses are his parents and that, in the incident, they as well as his wife Ranya and others including Shibin and Sumesh sustained injuries. He stated that on 03.02.2014, at about 7:30 p.m., while he was having food in the rented house in which he was residing at Kothaparambu, the occurrence took place. At that time, the accused persons, namely Sijappan, Unnikannan, Aneesh, Sajith and another person, forcibly pushed open the gate, trespassed into the house, and entered inside while abusing and questioning him. He stated that he is able to identify all the accused. According to him, the accused had come to his house on account of previous enmity arising from an incident in which Shibin had refused to give a lift to Unnikannan. When the accused attempted to assault him, his father intervened, whereupon the accused attacked his father and mother with an iron channel and rod. He further deposed that the other accused, including Sijappan and Unnikannan, assaulted him and Saneesh. He also stated that the accused damaged the windows of the house using iron pipes and destroyed the handrail wall of the verandah near the entrance. On hearing the commotion, local people gathered at the scene, upon which the accused fled, and in the course of fleeing, they caused damage to the wall.

10. In cross-examination, PW1 stated that he had given his statement on 03.08.2014 at his residence. He further stated that he had sustained visible injuries, including a mark on his back caused by the assault, which he had shown to the doctor. However, since his father had sustained serious injuries, his own injuries were not considered as serious.

11. PW2, Rema, deposed that she had sustained injuries in the incident which forms the basis of the case. She stated that on 13.08.2014, an occurrence took place in which her son, his wife Ranya, and her husband Vidhyadharan also sustained injuries. According to her, while they were residing in their house at Kodungallur, at about 6:00 p.m., Unnikannan, Sijappan and some others known to her forcibly trespassed into the house and attacked her and her husband with a chopper (vadival). She deposed that she sustained a cut injury on her head, for which she was hospitalised for 14 days and stitches were taken. She further stated that her husband also sustained a cut injury on his head.

12. PW2 stated that she can identify the persons who assaulted them; however, she specifically deposed that the accused present before the Court on that day were not among the assailants (A4 and A5, who were present, were not identified as the assailants). She further deposed that the other assailants caused damage to the household articles. She also stated that she can identify the weapon used for the attack.

13. PW3, Renya, deposed that at the relevant time she was residing, on rent, in a house situated near St. Thomas Church, Kothaparambu, along with her father,

mother, husband and elder daughter. She stated that on a day in 2014, at about 6:30 p.m., while she was in the kitchen of the house, she heard her mother calling out, upon which she rushed to the courtyard. She deposed that Sijappan and Unnikannan assaulted her father on the right side of his head, as a result of which he lost consciousness. She further stated that Sijappan assaulted her on her neck. According to her, it was Sijappan and Unnikannan alone who had inflicted the injuries, using some iron object. She also deposed that Unnikannan assaulted her mother on the left side of her head using an iron rod and a knife.

14. PW3 further stated that in the said incident, they sustained injuries and were taken to the hospital. Upon medical examination, her father was given stitches and her mother underwent a surgical procedure, while she herself was prescribed medicines. She also stated that she had prior acquaintance with the accused.

15. PW4 Reshmi turned hostile by denying having witnessed the incidents.

16. PW5, Renish identified his signature in the scene mahasar and it was marked as Ext P 1. He added that he signed the scene mahasar in front of the St. Thomas church.

17. PW6, Shaju C.K., deposed that, while he was working as a GSCPO at Kodungallur Police Station, on 29.10.2014, he accompanied the Sub Inspector along with the accused Sijappan for the purpose of evidence collection for this case. He stated that the accused was taken to the place of occurrence and that, during the course of such proceedings, the accused led them to the eastern side of Vayalar, to the riverbank area, where certain articles had been concealed in a bushy area.

18. PW6 further deposed that the accused pointed out and produced an iron channel, an iron rod and a steel knife, which were stated to have been used in the commission of the offence. He stated that the Sub Inspector seized the said articles as per Ext. P2 seizure mahazar. He also deposed that he and another witness, namely Lakshmidas, signed the said mahazar as witnesses. He identified the seized articles. The iron channel was identified and marked as MO1, the iron rod was identified and marked as MO2, and the steel knife was identified and marked as MO3.

19. PW7, Saneesh, deposed that the incident occurred on 08.08.2014 in a house belonging to him, which is situated on the eastern side of St. Thomas Church, Lokamaleswaram, and which, at the relevant time, had been let out on rent to Dilmon (PW1).

20. PW8, Dr. Rajagopal, deposed that while he was working as the Chief Medical Officer at Modern Hospital, Kodungallur, on 03.08.2014 at about 7:30 p.m., he examined Vidhyadharan, a 54-year-old male, who was brought with an alleged history of assault. The history given was that he had sustained injuries at about 6:30 p.m. on the same day at his residence, when he was attacked by a group of persons known to him, using an aluminium rod and a wooden plank. PW8 stated that, on examination, the patient was conscious and oriented, though drowsy, and had a lacerated wound measuring 8 × 1 cm on the left fronto-parietal region, which was skull deep. He further deposed that the patient was referred to the Medical College Hospital for further management. PW8 opined that the injury could have been caused in the manner alleged. He prepared and issued the wound certificate, which was marked as Ext.P3.

21. PW8 further deposed that, on the same day and at about the same time, he examined another patient, Rema, wife of Vidhyadharan, who was also brought with a similar alleged history of assault. On examination, she was found to have a lacerated wound measuring 8 × 1 cm on the left fronto-parietal region, which was skull deep. He opined that the said injury could also have been caused as alleged. He prepared and issued the wound certificate in respect of the said injury, which was marked as

Ext. P4. According to PW 8 the patient was referred to medical College hospital Thrissur.

22. PW9, Dr. Benish Babu, deposed that while he was working as a Junior Consultant at the Taluk Headquarters Hospital, Kodungallur, on 08.08.2014 at about 8:45 p.m., he examined Dilmon, a 24-year-old male, who was brought with an alleged history of assault. The history given was that on 03.08.2014 at about 6:30 p.m., near St. Joseph's Church, Kodungallur, six persons had trespassed into his house and assaulted him. PW9 stated that the patient complained of pain on the right side of his body and also had fever, but no external injuries were found on examination. He opined that the bodily pain could have been caused as alleged. He issued the wound certificate, which bears his signature and seal, and the same was marked as Ext. P5.

23. PW9 further deposed that on the same day at about 9:00 p.m., he examined another patient named Shibin, an 18-year-old male, who was also brought with a similar alleged history of assault. The history given was that on 03.08.2014 at about 6:30 p.m., near St. Joseph's Church, Kodungallur, six persons had trespassed into his friend's house and assaulted him, including by cutting him with a knife and kicking him. On examination, he found abrasions of sizes 0.5×6 cm over the left forearm, 0.5×5 cm over the right flank, and 0.5×5 cm over the forehead, which were in the stage of healing. He opined that the said injuries could have been caused as alleged. He issued the wound certificate, which bears his signature and seal, and the same was marked as Ext. P6.

24. PW10, Dr. Dail, deposed that while he was working as the Casualty Medical Officer, he examined a patient named Sumesh P.S., a 22-year-old male, who was brought with a history of assault. The history given was that on 03.08.2014 at about 6:30 p.m., near St. Joseph's Church, he was assaulted by six persons using an iron rod, causing injuries all over the body.

25. PW10 stated that, on examination, a superficial laceration was found on the left elbow, along with abrasions on the right knee, the left side of the parietal region,

and the left side of the hip. The patient also complained of pain on the left side of the head. He further deposed that he advised a CT scan of the head, X-ray of the bilateral pelvis, and consultation with Neurology and Orthopaedics. He issued the wound certificate, which bears his signature and seal, and the same was marked as Ext. P7.

26. PW11, Syamala, deposed that during the year 2014 she was working as the Village Officer at Lokamaleswaram Village Office. She stated that she had visited the place of occurrence in this case, inspected the same, and prepared the scene mahazar sketch. She identified the said sketch shown to her and the same was marked as Ext. P8. She further deposed that in Ext. P8, the place of occurrence is marked as item No.1, and that the said place is a house bearing Door No. 7/242 of Kodungallur Municipality.

27. PW12, Murali, deposed that on 04.08.2014, while he was working as an SCPO at Kodungallur Police Station, on that day he was on intimation duty. Upon receiving information that Vidhyadharan, son of Chellappan, had sustained injuries in an assault and was undergoing treatment at Thrissur Medical College Hospital, he proceeded to the hospital at about 3:00 p.m. and recorded the statement of the said person. He identified the statement shown to him and the same was marked as Ext. P9. He further stated that he produced the said statement before the Station House Officer.

28. PW13 Stephan, deposed that while he was working as the Additional Sub Inspector at Kodungallur Police Station, on 28.10.2014, he had taken the second accused, Sijappan, into police custody from the Court. On interrogation, the accused gave a disclosure statement to him, that he would show the place and produce the weapon of offences concealed.

29. Pursuant to the said disclosure statement and as led by the accused, he proceeded along with the accused in the department jeep to the eastern side of Vayalar, to a bushy area near the riverbank, situated on the north-eastern side. Then the accused took out and produced an iron rod, an iron channel and a knife from the said spot, which were seized on 29.10.2014 at about 10:30 a.m. as per a seizure

mahazar. He identified the said seizure mahazar shown to him, and the same was marked as Ext. P2.

30. He further identified the seized articles. MO 1 iron channel, MO2 iron rod, and MO3 steel knife. He also deposed that he could identify the second accused, Sijappan. He further stated that the seized properties were produced before the Court along with the property list, which marked as Ext. P10. He further deposed that he recorded the statements of witnesses, and that the subsequent investigation in the case was conducted by CW22.

31. PW14, P.K. Padmarajan, deposed that on 04.08.2014, while he was working as the Station House Officer, Kodungallur Police Station, the statement of PW1 in this case was recorded by CW20 and produced before him, on the basis of which he registered the crime. The FIR was marked as Ext. P11, and also identified Ext. P9, the F I statement of the informant. He further deposed that he took over the investigation of the case and inspected the scene of occurrence and prepared the scene mahazar. He identified Ext. P1 scene mahasar. He stated that the place of occurrence is house bearing Door No. 7/242 and its premises, situated in Lokamaleswaram Village, Kodungallur Taluk, on the eastern side of the Kodungallur NH road, about 100 metres north-east from St. Thomas Church Junction.

32. PW14 further deposed that he recorded the statements of witnesses and collected the wound certificates relating to the injured witnesses, namely Vidhyadharan, Rema, Dilmon, Shibin and Sumesh, and produced the same before the Court. He identified Exts. P3 to P7. He also obtained the ownership certificate of the house from the Secretary, Kodungallur Municipality and produced the same before the Court, which was marked as Ext. P12. He further obtained the scene sketch from the Village Officer, Lokamaleswaram, and produced the same before the Court. He identified Ext. P8 scene sketch.

33. He deposed that he arrested the fourth accused, Saneesh, and produced him before the Court along with the remand report. He further stated that the fifth accused, Sanil, could not be arrested as he had absconded. He also submitted a report before

the Court seeking correction of the name of the fourth accused from “Satheesh” to “Saneesh,” which was marked as Ext. P14. He further submitted a report to include the full name and address of the fifth accused, which was marked as Ext. P15. He deposed that, after completing the investigation he submitted the final report.

34. The accused are facing trial for the offences punishable under Sections 143, 147, 148, 452, 323, 324, 294(b), 506(ii), 354, 427 and 149 of the IPC. The prosecution case, in brief, is that the accused, forming an unlawful assembly and armed with deadly weapons, trespassed into the house of PW1 and committed assault and other criminal acts as alleged. In order to sustain a conviction, the prosecution is bound to prove, beyond reasonable doubt, not only the occurrence of the incident but also the identity, presence and participation of each of the accused, especially when the case rests on direct oral evidence.

35. At the outset, it is to be noted that the evidence on record does not establish the involvement of accused Nos. 4 and 5 with the required degree of certainty. The testimony of the material witnesses does not satisfy the standard of proof insofar as these accused are concerned.

36. PW2, who is an injured witness, has categorically deposed that the persons who assaulted her and her husband were known to her; however, she has specifically stated that accused Nos. 4 and 5, who were present before the Court, were not among the assailants. This clear non-identification of accused Nos. 4 and 5 goes to the root of the prosecution case against them. Though the evidence of an injured witness carries great weight, when such a witness fails to identify particular accused, the benefit must necessarily go to those accused.

37. PW3 has attributed overt acts only against accused Nos. 1 and 2, namely Sijappan and Unnikannan, and has not spoken about the presence or participation of accused Nos. 4 and 5. PW1, though he has generally referred to a group of persons, has not given a clear, consistent and specific version establishing the identity and role of accused Nos. 4 and 5. The evidence in this regard is vague and insufficient to fasten criminal liability on them.

38. The prosecution has also relied on the recovery of material objects pursuant to the disclosure statement of the second accused. Even if such recovery is accepted, it does not, in any manner, connect accused Nos. 4 and 5 with the commission of the offence. There is no material to establish any nexus between the said recoveries and these accused.

39. In the absence of reliable evidence regarding the presence and participation of accused Nos. 4 and 5, the ingredients of unlawful assembly under Section 141 IPC and the vicarious liability under Section 149 IPC cannot be invoked against them. Mere suspicion or allegation, however strong, cannot substitute proof. The prosecution has failed to establish that accused Nos. 4 and 5 shared any common object with the other accused or that they were members of the alleged unlawful assembly.

40. In the above circumstances, this Court is of the considered view that the prosecution has failed to prove, beyond reasonable doubt, the involvement of accused Nos. 4 and 5 in the alleged occurrence. They are entitled to the benefit of doubt and are liable to be acquitted.

41. **Point No.13:-** In view of the findings in on foregoing points, this point does not arise for consideration.

In the result,

1. The accused Nos 4 and 5 are found not guilty for the offences punishable under sections 143, 147, 148, 452, 294(b), 506(ii), 354,427,323 and 324 r/w Sec.149 of Indian Penal Code and are acquitted of the offence under section 248(1) of Criminal Procedure Code.

2. The bail bonds executed by the accused stand cancelled and they are set at liberty forthwith.

3. Accused Nos 1 to 3 are absconding. Hence, case against accused Nos 1 to 3 are split up and refiled as CC 287/2026.

Dictated to the Confidential Assistant, transcribed by her, corrected and pronounced by me in open court, this the 27th day of April, 2026

Sd/-

Judicial Magistrate of First Class,
Kodungallur

APPENDIX

Prosecution witness:

PW1	Dilmon	Injured witness
PW2	Rema	Injured witness
PW3	Remya	Other witness
PW4	Resmi	Occurrence witness
PW5	Renish	Mahazar witness
PW6	Shaju	Grade Senior Civil Police Officer, Kodungallur Police Station
PW7	Saneesh	Other witness
PW8	Dr.Rajagopalachari	Chief Medical Officer, Modern Hospital, Kodungallur
PW9	Dr.Ranish Babu	Junior Consultant, Taluk Hospital, Kodungallur
PW10	Dr.Dain	Junior Consultant, Taluk Hospital, Kodungallur
PW11	Syamala	Village Officer, Lokamaleswaram Village
PW12	Murali	Senior Civil Police Officer, 4412 Kodungallur Police

		Station
PW13	P.J.Stephan	Additional Sub Inspector of Police, Kodungallur Police Station
PW14	P.K.Padmarajan	Sub Inspector of Police, Kodungallur Police Station

Defence witness :

Nil		
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Court witness :

Nil		
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Prosecution Exhibits:

1	Ext.P1/PW5	Scene mahazar dated 05.08.2014
2	Ext.P2/PW6	Seizure mahazar dated 29.10.2019
3	Ext.P3/PW7	Medical certificate dated 03.08.2014
4	Ext.P4/PW8	Wound certificate dated 03.08.2014
5	Ext.P5/PW9	Wound certificate dated 08.08.2014
6	Ext.P6/PW9	Wound certificate dated 08.08.2014
7	Ext.P7/PW9	Wound certificate dated 09.08.2014
8	Ext.P8/PW11	Sketch
9	Ext.P9/PW12	FIS dated 04.08.2024
10	Ext.P10/PW13	Property list dated 29.10.2014
11	Ext.P11/PW14	F.I.R dated 04.08.2024
12	Ext.P12/PW14	Ownership certificate dated 26.08.2014
13	Ext.P13/PW14	Site sketch
14	Ext.P14/PW14	Report dated 05.08.2014

15	Ext.P15/PW14	Report dated 18.10.2014

Exhibits for defence:-

Nil		
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Material Objects marked:-

MO1/PW6	Iron Channel
MO2/PW6	Iron rod
MO3/PW6	Steel Knife

Sd/-
Judicial Magistrate of First Class,
Kodungallur.

//true copy//

Judicial Magistrate of First Class,
Kodungallur.