

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

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

Dated this the 16th day of March 2026/ 25th Phalguna 1948 SE

ST. 1138 OF 2018

State represented by the Sub Inspector of Police , Mathilakam P.S in Cr.No. 422/2018 (By Asst . Public Prosecutor Kodungallur)	:	Complainant
Biju, aged 42, S/o Kumaran, Kolanthara house, Chendrappinni Village. (By Adv. Sri.K.S.Sulal)	:	Accused
Offence	:	U/s. 341,323 and 294(b) IPC
Plea	:	Not guilty
Finding	:	Not guilty
Order	:	Accused is acquitted of the offences punishable U/Ss.341, 323 and 294(b) IPC u/s.255(1) Cr.P.C. His bail bond stands cancelled and he is set at liberty.

Description of the accused

Sl.No	Name	Father's Name	Occupation	Residence	Age
1	Biju	Kumaran	Nil	Chendrappinni	42

Date of

Occurrence	Complaint	Appearance or apprehension	Release on bail	Comment 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
12.6.2018	13.6.2018	16.6.2018	16.6.2018	27.6.2019	12.3.2026	16.3.2026	No delay	-----

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

JUDGMENT

This case was taken on file based on the final report submitted by the S.I. of Police, Mathilakam Police Station in Crime No. 422/2018 registered against the accused alleging commission of offences punishable U/ss. 341,323 and 294(b) IPC.

2. The prosecution case is that On 12.06.2018 at about 3.00 p.m., the accused, due to previous enmity towards the owner of the company where PW1 was working, wrongfully restrained PW1 at Chenthrappinni Centre while he was proceeding to the bank to deposit money on behalf of the company. The accused abused him by uttering the words, “Nee enthada pulayadi mone vazhi maarathathu.” Thereafter, the accused assaulted PW1 by slapping him on his left cheek with his hand and kicking

him on his left side abdomen. Thus, the accused is alleged to have committed the aforementioned offences.

3. On receipt of FIS from PW1, PW4 registered the crime against the accused and after completing the investigation, PW5 filed the final report before the court .

4. On appearance, the accused was released on bail and was represented by a counsel of his choice. Copies of all relevant prosecution records were furnished to him under Section 207 of Cr.P.C. After hearing both parties and perusing the records, particulars of offence were read over and explained to the accused, to which he pleaded not guilty and claimed to be tried.

5. From the side of the prosecution, PW1 to PW5 were examined and Exts. P1 to P7 were marked. After closing the prosecution evidence, the accused was questioned u/s 313(1)(b) Cr.P.C. He denied all the incriminating circumstances put to him and maintained that he is innocent.

6. The accused was called upon to enter into his defence evidence. Ext.D1 was marked from the defence side.

7. Heard both sides.

The following points arise for consideration:

1. Whether the accused wrongfully restrained PW1 at Chenthrappinni Centre as alleged by the prosecution?
2. Whether the accused uttered any obscene words in or near a public place

against PW1 as alleged by the prosecution ?

3. Whether the accused voluntarily caused hurt to PW1 by slapping on his cheek and by kicking him as alleged by the prosecution ?
4. Whether the accused committed any of the aforementioned offences?
5. If the accused is found guilty, what should be the proper sentence or order?

8. Point Nos. 1 to 3:-

PW 1 is the injured informant. PW 2 is the occurrence witness. PW 3 is the doctor who examined PW 1. PW 4 is the sub Inspector of Mathilakam Police Station who registered this crime. PW 5 is the Sub Inspector of Mathilakam Police Station who conducted investigation and submitted the final report.

9. The accused denied the entire prosecution allegation and contended that the case is a fabricated one filed out of vengeance. According to the accused, he had demanded the kuri amount from the accused and his wife as his friend Naveesh had subscribed the kuri in Trade Link kuris , which was later shut down , through the wife of PW 1. Out of that vengeance this case was fabricated.

10. PW 1 Sreekumar deposed that at the time of the incident he was working as the Manager of an Ayurvedic institution named Indian Farm. On 12.06.2018 at about 3.00 p.m., while he was proceeding on foot through the eastern side of the NH road at Chenthrappinni Centre to deposit money in Canara Bank, the accused Baiju came from behind on a scooter and uttered obscene words to him. The accused

slapped him on his left cheek with his hand. He further deposed that the accused, who is present in court, kicked him on his abdomen with his shoe-wearing foot. According to PW1, he felt pain due to the attack. Thereafter he went to Kuttilakkadavu Hospital and took treatment and was discharged at about 7.30 p.m. on the same day. On the next day morning he gave a statement to the police regarding the incident and the F I statement is marked as Ext.P1.

11. During cross-examination, PW1 stated that he realised that the accused had kicked him with the shoe-wearing foot at the time of incident itself when he felt pain and that he had stated the same to the police. He further stated that Chenthrappinni Centre is a crowded place. According to him, the incident lasted for about five minutes and about 10 to 20 persons had gathered there. PW1 admitted that persons known to him, namely Majeed and Vishnu, were present there, but he had not specifically mentioned their names before the police and had only stated that people were gathered. He deposed that he had pain on his cheek due to the assault and that he was given medicine for the pain. He also stated that he had informed the doctor that he had pain on his cheek and abdomen and that there was a mark on the abdomen, side below the stomach, where he was kicked.

12. PW1 further stated that he had seen the accused prior to the incident and knew him by name, as the accused is a native of Chenthrappinni, and that he had known him since 2010. He admitted that his wife had worked in an institution named

Trade Link which conducted kuri transactions. However, he denied the suggestion that he had joined any one in any kuri in that institution through his wife. He also denied the suggestion that his wife had informed him that one Kolanthara Naveesh had joined a kuri in that institution. PW1 also stated that he did not receive the discharge card relating to his admission in the hospital.

13. PW 2 Vishnu, turned hostile to the prosecution by denying having witnessed the incident.

14. PW3, Dr. Sanu, deposed that while he was working as Civil Surgeon at Perinjanam Community Health Centre, on 12.06.2018 at about 4.50 p.m., he examined Sreekumar, S/o Bhaskara Menon, Chakkingal House, Chenthrappinni P.O. (PW 1), who was brought with an alleged history of assault at about 3.30 p.m. on the same day at Chenthrappinni Centre by a person named Biju. On examination, he found tenderness on the left forehead and tenderness on the back of the chest. According to him, the injuries could be caused as alleged. He prepared and issued the wound certificate, which bears his signature and seal, and the same was marked as Ext. P2.

15. In cross-examination, PW3 stated that tenderness is assessed clinically and is elicited by pressing the affected area, when the patient usually withdraws the part due to pain. However, he added that a clever patient can pretend tenderness. The patient was treated as an outpatient and had no complaints of pain or injury on any

other parts of the body. He denied having given a statement to the police that the patient had reported sustaining the injury at 3.00 p.m. on 12.06.2018; the relevant portion of the statement under Sec. 161 CrPC was marked as Ext. D1. He also stated that the patient had not mentioned that the assailant used shoes to attack him.

In re-examination, PW3 stated that the intensity of pain can be elicited by pressing the affected area and that the tenderness noted in this case could not be pretended.

16. PW 4 P K Mohit deposed that, while he was working as the Sub Inspector of Police at Mathilakam Police Station, he recorded the F I statement of PW 1 Sreekumar. He identified Ext. P1 F I statement. On the basis of Ext. P1 FIS, he registered this crime and the FIR was marked as Ext. P3. According to PW 4 , the investigation was conducted CW10.

17. In cross-examination, PW4 stated that PW 1 had not stated before him that the accused stamped on him with a shoe-wearing foot. He further stated that though the FIR was registered on 13.06.2018, it reached the court only on 19.06.2018, and he did not know the reason for the delay.

18. PW5 Sasikumar deposed that while he was working as the Additional Sub Inspector of Mathilakam Police Station, on 13.06.2018 he took over the investigation of this case. As pointed out by PW 1, he inspected the place of occurrence and prepared the scene mahazar. The scene mahasar was marked as Ext. P4. According to him, the place of occurrence is the eastern side mud margin of NH-17 road and its

surroundings, situated about eight metres to the south-west of the pillar at the south-western corner of the “Namude Arogyam” Community Hospital at Chandrapinni Village.

19. He further stated that he recorded the statements of witnesses and when the accused appeared at the station, he was arrested and later released on bail. PW5 identified the accused in court. The arrest memo was marked as Ext. P5 and the bail bond was marked as Ext. P6. He also submitted a report to add the full name and address of the accused, in the FIR which was marked as Ext. P7. He collected Ext. P2 wound certificate of the injured and produced it before the court. Upon completing the investigation, he submitted the final report.

20. In cross-examination, PW5 stated that he obtained the wound certificate on 16.06.2018 and had verified it before producing it before the court. He stated that he had not clearly understood the nature of the injuries noted therein. According to the wound certificate, the time of occurrence was recorded as 3.30 p.m. on 12.06.2018, whereas the injured witness had stated that the incident occurred at 3.00 p.m. He admitted that he had not obtained any further clarification from the witness or the doctor regarding this time difference. He denied the suggestion that the doctor had not given a statement to him stating that the injury occurred at 3.00 p.m. on 12.06.2018, and stated that the doctor’s statement might have been recorded at the

hospital. When asked how the statement was taken as a computer printout, he had no answer.

21. He admitted that PW1 had stated in the FIS that he was admitted in the hospital for treatment, whereas Ext. P2 wound certificate shows that he was treated as an outpatient and discharged in the evening. He admitted that he had not recorded any further statement from PW1 to clarify this aspect. He also admitted that in the final report it is alleged that the accused slapped PW1 on the left cheek and stamped on his left side with his leg, whereas Ext. P2 wound certificate does not record injuries in those exact locations but mentions tenderness on the left forehead and back. He further stated that when he again questioned PW1, the latter had not stated that the accused stamped on him with a shoe-wearing foot.

22. The prosecution mainly relied upon the testimony of PW1, the injured informant. PW2, who was cited as the occurrence witness, turned hostile and denied having witnessed the incident. Thus, the evidence of PW1 remains the principal evidence relied upon by the prosecution.

23. PW1 deposed that the accused slapped him on his left cheek and kicked him on the abdomen with his shoe-wearing foot. However, the medical evidence does not support this version. As per Ext. P2 wound certificate issued by PW3, the injuries noted were tenderness on the left forehead and tenderness on the back of the chest.

24. No injury was noted either on the cheek or on the abdomen. Thus, the

medical evidence does not tally with the manner of assault alleged by PW1. Further, material improvements are seen in the testimony of PW1. Before the court, PW1 stated that the accused kicked him with a shoe-wearing foot. However, PW4, who recorded Ext. P1 FIS, clearly stated that PW1 had not given such a version before him. PW3, the doctor, also stated that the patient had not mentioned that the assailant had attacked him with a shoe. PW5, the Investigating Officer, further deposed that when PW1 was again questioned during the course of investigation, he had not stated that the accused had stamped on him with a shoe-wearing foot. This amounts to a substantial improvement in the version of PW1 before the court.

25. There are also other inconsistencies in the prosecution case. PW1 stated that he was admitted in the hospital and discharged in the evening. However, Ext. P2 wound certificate shows that he was treated only as an outpatient. The Investigating Officer admitted that he had not obtained any clarification from PW1 or the doctor regarding this discrepancy.

26. It has also come out in evidence that the alleged incident occurred at Chenthrappinni Centre, which is a crowded place. PW1 himself stated that several persons had gathered there and that persons known to him were present at the spot. However, the only occurrence witness examined turned hostile. Moreover PW 1 has not mentioned the names of those persons in Ext P 1 F I statement. In the above

circumstances, the evidence of PW1 is not sufficiently reliable to base a conviction without independent corroboration.

27. Another circumstance which creates doubt regarding the prosecution case is the delay in forwarding the FIR to the court. The FIR was registered on 13.06.2018 and the investigation was completed on 16.06.2018. The final report was submitted on 19.06.2018. But the FIR reached the court only on 19.06.2018. PW4 stated that he did not know the reason for the delay. The prosecution has not offered any satisfactory explanation for this delay.

28. The inconsistencies between the oral evidence and the medical evidence, the improvements made by PW1 in his testimony, the absence of supporting independent evidence, and the unexplained delay in forwarding the FIR to the court create reasonable doubt regarding the prosecution case. Therefore, I am of the view that the prosecution has failed to prove the offences alleged against the accused beyond reasonable doubt. The accused is entitled to get the benefit of doubt in the prosecution case. Hence, Points Nos. 1 to 3 are answered against the prosecution.

29... **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 is found not guilty for the offence under section 341,323 and 294(b) IPC and he is acquitted of the said offences u/s.255(1) Cr.P.C.

2. The bail bond stands cancelled and accused is set at liberty forthwith.

Dictated to the Confidential Assistant transcribed and typed by her, corrected and pronounced by me in open court on this the 16th March 2026

JUDICIAL FIRST CLASS MAGISTRATE,
KODUNGALLUR.

APPENDIX

Prosecution witness

PW1	Sreekumar	CW1	F.I.Statement
PW2	Vishnu	CW4	Eye witness
PW3	Dr. Sanu M.Parameswaran	CW7	Medical witness
PW4	Mohith	CW9	S.I.P Mathilakam
PW5	Sasikumar	CW10	S.I.Mathilakam

Defence witness : Nil

Court witness : Nil

Prosecution Exhibits:

1	P1	F.I. Statement	PW1
2	P2	Wound certificate	PW3
3	P3	FIR	PW4
4	P4	Scene mahazar	PW5
5	P5	Arrest memo	PW5
6	P6	Bail bond	PW5
7	P7	Accused address report	PW5

Defence Exhibits: D1. Relevant portion of 161 statement

Court Exhibits : Nil

Material Objects : Nil

JUDICIAL FIRST CLASS MAGISTRATE,
KODUNGALLUR.