

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

**Present: Smt.Savitha V.S, Judicial First Class Magistrate**

Dated this the 19<sup>th</sup> day of March, 2026/28<sup>th</sup> Phalguna, 1947 SE

**C.C. No.1008 OF 2017**

Complainant : State of Kerala - rep. by Sub  
Inspector of Police, Varantharappilly Police  
Station in Crime No.80/14

*(By Sri.Sreekumar P, Assistant Public  
Prosecutor, Senior Grade, Chalakudy)*

Accused : Lonappan @ Oppan, aged 52 years,  
S/o.Devassy, Chazhookkaran House,  
Thekkekkara Desom, Amballur Village.

*(By Adv.Sri.Pauly Ambookkan)*

Offence : u/Ss.341,323,324 and 506(i) of Indian Penal Code.  
Plea : Not guilty  
Finding : Not guilty  
Sentence or order : Accused is acquitted u/S.248(1) of Criminal Procedure  
Code

**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	Varantharappilly Police Station in Crime No.80/14	Lonappan @ Oppan	Devassy	.....	Chazhookkaran	52					
DATE OF											Period of detention undergone during investigation
Occurrence	Complaint	Apprehension/	Release on	Commen-	Commen-	Close of trial	Sentence or order	Com mitment	Service of copy	Expl anat	

		Appea -rance	bail	ceme nt of trial	nt of evid ence				of judgm ent or findin g on accuse d	ion of dela y	n, inquiry or trial for the purpose of section 428 of Cr.P.C.
18.01. 2014	03.02. 2014	06.06 .2017	06.06. 2017	27.3. 2018	05.06 .2023	18.03 .2026	19.03 2026	-	-	-	-

This case having been finally heard on 18.03.2026 and the court delivered the following:

### **JUDGMENT**

This case is instituted on a final report filed by the Sub Inspector of Police, Varantharappilly Police Station u/Ss.341,323,324 and 506(i) of Indian Penal Code.

2. The prosecution case, in brief, is that on 18.01.2014 at 22.45 hours, When the complainant demanded the sand and Rs.500/- given to the accused and the complainant filed a complaint against the accused, accused wrongfully restrained the complainant and beat on his face and back side of neck with bare hand. When the complainant fell down on the road, the accused kicked him and beat on his back with a stick and also threatened that he would kill him. Thus, the accused had ommitted the aforesaid offences.

3. The Court took cognizance of the offences and issued process against the accused. Upon his appearance, he was released on bail. The copies of the final report and other connected documents were duly furnished to him in compliance with Section 207 of the Code of Criminal Procedure. Particulars of offences punishable under

Sections 341, 323, 324 and 506(i) of Indian Penal Code were read over and explained to him in vernacular, to which he pleaded “not guilty” and claimed to be tried.

4. On behalf of the prosecution, PW1 to PW5 were examined, and Ext. P1 to P5 were marked. After the conclusion of the prosecution’s evidence, all incriminating circumstances were put to the accused in compliance with Section 313(1)(b) of the Code of Criminal Procedure. The accused denied all the allegations and pleaded innocence. He was then called upon to enter his defence. No defence evidence marked from the side of defence side.

5. Heard both sides. The following points arise for consideration:-

1. Whether the accused restrained PW1 as alleged?
2. Whether the accused voluntarily caused hurt to PW1 as alleged?
3. Whether the accused voluntarily caused hurt to PW1 with a stick as alleged?
4. Whether the accused criminally intimidated PW1 with death as alleged?
5. Sentence or Order?

6. **Point Nos.1 to 4:-**

In order to bring home the guilt of the accused, the prosecution examined PW1 to PW5 and marked Exts. P1 to P6.

7. PW1 is the injured witness and the most material witness for the prosecution. He deposed that he is acquainted with the accused, Lonappan, and that he had sustained injuries on his head in the alleged incident. However, during his chief

examination, PW1 stated that he does not remember the date of the incident. It is pertinent to note that his evidence was only partly recorded and, at his request citing health issues, his examination was deferred. Subsequently, despite coercive steps taken by the court, the prosecution failed to secure his presence for completion of evidence.

8. Thus, the testimony of PW1 remains incomplete. It is a settled principle that incomplete evidence, which has not been subjected to cross-examination, cannot be relied upon. In the absence of completion of his evidence, PW1's testimony lacks evidentiary value and cannot be treated as substantive evidence to fix culpability on the accused.

9. PW2, cited as a mahazar witness, did not support the prosecution case. He categorically deposed that he had not attested the mahazar. Thus, the very preparation of the scene mahazar becomes doubtful. PW2 was declared hostile, and nothing useful could be elicited from his cross-examination to support the prosecution case.

10. PW3, who was working as Senior Civil Police Officer at Varantherappilly Police Station, deposed that he recorded the statement of PW1 at Taluk Hospital, Puthukkad. Ext. P1 First Information Statement was marked through him. However, the First Information Statement is not a substantive piece of evidence and can only be used for corroboration or contradiction. In the absence of reliable testimony from PW1, Ext. P1 loses its significance.

11. PW4, the Assistant Surgeon at Taluk Hospital, Puthukkad, deposed that he examined PW1 and issued Ext. P2 wound certificate. He noted that PW1 had pain on

his neck and left ear and that the alleged history was assault by the accused using hands and sticks. The medical evidence only establishes that the injured had sustained pain and no injuries noted. The medical evidence by itself cannot prove the guilt of the accused unless it is supported by reliable ocular evidence. The history stated before the doctor is not substantive evidence against the accused.

12. PW5, the Sub Inspector of Police, deposed regarding the registration of FIR, preparation of Ext. P4 scene mahazar, recovery of a wooden stick allegedly used in the commission of offence, arrest of the accused, and filing of Ext. P5 report. However, the alleged recovery is not proved in accordance with law since the independent witness to the mahazar (PW2) has not supported the prosecution. Hence, the recovery becomes doubtful and unreliable.

13. It is also relevant to note that there is no independent witness examined by the prosecution to prove the occurrence. The entire case hinges upon the testimony of PW1, which, as discussed earlier, is incomplete and unreliable. There is absolutely no circumstantial evidence brought on record to connect the accused with the commission of the offence. The chain of circumstances is totally absent in the present case. The burden lies entirely on the prosecution to prove the guilt of the accused beyond reasonable doubt. The accused is presumed to be innocent unless proved guilty. Suspicion, however strong, cannot take the place of proof.

14. In the case on hand, the prosecution has failed to adduce reliable and cogent evidence. The injured witness has not supported the case in a legally acceptable

manner, the mahazar witness has turned hostile, and the remaining evidence is only formal in nature. There is no legal evidence connecting the accused with the alleged offence.

15. **Point No.5:-**

In the result, accused is found not guilty of the offence punishable under Sections 341,323,324 and 506(i) of Indian Penal Code and is accordingly acquitted under Section 248 (1) of Criminal Procedure Code. His bail bond shall stand discharged and he is set at liberty.

Property item stick received in this case shall be destroyed after the expiry of the appeal period.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court, this the 19<sup>th</sup> day of March, 2026

Sd/-  
Judicial First Class Magistrate,  
Chalakydy.

**APPENDIX**

**Prosecution witness**

PW1	Rajan	First informant and injured witness
PW2	Rajani	Mahazar witness
PW3	Anil	Senior Civil Police Officer, 4741, Varantharappilly Police Station

PW4	Dr.P.Anil	Assistant Surgeon Taluk Hospital, Pudukkad
PW5	Shunmughan K.K	Sub Inspector of Police, Varantharappilly

**Defence witness :**

Nil		
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**Court witness :**

Nil		
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**Prosecution Exhibits:**

1	Ext.P1/PW1	F.I.Statement dated 19.01.2014
2	Ext.P2/PW4	Wound Certificate dated 18.01.2014
3	Ext.P3/PW5	F.I.R dated 19.01.2014
4	Ext.P4/PW5	Scene mahazar dated 20.01.2014
5	Ext.P5/PW5	Report
6	Ext.P6/PW5	Bail bond dated 23.01.2014

**Exhibits for defence:-**

Nil		
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**Material objects:-**

Nil		
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Sd/-  
Judicial First Class Magistrate,  
Chalakydy.

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**Judicial First Class Magistrate,  
Chalakydy.**