

CALENDER STATEMENT*(ANNEXURE U/R 132 OF THE CRIMINAL RULES OF PRACTICE)*

SL. No. :
Sessions case No : 204/2011
(Originally filed before the Sessions Court, Thiruvananthapuram.)
 C.P. No. : **58/2010** of JFMC II, Nedumangad.
 Crime No. : **209/2008** of Vattiyoorkavu Police Station.

DESCRIPTION OF ACCUSED		
	A1	A2
Name	Vinod	Sreeraj @ Kannan
Father's Name	Thulaseedharan	Ramaswamy
Occupation	-----	----
Residence	Peroorkada	Peroorkada
Age	38	29
	A3	A4
Name	Sreejith @ Unni	Gireesh
Father's Name	Ramaswamy	Sasi
Occupation	----	----
Residence	Peroorkada	Peroorkada
Age	33	38
DATES OF:		

Occurrence : 30.07.2008
 Complaint : 30.07.2008
 Apprehension : 22.08.2008
 Release on Bail : 13.12.2024
 Commitment : 31.01.2011
 Commencement of trial : 24.05.2019
 Close of trial : 06.04.2026

Sentence or order : 10.04.2026
Name of Committing Magistrate : Sri. A. Shajahan, JFMC II, Nedumangad.
Explanation for delay : No delay

ASSISTANT SESSIONS JUDGE

IN THE COURT OF THE ASSISTANT SESSIONS JUDGE, NEDUMANGAD

Present: Smt. Rajasree C.R, Assistant Sessions Judge

*Friday 10th April, 2026
21st Chaithram, 1948*

SC 204/2011

(Originally filed before the Sessions Court, Thiruvananthapuram)

C.P. No. : **58/2010** of JFMC II, Nedumangad.
Crime No. : **209/2008** of Vattiyoorkavu Police Station

Complainant:- : State of Kerala Charge sheeted by
Sub Inspector of Police, Vattiyoorkavu
Police Station.

Rep. by. : Adv. Kishore Raj.K (AGP)

Accused:- : 1. Vinod, S/o. Thulaseedharan, Grace Villa,
Mela Kattakal, Kavadithalakkal,
Vettoorkonam ward, Peroorkada Village.

: 2. Sreeraj @ Kannan, S/o. Ramaswamy,
Usha Bhavan, Roadarikathu,
Aduppukuttanpara, Vettikonam ward,
Peroorkada Village.

: 3. Sreejith @ Unni, S/o. Ramaswamy,
Usha Bhavan, Madathuvilakom ward,
Peroorkada Village.

: 4. Gireesh, S/o. Sasi, Roadarikathu Veedu,

Aduppukuttanpara, Madathuvilakom ward,
Peroorkada Village.

Rep. by : Adv. B. Ramesan Nair.

Charge : U/S. 341, 323, 324, 308 r/w s.34
of the Indian Penal Code.

Plea : Not guilty

Finding and Sentence : The first, second, third and fourth accused
are found not guilty of the offences
punishable under sections 341, 323, 324
and 308 r/w.s.34 of the Indian Penal Code
and are acquitted under section 235(1) of
Cr.P.C.

Commencement of Trial : 24.05.2019

Close of trial : 06.04.2026

No. of days the case
stood posted for trial : 8 days (i.e., 24.05.2019, 26.11.2021,
02.04.2022, 11.07.2022,
02.04.2024, 28.01.2025,
23.07.2025, 06.04.2026.)

This case having been finally heard on 06.04.2026 and the court on
10.04.2026 delivered the following.

J U D G M E N T

The accused persons are put on trial upon the final report filed by the Sub
Inspector of Police, Vattiyoorkavu Police Station in Crime No.209/2008 alleging

commission of offences punishable under sections 341, 323, 324 and 308 r/w. s.34 of the Indian Penal Code, 1860.

2. **Prosecution case, in brief, are stated as follows:** Owing to the animosity that the first witness Ajay Kumar has demanded the amount advanced by his friend Maju to the brother in law of the first accused and with intent to cause hurt to Ajay Kumar and to Aji Kumar, at 15.30 hours on 30.07.2008, all the accused, in furtherance of their common intention, came in an autorikshaw bearing number KL 01 AN 1418 with iron pipe and iron rod on the eastern side of Vazhayila bridge along Vettikonam-Vazhayila Road in Vettikonam Ward of Peroorkara Village, and wrongfully restrained Ajay Kumar. The first accused, in furtherance of the common intention of all, hit on the head of Ajay Kumar with an iron rod with intent to cause culpable homicide not amounting to murder. As he evaded the same, he sustained injury on his left shoulder. When the first accused again attempted to hit him, he sustained injury above his left forehead. The second accused took an iron pipe piece and assaulted on the head of Aji Kumar. When he fell down, the third and the fourth accused punched all over the body of Ajay Kumar and Aji Kumar and also stamped them and thereby committed the offence punishable under sections 341, 323,324 and 308 r/w.s.34 of the Indian Penal Code, 1860.

3. This case was taken on the files of Judicial First Class Magistrate Court-

II, Nedumangad as CP.No 58/2010. On appearance, copies of the prosecution records were given to the accused persons and they were released on bail. As the offences are exclusively triable by the Court of Sessions, the learned Magistrate has committed the accused to the Hon'ble Court of Sessions under section 209 (a) of Cr.P.C.

4. The Hon'ble Court of Sessions took cognizance for the offences punishable under sections 341, 323, 324 and 308 r/w.s.34 of the Indian Penal Code and made over this case to this Court for trial and disposal.

5. When the accused persons appeared, the learned Additional Public Prosecutor opened the case by describing the charges against them and stated by what evidence he proposes to prove the guilt of the accused persons. Heard the learned counsel for the accused persons and the learned Additional Public Prosecutor and considered the documents under S.227 of Cr.P.C. After hearing the submissions made, this court has formed an opinion that there are no grounds to discharge the accused. Upon hearing both sides and considering the records of the case and the documents submitted, charges were framed against the accused persons under sections 341, 323, 324 and 308 r/w.s.34 of the Indian Penal Code, 1860. When the charges were read over and explained to them, they pleaded not guilty and claimed to be tried. During the course of trial, the third accused was arrested and detained in connection with some other offence. Thus, production

warrant was issued to produce him in this case. He is produced on production warrant and was remanded in this case when trial commenced.

6. On the side of the prosecution, PW1 to PW5 were examined. The fourth and the fifth charge witnesses are no more. Copy of their death certificates are produced. The sixth charge witness is not examined. Though an additional witness was filed disclosing the name of the doctor who examined the injured i.e. Dr. Sani Mathew, prosecution could not procure his presence. Ext.P1, Ext.P1 (a), Ext.P1(b), Ext. P2 to P6 were marked. PW1 and PW2 are the injured examined by the prosecution. PW3 is the occurrence witnessed by the prosecution. PW4 is the Investigating Officer who investigated the offence and filed report against the accused. PW5 is the doctor who examined the injured.

7. After the completion of evidence, the accused persons were questioned under section 313 of Cr.P.C. The accused persons denied all the incriminating circumstances levelled against them and pleaded innocence.

8. After taking the evidence for the prosecution, examining the accused persons and after hearing the prosecution and the defence, no ground was canvassed for the acquittal of the accused persons under section 232 of Cr.P.C.

9. Thereafter, the accused persons were called upon to enter on their defence and to adduce evidence that they may have in support thereof. However, the accused persons have not adduced evidence.

10. Heard both sides.

11. Points that arose for consideration are:-

1. Whether at 15.30 hours on 30.07.2008 all the accused, in furtherance of their common intention, came in an autorikshaw bearing number KL 01 AN 1418 with iron pipe and iron rod, on the eastern side of Vazhayila bridge along Vettikonam-Vazhayila Road in Vettikonam Ward of Peroorkada Village, and wrongfully restrained PW1 and PW2 and thereby committed the offence punishable under section 341 r/w s.34 of the Indian Penal Code,1860?

2. Whether at 15.30 hours on 30.07.2008, the third and the fourth accused, in furtherance of their common intention, came in an autorikshaw bearing number KL 01 AN 1418 with iron pipe and iron rod, on the eastern side of Vazhayila bridge along Vettikonam- Vazhayila Road in Vettikonam Ward of Peroorkada Village, and punched and stamped all over the body of PW1 and PW2 and thereby committed the offence punishable under section 323 r/w s.34 of the Indian Penal Code,1860?

3. Whether at 15.30 hours on 30.07.2008 the first accused, in furtherance of their common intention, came in an autorikshaw

bearing number KL 01 AN 1418 with iron pipe and iron rod, on the eastern side of Vazhayila bridge along Vettikonam-Vazhayila Road in Vettikonam Ward of Peroorkada Village, and hit on the head and above the left forehead of PW1 and the second accused hit on the head of PW2 with iron pipe and voluntarily caused hurt to them and thereby committed the offence punishable under section 324 r/w s.34 of the Indian Penal Code,1860?

4. Whether at 15.30 hours on 30.07.2008, the first accused, in furtherance of their common intention, came in an autorikshaw bearing number KL 01 AN 1418 with iron pipe and iron rod, on the eastern side of Vazhayila bridge along Vettikonam-Vazhayila Road in Vettikonam Ward of Peroorkada Village, and hit on the head and above the left forehead of PW1 and the second accused hit on the head of PW2 with iron pipe piece and these acts were done by them with intent and knowledge that it would cause culpable homicide not amounting to murder of PW1 and PW2 thereby committed the offence punishable under section 308 r/w s.34 of the Indian Penal Code?

5. If the accused persons are found guilty, what is the sentence or order to be passed?

12. **Point nos. 1 to 4:-** To avoid repetition and for brevity, these points are considered together. Prosecution alleges that the first witness Ajay Kumar has demanded the amount advanced by his friend Maju to the brother in law of the first accused and with intent to cause hurt to Ajay Kumar and to Aji Kumar, at 15.30 hours on 30.07.2008, all the accused, in furtherance of their common intention, came in an autorikshaw bearing number KL 01 AN 1418 with iron pipe and iron rod on the eastern side of Vazhayila bridge along Vettikonam-Vazhayila Road in Vettikonam Ward of Peroorkara Village, and wrongfully restrained Ajay Kumar. The first accused, in furtherance of the common intention of all, hit on the head of Ajay Kumar with an iron rod with intent to cause culpable homicide not amounting to murder. As he evaded the same, he sustained injury on his left shoulder. When the first accused again attempted to hit him, he sustained injury above his left forehead. The second accused took an iron pipe piece and assaulted on the head of Aji Kumar. When he fell down, the third and the fourth accused punched all over the body of Ajay Kumar and Aji Kumar and also stamped them.

13. PW1 testified that he is an autorikshaw driver by profession. At 03.30 p.m. on 30.07.2008 near Vazhayila bridge, while he was going towards the house of Maju, persons named Vinod Kumar, Unni, Kannan, Girish Kumar came in an autorikshaw bearing number KL-01, AN-1418 and asked him, who is he to demand money and the first accused hit on his head with an iron rod, which he

evaded and sustained injury on his left shoulder. Thereafter the first accused assaulted above his forehead and he had sutured injury on his forehead. When the second witness PW2, attempted to ran away from the spot, the second accused Kannan assaulted on the back of his head with an iron pipe. Due to this hit, he fell unconscious. At that time, the third and the fourth accused stamped and assaulted both PW1 and PW2. PW1 was first taken to Peroorkada Government Hospital and thereafter to the Medical College Hospital, Thiruvananthapuram. Ext.P1 First Information Statement of PW1 was recorded by the police at Medical College Hospital. He has identified all the accused in the dock. During cross examination, it was come in evidence that he gave statement to the police on 30.07.2008 at 03.30 p.m. Subsequently, his statement was not recorded by the police. He also stated that the weapon used to inflict injury was not identified by him and it was not shown by the police to him. He used to park his autorikshaw in Mannamoola stand which is 1 kilometer away from Peroorkada. He came to the place of occurrence in another autorikshaw hired by him. After reaching at Vazhayila bridge, PW1 and PW2 went together for consuming alcohol. He categorically deposed that his friend Maju bought liquor for consumption. They went to a spot which is near Vazhayila bridge, which is at a walkable distance of about 10 to 15 minutes from there. The accused persons were also there at 3.15 p.m., consuming alcohol, at the place where PW1 and PW2 went for consuming alcohol. He further

deposed that there were eight persons in the gang and he does not know the name of four persons. He further deposed that at the time of assault there were eight persons. He has not made any statement to the police disclosing that it was Balakrishnan who restrained him. He further deposed that due to the assault, PW2 ran towards Vettikonam area. He further testified that police recorded his statement after the doctor treated him. PW1 saw PW2 at Medical College Hospital. It was only at that time he came to know that Aji was also assaulted by the accused persons. Immediately after that he deposed that he saw Aji falling down. When a question was put to him whether he was in a drunken state, when doctor was examining him, he stated that he does not remember the same and he was conscious.

14. PW2, residing at Vellayikadavu, is the friend of PW1. He was present at the spot when PW1 sustained injury. PW2 also sustained injury along with PW1. The incident occurred in between 03.30 p.m. on 30.07.2008. PW1 and PW2 went to the house of Maju. When PW1, PW2 and Maju returned from the house of Maju and reached near Vazhayila bridge, Kannan alias Sreeraj, Vinod and Girish came there. Vinod asked whether they were demanding the amount which Maju collected from Vinod and handed over to Shanavas and took an iron rod and hit on the head of PW1. PW1 sustained injury on his shoulder. The second attack was towards the head of PW1. While PW2 attempted to ran away from the spot,

Kannan followed him and hit behind on the left side of his ear. Immediately, he fell unconscious. When he regained consciousness after 3 days, he was admitted in Medical College Hospital, Thiruvananthapuram. He identified Vinod, Unni and Kannan. The identification of the third accused was also not challenged in this case. PW2 gave statement to the police on 01.09.2008. PW2 is also an autorikshaw driver by profession who is running his autorikshaw in and around Peroorkada hospital area. He testified that he along with Maju and PW1 went to a plot near Vazhayila for consuming alcohol. PW2 had not consumed alcohol. He also admitted the fact that police came to the spot. When it was suggested that somebody had informed to the police regarding the chaos that happened in the property where PW1 and seven others were consuming alcohol, he stated that he does not know who contacted the police. He further added that police came to the spot immediately after the incident. He also deposed that he came to know about this fact when he regained consciousness. He denied the suggestion that he along with PW1 sustained injury as they fell on a rock. He also added that it was police who took them to the hospital. He had not seen the weapon used by the accused to inflict injury.

15. PW3 Maju also testified in tune with the prosecution case regarding the incident that happened on 30.07.2008 in between 3 pm and 3.30 pm. At the time of cross-examination, he also stated that PW1 consumed alcohol. According to him,

after the incident police came to the spot within 15 minutes. He denied the suggestion that PW1 and PW2 sustained injury as they attempted to run away from the spot seeing the police officers. He further deposed that he ran away from the spot and when he returned within 10 minutes, he saw PW1 lying near the spot. PW2 was not seen at the scene of occurrence.

16. On 30.07.2008, PW4 was the Sub Inspector of Police of Vattiyoorkavu Police Station. He recorded the First Information Statement of PW1 as Ext. P1 and has noted the injuries on the body of PW1 and PW2 as Ext. P1 (a), Ext.P2 (b). Based on that, he has registered Ext. P2 First Information Report. Thereafter, he visited the scene of occurrence and prepared Ext. P3 scene mahazar. The autorikshaw was produced before the court as per Ext. P4 property list. It has come in evidence that even though in the FIR it is mentioned that there were 8 persons, after investigation it is seen that there were only four persons involved in the offence. He has filed Ext. P5 report disclosing that there are only four accused involved in the crime. The statement of PW1 was recorded at 06.00 p.m. and he informed that eight persons caused injury to him. He testified that PW1 was not in a drunken state. When his attention was drawn to the medical certificate issued by the doctor, he stated that it is recorded that PW1 had the smell of alcohol. He also stated that he has not recorded the statement of the doctor. After the completion of investigation, he had filed final report against accused.

17. PW5 is Dr. S. Aruna, who was at Peroorkada District Model Hospital. She was working as a consultant during 2008. On 30.07.2008, at 05.15 p.m. Ajayan aged 30 was brought by Vattiyoorkavu Police Station with a history of assault at 04.00 p.m. at Vazhayila Junction with iron bar. On examination, she has noticed the smell of alcohol. Injuries noted are 4x1x1cm size deep injury on the forehead, swelling over the left shoulder. Suturing was done and he was referred to Medical College Hospital for expert manning. It has come in evidence that the injuries may be caused as alleged. After examination, she had issued Ext.P6 wound certificate that bears her signature and hospital seal. She testified that the first injury noted in Ext. P6 can occur by falling on a rock and the second injury noted can occur by a sudden fall.

18. It is to be noted that PW1 in the First Information Statement has deposed that there were eight persons who assaulted him and his statement was recorded at 06.00 p.m. on the date of incident. At the time when he was assaulted he was in a drunken state. PW2 who accompanied PW1 along with PW3 categorically deposed that the accused persons assaulted PW1. PW1 has categorically stated that he was conscious at the time when PW5 examined him. His statement was recorded immediately after the incident within 2 hours. His version is that he was assaulted by 7 to 8 persons. Though PW1 identified the accused in the dock, even in the dock he categorically deposed that there were four other persons along with

the accused persons and he does not remember or know their name. PW4 deposed that after investigation he was convinced that only four persons were involved in the alleged offence. Based on whose testimony PW4 has come to such a conclusion is not evident from his testimony. It is to be noted that according to PW1, there were eight persons in the mob that attacked him and PW2. However, PW2 and PW3 have not deposed regarding the presence of eight persons at the spot. The evidence of PW2 and PW3 would go to show that they were also present at the scene of occurrence. If they were present at the scene of occurrence, there should be consistent evidence regarding the presence and involvement of the assailants. Different version regarding the number of assailants involved in the offence by both the injured would create doubt in the mind of the Court regarding the prosecution case.

19.As regards the credibility of the witnesses, the Hon'ble Apex Court in the case of ***Vedivelu Thevar v. State of Madras***, (1957 SCC OnLine SC 13) has held that "**11 Section 134 enshrines the well recognized maxim that "Evidence has to be weighed and not counted". Our Legislature has given statutory recognition to the fact that administration of justice may be hampered if a particular number of witnesses were to be insisted upon. It is not seldom that a crime has been committed in the presence of only one witness, leaving aside those cases which are not of uncommon occurrence, where determination of guilt depends entirely on circumstantial evidence. If the legislature were to insist upon plurality of witnesses, cases where the testimony of a single witness only could be available in**

proof of the crime, would go unpunished. It is here that the discretion of the presiding judge comes into play. The matter thus must depend upon the circumstances of each case and the quality of the evidence of the single witness whose testimony has to be either accepted or rejected. If such a testimony is found by the court to be entirely reliable, there is no legal impediment to the conviction of the accused person on such proof. Even as the guilt of an accused person may be proved by the testimony of a single witness, the innocence of an accused person may be established on the testimony of a single witness, even though a considerable number of witnesses may be forthcoming to testify to the truth of the case for the prosecution. Hence, in our opinion, it is a sound and well - established rule of law that the court is concerned with the quality and not with the quantity of the evidence necessary for proving or disproving a fact. Generally speaking, oral testimony in this context may be classified into three categories, namely:

- (1) Wholly reliable.*
- (2) Wholly unreliable.*
- (3) Neither wholly reliable nor wholly unreliable.*

12. In the first category of proof, the court should have no difficulty in coming to its conclusion either way - it may convict or may acquit on the testimony of a single witness, if it is found to be above reproach or suspicion of interestedness, incompetence or subornation. In the second category, the court equally has no difficulty in coming to its conclusion. It is in the third category of cases, that the court has to be circumspect and has to look for corroboration in material particulars by reliable testimony, direct or circumstantial...”

20. Keeping the dictum in the aforesaid case in mind, the testimonies of the witnesses should be evaluated. As there is no consistent version with respect to the number of assailants involved in the case, it can only be said that the evidence

collected by PW1 and PW2 are doubtful. It has further come in evidence that when PW1 and PW2 proceeded to a plot near Vazhayila for consuming alcohol, the accused persons were there and they were found consuming alcohol. It has also come in evidence that there was chaos and police came to the spot. All these would show that they may occurred scuffle among the gangs and police might have visited the spot getting information regarding the same. PW1 deposed that PW2 ran towards Vettikonam area, after the assault. Immediately, he corrected and deposed that PW2 fell unconscious due to the assault. PW3 testified that when he went to the place of occurrence, PW2 was not there. However, he saw PW1 lying there injured. It has come in evidence of PW2 that he regained consciousness only after three days. PW1 deposed that he saw PW2 in the hospital and only at that time he came to know that PW2 also sustained injury. This evidence of PW1 is not consistent. At one point of time he deposed that he saw the accused assaulting PW2 and after that he deposed that he came to know about the assault on PW2 only after seeing him in Medical College Hospital, Thiruvananthapuram. This inconsistent testimony of PW1 also make the prosecution case suspicious.

21.The prosecution case and the testimony of PW1 and PW2 would go to show that iron rod was used to inflict injury on the forehead of PW1 and on PW2. The weapon used to inflict injury was also not recovered in this case. Why weapon was not recovered is also not evident. Recently the Hon'ble Apex Court has held

that non recovery of weapon is not fatal to the prosecution if otherwise the evidence on record is believable and trustworthy. This is a case where the evidence led by PW1 to PW3 is not cogent and trustworthy. As the evidence let in by the witnesses is not cogent and trustworthy and it cannot be wholly relied up on to prove the prosecution case, non recovery of weapon is also fatal to the prosecution case. The doctor who was examined as PW5 categorically testified that injury no. 1 and injury no. 2 can be caused due to a sudden fall and due to a fall on a rock. The defence taken is that the PW1 and PW2 after consuming alcohol, seeing the police coming to the spot, fell into a rock and sustained injury. This defence seems to be probable as it has come in evidence that police came to the spot while PW1 was consuming alcohol. As the witnesses examined are not credible and trustworthy and as the weapon has not been recovered in this case, I am of the view that the benefit of doubt should go in favour of the accused persons. In the light of these discussions, these points are found against the prosecution.

22. **Point no. 5:-** As I have already come to a finding that the prosecution is not able to establish the guilt of the accused beyond doubt, I am of the considered view that they are entitled for an acquittal.

In the result, the first, the second, the third and the fourth accused are found not guilty of the offences punishable under section 341, 323, 324, 308 r/w section 34 of the Indian Penal Code, 1860 and are acquitted under section 235 (1) of the

Code of Criminal Procedure, 1973. Release the third accused forthwith if his further detention is not required in any other case. Bail bond of the first, the second and the fourth accused are cancelled and they are set at liberty.

(Dictated to the confidential assistant, typed by her, corrected and pronounced by me in open court on this the 10th day of April, 2026.)

**Rajasree C.R,
Assistant Sessions Judge**

APPENDIX:-

Specimen Chart for prosecution witness examined:-

Prosecution witness	Name of witness	Discription	
PW1	26/11/2021	Ajayakumar	Eye witness (CW1)
PW2	02/04/2022	Ajikumar	Eye witness (CW2)
PW3	11/07/2022	Maju	Eye witness (CW3)
PW4	02/04/2024	Mohandas	Investigation Officer (CW8)
PW5	28/01/2025	Dr. Aruna	Medical Jurist (CW7)

Specimen Chart for prosecution witness examined:- NIL

Specimen Chart for prosecution Exhibited Documents:-

Ex.No.	Discription of the Exhibits	Proved by /Attested by	
P1	31.07.2008	First Information Statement	PW1
P1(a)	31.07.2008	Body Note I	PW4

P1(b)	31.07.2008	Body Note II	PW4
P2	30.07.2008	First Information Report	PW4
P3	05.08.2008	Scene Mahazar	PW4
P4	31.07.2008	Property List	PW4
P5	26.08.2008	Disclosing Report	PW4
P6	30.07.2008	Wound Certificate	PW5

Specimen Chart for defence Exhibited Documents:-NIL

Specimen Chart for material objects:- NIL

ASSISTANT SESSIONS JUDGE

*Typed by:Rpn
Comp.by:Ya*