

IN THE COURT OF THE JUDICIAL I CLASS MAGISTRATE-I,  
ATTINGAL

Present:-**Sri Jawhar H**  
Judicial I Class Magistrate -I, Attingal

Dated this the 31<sup>st</sup> day of March, 2026.

**CC. No. 1120/2017**

Complainant : State – represented by the Sub Inspector of Police,  
Attingal Police Station in Crime No. 2121/2016

(By Assistant Public Prosecutor)

Accused : A1. Akhil @ Nanu, aged 27/2016 years, S/o. Mohandas,  
Kunnil Veedu, Kattaparambu, Pattala, Mevarkkal  
Desom, Alamcode Village (**Absconding**)

A2. Manu @ Kuttan, aged 31/2016 years, S/o. Mahendran,  
Mandapam Puthen Veedu, Pattala, Vanchiyoor,  
Mevarkkal Desom, Alamcode Village

A3. Babu, aged 42/2016 years, S/o. Velukkutty, Hima  
Bhavan, Ooroorkonam, Vanchiyoor, Mevarkkal  
Desom, Alamcode Village

(For A1 to A3 - By Adv. Sri. V Shaji)

Offences : u/Ss. 294(b), 341, 323, 324, 452, 506(i), 354 and 34 of  
IPC

Plea : Not guilty

Finding : Not guilty

Sentence/Order : The accused are found not guilty of the offences  
punishable u/Ss. 294(b), 341, 323, 324, 452, 506(i), 354  
and 34 of IPC and are acquitted u/S.248(1) CrPC. Case  
against A1 is refiled as CC No. 2004/2017.

DESCRIPTION OF ACCUSED				
Rank & Name	Husband's Name/ Father's name	Occupation	Residence	Age
1. Akhil @ Nanu	Mohandas	-	Kunnil Veedu, Kattaparambu,	27/16

<b>(Absconding)</b>				Pattala, Mevarkkal Desom, Alamcode Village	
2. Manu @ Kuttan	Mahendran	-		, Mandapam Puthen Veedu, Pattala, Vanchiyoor, Mevarkkal Desom, Alamcode Village	31/26
3. Babu	Velukkutty	-		Hima Bhavan, Ooroorkonam, Vanchiyoor, Mevarkkal Desom, Alamcode Village	42/16
<b>Date of</b>					
Occurance	Complaint	Apprehension	Period of detention undergone during investigation, inquiry or trial for the purpose of S.428 CrPC	Release on bail	
06/10/16	06/10/16	07/10/16	07/10/16 - 14/10/16	14/10/16	
Commencement of trial	Commencement of evidence	Close of trial	Sentence/order	Reason for delay	
A1 & A2 - 12/02/24	30/08/24	26/03/26	31/03/26	No delay	

This case coming upon for today's proceedings and the court delivered the following:-

### **JUDGMENT**

This case is charge sheeted by the Sub Inspector of Police, Attingal Police Station in Crime No. 2121/2016 against accused for offence punishable under section 294(b), 341, 323, 324, 452, 506(i), 354 and 34 of IPC.

2. Prosecution case in brief is as follows: - The accused, out of the belief that The son of PW1 was present along with the persons who restrained and questioned the presence of the first accused near the house of PW1., on 06.10.2016 at about 01.30 p.m. trespassed into the Sume textiles. PW1, uttered obscene words, slapped on his right cheek. Thereby voluntarily causing hurt, kicked him. Meanwhile the second accused hit PW1 with a piece of wood. In his possession, which, when attempted to evade, hit on the left hand, resulting in injury. and again hit him on his right palm, resulting in another injury. When PW2 intervened, she was pushed down on her face. which resulted in hitting her head on the floor. The third accused gave death threats. The pushing down of

PW2 resulted in humiliation and mental agony to PW2 and thereby committed the offences punishable u/S.294(b), 341, 323, 324, 452, 506(i), 354 and 34 IPC of the Indian Penal Code.

3. The accused were arrested and Remanded to judicial custody. After investigation police filed final report against the accused before this court.

4. Accused appeared before court on summons and were released on bail. Copies of the prosecution records were given to them who appeared through a Counsel of their own choice. After hearing both sides charge was read over and explained to the accused in Malayalam vernacular to which they pleaded not guilty.

5. To prove its case, the prosecution examined PW1 to PW7, and marked Ext. P1 to P10 and MO 1 and 2. On closure of prosecution evidence, the accused were examined u/s 313(1)(b) of Cr.P.C. They denied all the incriminating circumstances appearing in evidence.

6. Even though called upon, no defence evidence was adduced.

7. Heard both sides, considered the documents and material objects produced.

8. The points that arise for consideration in this case are: -

1. Whether the accused uttered any obscene words in or near a public place and thereby committed an offence under section 294(b) IPC as alleged?
2. whether the accused wrongfully restrained PW1 and PW2 and thereby committed the offence punishable u/S.341 IPC as alleged?
3. whether the accused voluntarily caused hurt to PW1 and PW2, and thereby committed an offence punishable u/S.323 IPC as alleged?
4. whether the accused used criminal force with intent to outrage the modesty of PW2 and thereby committed an offence punishable u/s. 354 IPC as alleged?
5. whether the accused trespassed into the shop of PW1 after preparation for assault, hurt or wrongful restraint and thereby committed an offence punishable u/s.452

IPC as alleged?

6. whether the accused voluntarily caused hurt to PW1 with a piece of wood, a dangerous weapon and thereby committed offence punishable u/S.324 IPC as alleged?
7. Whether the accused criminally intimidated PW1 and PW2 and thereby committed an offence punishable under Section 506 (i) of IPC as alleged?
8. whether the accused committed the above offences in furtherance of their common intention?
9. whether the accused are guilty of the above offences?
10. What is the punishment if any to be imposed on the accused?

9. **Point No. 1 to 8:** Prosecution was launched based on Ext.P1 FIS given by PW1 – Nisarudheen. The gist of the averments in Exhibit P1 is that on 06.10.2016 at about 01.30 p.m., while the PW1 and PW2 were having food inside their textile shop at Vanjiyur, The accused trespassed into the said shop room, slapped and kicked PW1. Thereafter, violently caused hurt using a piece of wood, resulting in injuries. When intervened, PW2, the wife of PW1 was pushed down resulting in edema on her head. They were given death threats. Wrongfully restrained and when the people gathered hearing the commotion, the accused fled the scene in a car along with the piece of wood with them. And accordingly thereafter PW1 was taken to hospital.

10. PW1 gave evidence before court more or less in tune with the deposition in Exhibit P1 with the addition that he was hit with a tube light and identified the broken pieces of the tube light as MO1 and the piece of wood as MO2. The learned counsel for the accused relying on the cross-examination of PW1 admitted that he had no previous acquaintance with the accused and that he himself narrated the alleged incident to the doctor at hospital. Interestingly, he stated that prior to the visit to the hospital, he had seen the weapon used to Allegedly assaulted him and the number of persons who allegedly assaulted him. He also admitted that he was aware about the weapon used to allegedly assault him at the time of giving deposition to police. When a specific question

was put to him as to whether he had deposed to police that he was assaulted with a glass, he stated that he deposed that he was attacked using a tube light. But such a statement was absent in Exhibit P1. He asserted that he had deposed to doctor that he was attacked with a tube light and admitted that he was not attacked with an iron stick by anyone. He pleaded ignorance as to whether he had given a deposition stating that he was assaulted with iron stick and glass.

11. He admitted that he narrated about the incident for the first time to the doctor and categorically admitted that he had visited the police station only once. He denied the suggestion that there occurred some commotion with some persons who came to the shop and the names of the accused were falsely given to implicate them in this false case.

12. PW2, the wife of PW1, who is also an injured occurrence witness also gave evidence more or less in tune with the evidence of PW1. During cross-examination she also admitted that she was not having any previous acquaintance with the accused and that she had visited the police station in connection with the case only once. She categorically admitted that apart from giving the statement to police on that day, She had not seen anyone on that day at the police station. She admitted that she had not seen any attack on anyone using iron stick. She stated that she had described about the piece of wood in her deposition, but that was conspicuously absent in her deposition under Section 161 of CrPC. She also introduced a version that PW1 was attacked using tube light, but pleaded ignorance as to whether she stated so to the police. She also denied the suggestion that the case was foisted against the accused. PW3 and PW4 who were cited as occurrence witnesses did not support the case of the prosecution.

13. PW5 was an attester to Exhibit P4 scene mahazar but pleaded ignorance regarding the contents therein.

14. PW6 was the doctor who examined PW2. And issued Exhibit P5 wound certificate wherein tenderness was noted on the occipital scalp and during cross-examination he admitted that the said injury could be caused if the patient's head

forcefully touches a wall.

15. PW7 was the then SHO of Attingal Police Station who recorded Exhibit P1 FIS and prepared Exhibit P1 (a) body note of PW1. He registered Exhibit P6 FIR. Prepared Exhibit P4 scene mahazar and took MO1 and MO2 into custody, describing it in Exhibit P4 and produced the same before court as per Exhibit P7 property list. He arrested the accused and prepared Exhibit P8 series arrest memos and inspection memos. He produced Exhibit P9 address report of the accused. Collected and produced the wound certificates of PW1 and PW2, completed the investigation and laid charge against the accused. He identified MO1 and MO2 before court.

16. During cross-examination, he admitted that PW2 went to hospital on 07.10.2016 and it was brought out that PW1 was taken to hospital by one Pradesh, but he was not made a witness in the case. A perusal of Exhibit P10 admittedly by PW7 stated that the reason stated therein is that PW1 was attacked using iron stick and glass. He admitted that he had not taken the statement of PW1 after noticing the description in Exhibit P10 that the weapon allegedly used was not a piece of wood. He admitted that it is not stated. In the final report that MO1 was used to attack anyone, he admitted that it is not stated in the deposition of PW1 and PW2 that they had previous acquaintance with the accused, but stated that their names were deposed. He stated that he had shown to and made PW1 and PW2 identify the accused, but no such statement was recorded. He denied the suggestion that such identification was not made.

17. He also admitted that PW1 had not given a statement that he was attacked with tube light. He initially stated that MO2 was recovered from inside the shop room, but thereafter he stated that it was recovered from the road margin and the initial statement was given by mistake. He denied the suggestion that he filed the final report without conducting any proper investigation.

18. The learned Counsel for the accused, relying on the evidence of PW1 and PW2, canvassed that both the witnesses are not trustworthy witnesses for the reason that per contra to the version in Exhibit P1 FIS, Regarding the alleged weapon used by the

alleged accused, two new versions are introduced, one in Exhibit P10 wound certificate and another before court. According to the learned counsel for the accused, as per Exhibit P1, the alleged weapon used by the accused is only one wooden stick. Or piece of wood whereas in Exhibit P10 the alleged weapon used are iron stick and glass. Interestingly Before court, the alleged weapon used are piece of wood and tube light. It is also argued that PW1 admitted that he was not assaulted by anyone using an iron stick. Even PW2 also admitted the same during cross-examination. The learned counsel for the accused argued that even PW1 and PW2, who are cited as the alleged injured occurrence witnesses, does not have a definite case regarding the alleged weapon used by the alleged accused. This, according to the learned counsel for the accused, casts serious doubt regarding the case of the prosecution and the trustworthiness of PW1 and PW2.

19. The learned Counsel for the accused also highlighted that as per Exhibit P1, the accused fled the scene In a car along with the alleged piece of wood allegedly used for committing the offence. on seeing the people gathering. If that be the case, then the alleged recovery of the alleged piece of wood by the Investigating Officer as per Exhibit P4 scene mahazar is per contra to the version of PW1 in Exhibit P1 FIS and casts serious doubt regarding the alleged recovery of the weapon. More importantly, PW7, the Investigating Officer initially stated that the alleged piece of wood was recovered from inside the shop room whereas when specifically pointed out that in Exhibit P4 it is stated that the same was recovered from the side of the road, he clarified that it was a mistake. From his part that he deposed that the recovery was effected from inside the shop room. So going by the above evidence of PW1 in Exhibit P1 and the version of PW7 the Investigating Officer who allegedly made the alleged recovery can be concluded that the alleged recovery is highly doubtful.

20. The next aspect pointed out by the learned counsel for the accused is that The admitted case of PW1 and PW2 is that they did not have any previous acquaintance with the accused and according to them immediately after the alleged incident they straight away went to the hospital and at the hospital the statement of PW1 was recorded

by the police and there is no explanation forthcoming as to As to how Exhibit P1 contained the names of the accused when the definite case of PW1 and PW2 is that they are not having any previous acquaintance with the accused and In such a scenario, the inclusion of the names of the accused in Exhibit P1 casts serious doubt regarding the case advanced regarding the identity of the accused. PW1 and PW2 had categorically deposed that they had only visited the police station in connection with the case once and PW2 admitted that on the date of giving statement to police, she had not seen anyone at the police station. So going by the evidence of PW1 and PW2, They were not shown to and identified the accused. Whereas PW7 the Investigating Officer have categorically deposed that the accused were shown to and identified by PW1 and PW2. The above contradiction in the versions of The occurrence witnesses as well as the Investigating Officer also cause serious doubt regarding the identification of the accused and how the names of the accused Found a place in Exhibit P1 FIS when PW1 himself have a definite case that he had no previous acquaintance with the accused and there is no explanation forthcoming as to how PW1 managed to identify the names of the accused before giving Exhibit P1.

21. One of the allegations levelled against the accused is under Section 294 (b) of IPC. A perusal of Exhibit P1 and the deposition of the injured occurrence witnesses PW1 and PW2 Clearly establishes that no obscene words are seen mentioned either in Exhibit P1 or during the deposition of the above witnesses before court. In the absence of such obscene words, the allegation against the accused Under Section 294 (b) of IPC cannot be said to be proved and the prosecution miserably failed to establish the ingredients of the said offence.

22. The next offence alleged against the accused is under Section 341 of IPC. But a perusal of the evidence of PW1 and PW2 does not disclose any version that they were prevented from moving in any direction in which they had a right to proceed. In the absence of such ingredient, it is argued by the learned counsel for the accused that the offence under Section 341 of IPC also cannot be said to be proved against the accused.

23. One of the prime allegations levelled against the accused is under Section 452 of IPC. The allegation of the prosecution is that the accused allegedly trespassed into the shop of PW1 and committed the alleged offences. Here it can be seen that no documents are produced from the side of the prosecution to establish the ownership or possession of the alleged shop room and the details evidencing the Set aspects of the said shop room. In the absence of proof regarding the ownership and possession of the said shop room and the existence of the said shop room, it cannot be said that The alleged place of occurrence falls under the category which can be treated as A building, tent or vessel used as a human dwelling or any building used as a place for worship or as a place for the custody of property. It can be safely concluded that the ingredients to attract the offence under Section 452 of IPC is also not seen made out against the accused herein.

24. It is the case of the prosecution that the accused gave death threats to PW1 and PW2, and Section 506 (i) of IPC is seen alleged against the accused. When the evidence of PW1 and PW2 are analysed, there is no version Given by either PW1 or PW2, the alleged injured occurrence witnesses that any alarm was caused to them as a result of the utterance of any words by the accused in the case at hand. In the absence of any alarm caused to the witnesses in the case at hand, it cannot be said that the ingredients to constitute the offence under Section 506 (i) of IPC is made out against the accused.

25. The next allegation levelled against the accused are under Sections 323 and 324 of IPC. It has already been discussed above regarding the doubt cast upon the identity of the accused. As narrated by PW1 and PW2 before court as well as in Exhibit P1 FIS given by PW1. It can be seen that immediately after the alleged incident, PW1 straight away went to hospital. Took treatment and thereafter went to the police station and gave Exhibit P1 FIS. So going by the evidence of PW1 before court, it is clear that he did not have any previous acquaintance with the accused at the alleged time of incident allegedly took place on 06.10.2016. And there is no explanation forthcoming from the side of PW1 that after the alleged incident and before visiting the hospital and

giving Exhibit P1, FIS, he had any occasion to identify the names of the alleged persons who assaulted him. There is no case for the prosecution that As to how, PW1 came to know about the names of the accused, with whom he did not have any previous acquaintance with. It is the definite case of PW1 and PW2 that they visited the police station only once and they had not seen anyone at the time of such visit. In such a scenario, the inclusion of the names of the accused in Exhibit P1 FIS given immediately after the alleged incident Before which, PW1 did not have any occasion to identify the names of the accused, casts serious doubt regarding the alleged identification of the accused. Moreover, it is seen in Exhibit P1 that the names of the accused as well as the specific overt acts allegedly done by them are narrated in detail in Exhibit P1. The above aspect, for the reasons already discussed above, regarding the non-explanation of the identity of the accused, By PW1 and PW2 also struck strike at the very root of the case of the prosecution regarding the identity without establishing which the offence under Section 323 and 324 of IPC cannot be proved against the accused. Furthermore there is no case for the prosecution. PW1 and PW2 before court that Either bodily pain, disease, or infirmity was caused to either PW1 or PW2 as a result of the alleged acts of the accused. In the absence of which, it cannot be said that the ingredients to attract the offence under Section 323 is made out against the accused.

26. With regard to the offence under Section 324 of IPC, it has already been discussed above that the alleged recovery of MO2 is highly doubtful. For the reason that PW1 does not have a definite case with respect to the alleged weapon allegedly used by the accused in Exhibit P1, Exhibit P10 and his version before the court. It is the definite case of PW1 in Exhibit P1 that the accused fled the scene along with MO2. Whereas Exhibit P4 scene mahazar states that the alleged weapon was allegedly recovered from the side of the road adjacent to the alleged shop wherein the alleged incident took place. The above aspect also casts serious doubt regarding the recovery and resultantly the use of the alleged weapon allegedly used in the crime and hence in the absence of any hurt allegedly caused to PW1 and PW2 by the acts of the accused, it can safely be concluded that The offence under Section 324 is also not proved against the accused.

27. The next aspect is need to be analysed is regarding the allegation to constitute the offence under Section 354 of IPC. The specific averment regarding the offence under Section 354 of IPC against the accused is that the PW2 was pushed down on her head and she fell and hit her head and resulted in edema. The question is whether the said act of the accused is sufficient to constitute the offence under Section 354 of IPC. It is clear from the section itself that there should be use of criminal force against a woman with intent to outrage her modesty in order to attract the offence under Section 354 of IPC. From the allegations levelled against the accused, there is no averment whatsoever. Regarding the intent on the part of the accused to outrage the modesty of PW2 by pushing her down on her head. So, it cannot be said that the prosecution has proved any intention on the part of the accused in order to outrage the modesty of PW2 and hence the ingredients of offence under Section 354 of IPC is not seen and has proved against the accused.

28. It is the further contention of the landed counsel for the accused that there is nothing established by the prosecution to show that the accused was having any Acquaintance with each other and that they shared a common intention to commit any of the offences alleged against them. In the absence of the prosecution establishing any connection between the accused, it cannot be said that the prosecution succeeded in establishing that there existed a common intention between the accused and the case at hand.

29. The learned APP, on the other hand, argued that it is quite common that when a witness is adducing evidence before court after a lapse of several years of the alleged incident, some omissions and embellishments are bound to happen and such Minor omissions or embellishments cannot be considered as ground to throw the entire case of the prosecution away. In the case at hand, Even if there is some discrepancy regarding the alleged weapon used by the accused, all the ingredients to constitute the other offences alleged against the accused are made out and they are to be convicted.

30. The offences alleged, charge framed, evidence adduced and more importantly what the accused has defended is the offence u/S. 294(b), 341, 323, 324,

452, 506(i), 354 and 34 of IPC. As discussed above there are several discrepancies in the prosecution evidence that cuts the very root of the case and casts serious doubt on the prosecution case. This court find that the prosecution failed to prove the case beyond reasonable doubt against the accused.

31. This court have examined in detail the evidence adduced on the side of the prosecution to prove its case and found that the prosecution has miserably failed to prove beyond reasonable doubt the occurrence, identity of the accused and that the accused committed offences punishable u/S. 294(b), 341, 323, 324, 452, 506(i), 354 and 34 of the Indian Penal Code. These points are thus found against the prosecution.

32. **Point no.6:** In view of the finding on point no.1 to 8, this court find the accused not guilty of the offences punishable u/S. 294(b), 341, 323, 324, 452, 506(i), 354 and 34 of IPC and are acquitted u/S.248(1) CrPC. Their bail bonds stand cancelled and are set at liberty. The MO's being valueless shall be destroyed after the appeal period as per rules. Case against A1 is refiled as CC No. 2004/2017.

Dictated to the Confidential Assistant, transcribed and typed by her corrected and pronounced by me in open court on this the 31<sup>st</sup> day of March, 2026.

(Sd/-)

Judicial I Class Magistrate-I,  
Attingal

### Appendix

#### LIST OF PROSECUTION / DEFENCE/ COURT WITNESSES

##### A. Prosecution Witness:-

<b>Rank</b>	<b>Name</b>	<b>Whether Eye witness, Police witness, Expert witness, Medical witness, Other witness.</b>
PW1	Nizamudeen	Informant/ Eye witness

PW2	Safeena Beevi	Eye witness
PW3	Ahammed Kannu	Eye witness
PW4	Kumar	Eye witness
PW5	Bhadran	Mahassar witness
PW6	Dr. Bijimol	Medical witness
PW7	V S Prasanth	Police witness

**B. Defence Witness:-** Nil

**C. Court Witness:-** Nil

**LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS**

**A. Prosecution Exhibits:-**

Sl. No.	Exhibit No.	Description	Date
1	P1/PW1	FIS	06/10/16
2	P2/PW3	Relevant portion of 161 statement of PW3	-
3	P3/PW4	Relevant portion of 161 statement of PW4	-
4	P4/PW5	Scene mahassar	07/10/16
5	P5/PW6	Wound certificate	07/10/16
6	P1(a)/PW7	Body note	06/10/16
7	P6/PW7	FIR	06/10/16
8	P7/PW7	Property list	07/10/16
9	P8/PW7	Series arrest memo and inspection memo (6 Nos)	-
10	P9/PW7	Address report	-
11	P10/PW7	Wound certificate	06/10/16

**B. Defence Exhibits :-** Nil

**C. Court Exhibits :-** Nil

**D. Material Objects :-**

Sl. No.	Material Object	Item
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1	MO1	Broken pieces of the tube light
2	MO2	piece of wood

//True Copy//

Sd/-  
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