

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE-II,
ATTINGAL**

Present:- Smt. Sabah Usman.

Judicial I Class Magistrate-II.

Dated this the 05th day of June 2026

Calendar Case No.835/2014

Complainant	:	State of Kerala, Represented by the Sub Inspector of police, Mangalapuram in crime No.346/2013. (By Asst.Public Prosecutor, Attingal)
Accused	:	1. Rahim, S/o.Muhammad Ismail, Manakattuvilakam Veedu, Kaniyapuram, Pallippuram Village. By Adv. Sri. A Nissam 2. Santhoshkumar, S/o. Sreedharan, Manakattuvilakam Veedu, Kaniyapuram, Pallippuram Village. By Adv. Sri. A Nissam
Charge	:	u/s. 323 r/w.34 of IPC
Plea	:	Not guilty
Finding	:	Not guilty
Sentence/Order	:	Accused Nos.1 & 2 are acquitted u/s.255(1) of Criminal Procedure Code 1973.

Date of						
Offence	Complaint	Apprehen- sion	Released on bail	Commenc ement of trial	Close of trial	Sentence/ order
02/03/13	22/07/14	01/08/15	01/08/15	19/07/17	02/06/26	05/06/26

DESCRIPTION OF ACCUSED				
Name	Father's name	Calling	Residence	Age
1. Rahim	Muhammad Ismail	...	Pallippuram Village	37/13
2. Sukesan	Govindan	...	Pallippuram Village	32/13

This case having been finally heard on 02/06/26 and the court on
05/06/26 delivered the following:

JUDGMENT

This is a case in which final report has been filed by Sub Inspector of Police, Mangalapuram Police Station in Crime No.346/2013 against the accused alleging commission of offences punishable U/S. 294(b) & 323 r/w.34 of Indian Penal Code.

2. The prosecution case in brief is as follows: The accused No. 1 and 2 in furtherance of their common intention to voluntarily cause hurt on CW1, on 02.03.2013 at about 04.00 p.m. the first accused slapped him on his face in front of the road at Thrissur Gold Supermarket, Valiyaveetumuri Pallipuram and second accused uttered obscene words towards him. The accused persons thus committed the offences alleged.

3. On appearance of accused Nos.1 & 2 before court, they were released on bail and copies of all relevant prosecution records were furnished to them u/s. 207 Cr. PC. Particulars of offences punishable U/S. 323 r/w.34 IPC were read over and explained to the accused who are facing trial, to which they pleaded not guilty and claims to be tried.

4. Prosecution cited CW1 to CW7 and examined PW1 to PW6 and Ext.P1 to P7 were marked. It was reported that the whereabouts of CW4 not known. After the closure of the prosecution evidence the accused were examined U/s.313 (1) (b) Cr.P.C about the incriminating circumstances brought out in the prosecution evidence against him.

5. Heard both sides.

6. The points that arose for consideration are:-

1) Has the accused No. 1 and 2, in furtherance of their common intention, voluntarily caused hurt to PW1 by slapping him on his face on 02.03.2013 at

about 04.00 p.m. near Thrissur Gold Supermarket, Valiaveettumuri Pallipuram and thereby committed the offence punishable under Section 323 r/w 34 of IPC ?

2) Sentence or Order?

7. **Point No. 1:-** PW1 and PW2, the independent occurrence witnesses examined from the side of the prosecution turned hostile to them stating that they have not witnessed anything as alleged by the prosecution. The injured/informant in the case was examined as PW4. He testified that the incident occurred in the year 2013 March 02 at about 04.00 p.m. in front of KSEB Office, Kaniyapuram. According to him, the accused 12 persons attacked him and extorted ₹ 18,000/- and some important documents from him. He testified that the accused attacked him on his face and neck using their bare hands. He testified that he gave a complaint to police at about 04.30 p.m. and went to CSI Mission Hospital for treatment. Since the police did not take any action on his complaint, he filed petitions before DYSP and other superior police officers. The complaint he has filed before DYSP was marked as Exhibit P2. He identified accused persons. He further testified that he gave complaint against Sub Inspector of Police, Mangalapuram Police Station for not taking any action on his complaint. During cross-examination, he testified that the incident occurred on 02.03.2013 and FIR was registered on 05.05.2013. He also testified that in Exhibit P2 complaint, it is mentioned that the accused persons attacked him. He testified that he has a copy of the complaint filed before the police on the same day with him.

8. PW3, the doctor testified that while she was working as duty doctor at CSI Mission Hospital, Kazhakottam, she had worked with Dr. Divya. She testified that she could identify the signature of Dr. Divya and the wound certificate prepared by

Dr. Divya was marked as Exhibit P1 through her. According to her, as per Exhibit P1, no external injuries were noted on the patient but there was tenderness over right and left scapular region.

9. PW5 testified that on 05.05.2013, while he was working as Sub Inspector of Police at Mangalapuram Police Station he has registered Exhibit P3 FIR based on the complaint forwarded from DYSP Office. He testified that he doesn't know about the delay occurred in lodging FIR in the case.

10. PW6 testified that while he was working as Station House Officer at Mangalapuram Police Station, he conducted investigation in the case. The scene mahazar he had prepared in the case was marked as Exhibit P4. The report deleting Section 394 IPC was marked as Exhibit P5. The address report of accused persons was marked as Exhibit P6. He completed investigation in the case and filed charge sheet before court. During cross examination, he testified that Section 394 IPC was deleted from the case since during investigation it was revealed that no such offence is made out. He also testified that the delay is not explained by the informant in the case.

11. On perusal of records, it is seen that there is a delay of 2 months in lodging FIR in the case. According to PW4, the injured in the case, he has filed a petition before Kazhakootam Police on the same day of incident ,but they did not take any action on the same. PW5 and PW6, the police officials testified that they did not receive any such complaint. PW4 testified that he has a copy of the said complaint with him, but the same is not produced before court. According to PW4, he has filed a complaint against Sub Inspector for not taking action against him. The copy of the said complaint is also not produced before Court. Absolutely there

exists nothing to explain the 2 months delay occurred in lodging FIR in the case. Moreover according to PW4, the accused persons attacked him on his face and neck and he was treated at CSI Mission Hospital. The doctor who has prepared Exhibit P1 wound certificate is not examined before court. The wound certificate was marked through PW3 who had worked along with the doctor who prepared the wound certificate. 12 ptHence the wound certificate is also not proved. As per wound certificate, PW4 had no external injuries and had tenderness on his body.

12. The prosecution failed to explain the inordinate delay occurred in lodging FIR in the case which is fatal to the prosecution. Though PW4 testified that he has a copy of the complaint he has filed before the police on the date of incident, the same is not produced before court. The prosecution also failed to prove the medical evidence produced before court. Thus, Prosecution failed to adduce cogent and convincing evidence to prove the guilt of accused No. 1 and accused No. 2 beyond reasonable doubt. Thus accused No. 1 and accused No. 1 are entitled for a benefit of doubt and an acquittal.

13. Point No.2:- In light of the findings in point No.1, I am of the view that the prosecution has failed to prove that the accused Nos. 1 and 2 have committed the offences alleged against them.

In the result, the accused Nos.1 & 2 are found not guilty for the offences punishable U/S.323 r/w.34 IPC and they are acquitted of the said offence u/s. 255(1) Cr.P.C. Their bail bonds stand cancelled and they are set at liberty.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court on this, the 05th day of June, 2026.

Judicial First Class Magistrate-II,
Attingal.

APPENDIX

List of Prosecution/Defence/Court Witnesses

Prosecution Witnesses:-

Sl. No.	Rank	Name	Whether Eye witness, Police witness, Expert witness, Medical witness, Other witness
1	PW1	Shyju	Other witness
2	PW2	Sameer	Other witness
3	PW3	Dr. Sarojam	Medical witness
4	PW4	Navas	Informant
5	PW5	Thilakan	Police witness
6	PW6	S Chandradas	Police witness

B. Defence Witnesses:

Nil

C. Court Witnesses:

Nil

List of Prosecution/Defence/Court Exhibits

A. Prosecution Exhibits:

Sl. No.	Exhibits	Description	Date
1	P1/PW3	Wound certificate	02/03/2013
2	P2/PW4	Complaint	21/03/2013
3	P3/PW5	FIR	05/05/2013
4	P4/PW6	Scene mahazar	06/05/2013
5	P5/PW6	Address Report	20/05/2013
6	P6/PW6	Report	05/05/2013

7	P7/PW6	Bail bonds	...
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B. Defence Exhibits: Nil

C. Court Exhibits: Nil

Material Object marked : Nil

Judicial First Class Magistrate-II,
Attingal.