

IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE

KATTAKADA

Present: Smt. Shiva Sharath

Judicial First Class Magistrate

Dated this the 12th day of March 2026

CC 2141/2015

Complainant : State - Represented by the Sub Inspector of Police, Neyyardam
Police Station in Crime No. 853/2015.

(Rep. by Assistant Public Prosecutor Gr.II)

Accused : 1. Ignésious, aged 54 yrs, S/o Annasadar, Puthen veedu,
Pallivila, Manjadi moodu, Mukundara desam,
Kallikkadu village. (no more)

2. Rajmohan, aged 26 yrs, S/o Ignésious, Puthen veedu,
Pallivila, Manjadi moodu, Mukundara desam,
Kallikkadu village.

3. Sheeba, aged 27 yrs, D/o Sheela, Puthen veedu, Pallivila,
Manjadi moodu, Mukundara desam, Kallikkadu village.

4. Sanal, aged 48 yrs, S/o Johnson, Pallivila veedu, Manjadi

moodu, Mukundara desam, Kallikkadu village.

5. Sundaran, S/o Rajan nadar, Pallivila veedu, Manjadi moodu, Mukundara desam, Kallikkadu village. (no more)

(Rep by N Benson)

Charge : Under S. 143, 147, 148, 447, 427 r/w 149 of IPC.

Plea : Not Guilty

Finding : Not Guilty

Sentence/Order : Accused nos. 2 to 4 are found not guilty for the offense punishable under S. 143, 147, 148, 447, 427 r/w 149 of IPC and they are acquitted under Section 248(1) of the Code of Criminal Procedure, 1973. The case against A1 and A5 are abated as he is no more.

DESCRIPTION OF THE ACCUSED

Sl. No.	Name	Father's Name	Occupation	Residence	Age
1.	Rajmohan	Ignesious	-	Puthen veedu	26
2.	Sheeba	Sheela	-	Puthen veedu	27

3.	Sanal	Johnson	-	Pallivila veedu	48
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DATE OF

Occurrence	Complaint	Apprehension of appearance	Release on bail	Commencement of trial
07.11.2015	08.11.2015	30.11.2016	30.11.2016	17.07.2018

Commence-ment of Evidence	Close of trial	Sentence or Order	Period of detention undergone during the investigation, inquiry or trial for the purpose of sec.428 of Cr.P.C.	Explanation for delay
17.07.2018	12.03.2026		Nil	No Delay

This case having been finally heard on 12.03.2026 and on today, delivered the following: -

J U D G M E N T

1. This case arose on a final report filed in in Crime No. 853/2015 by Sub Inspector of Police, Neyyadam Police Station against accused persons under under S. 143, 147, 148, 447, 427 r/w 149 of IPC.

2. The prosecution case in brief is as follows: Infurtherance of their common intention to commit offence, Accused Nos. 1 to 5 criminally trespassed into the property of the de facto complainant on 07.11.2015 at about 8.00 p.m., with the intention and preparation to cut a road and to cut down and destroy trees and their produce. As a result of the said acts, the complainant suffered a loss amounting to approximately ₹6,00,000/-. Thereby accused persons are alleged to have committed the aforesaid offences.
3. CW8 filed final report and this court took cognizance on the report under S. 143, 147, 148, 447, 427 r/w 149 of IPC and issued summons to the accused persons. On appearance of accused persons, they were furnished with copies of relevant prosecution records and were enlarged on bail. They had a counsel of their own choice. As there is ground for presuming that accused persons have committed offences punishable under S. 143, 147, 148, 447, 427 r/w 149 of IPC. Charge was framed on the said offences, read over and explained the same to accused persons, to which accused persons pleaded not guilty and claimed to be tried.
4. To prove its case, prosecution examined PW1 to PW8 and marked Ext. P1 to P7.
5. After the closure of prosecution evidence, the accused persons was examined under S.313 (1) (b) of CrPC. They denied all the incriminating

circumstances brought out against them in evidence and maintained the plea of innocence.

6. No defence evidence was adduced in this case.

7. Heard both sides.

8. The following points arose for consideration.

1. Whether on 07.11.2015 in prosecution of the common object the accused persons formed themselves into an unlawful assembly and there by committed an offence punishable with S 143 IPC r/w 149 of IPC ?

2. Whether on 07.11.2015 in prosecution of the common object the accused persons formed themselves into an unlawful assembly and committed riot and there by committed an offence punishable under S 147 of IPC r/w 149 of IPC ?

3. Whether on 07.11.2015 in prosecution of the common object the accused persons formed themselves into an unlawful assembly and committed riot armed with deadly weapons and there by committed an offence punishable under S 148 of IPC r/w 149 of IPC ?

4. Whether on 07.11.2015 in prosecution of the common object the accused persons formed themselves into an unlawful assembly criminally trespass into the residence of PW1 and there by

committed an offence punishable under S 427 of IPC r/w 149 of IPC ?

5. Whether on 13.10.2018 in prosecution of the common object the accused persons formed themselves into an unlawful assembly caused a loss of Rs.6,00,000/- to PW1 by damaging his trees and there by committed an offence punishable under S 427 of IPC r/w 149 of IPC ?

6. What is the finding and sentence?

9. **Point No.1 to 5**:- As the evidence in these points are interlinked these points are considered together for convenience and brevity these points are considered together.

10. The prosecution case is that on 07.11.2015 at about 8.00 p.m., Accused Nos.1 to 5, forming themselves into an unlawful assembly and acting in furtherance of their common object, criminally trespassed into the property of the de facto complainant and attempted to carve out a pathway by cutting trees and destroying agricultural produce, thereby causing a loss estimated at ₹6,00,000/-. On these allegations, the accused were charged with offences punishable under Sections 143, 147, 148, 447 and 427 read with Section 149 of the Indian Penal Code.

11. To sustain these charges, the prosecution was bound to establish, beyond reasonable doubt, that the accused constituted an unlawful assembly, engaged in rioting, committed criminal trespass, and caused

damage to the property in prosecution of their common object. In support of its case, the prosecution examined PW1 to PW8 and marked Exts.P1 to P7 series, contending that the evidence adduced is cogent and sufficient to prove the guilt of the accused. The defence, on the other hand, maintained that the accused are innocent and that the case arises out of a dispute relating to an alleged pathway.

12. At the outset, it is to be noted that the prosecution has succeeded in establishing that the property in question was in the possession and enjoyment of PW3. Though PW3 had no direct knowledge of the occurrence, her evidence regarding possession stands corroborated by PW6, the Village Officer, and the certificate issued by him. PW6 deposed that, as per the revenue records, the property comprised in Re-survey Block No.31, Survey Nos.347/4 and 347/5, was in the possession of PW3 during the relevant period. He further stated that no pathway existed on the northern side as per the FMB sketch, but that upon subsequent inspection, he noticed a newly formed pathway of about 2 metres width passing through the property. Thus, the identity and possession of the property stand reasonably established.

13. However, the crucial question is whether the prosecution has proved the occurrence and the involvement of the accused beyond reasonable doubt.

14. In this regard, the evidence of PW3 is of limited evidentiary value. She has categorically stated that she had no direct knowledge of the incident and that she came to know about it only through a phone call from her brother-in-law. The said person, who is the source of this information, has not been examined. Consequently, the testimony of PW3, insofar as it relates to the occurrence, is purely hearsay and cannot be relied upon as substantive evidence.
15. The prosecution next relies upon PW4 and PW5 as occurrence witnesses. PW4 deposed that he saw the accused digging a trench in the property at about 8.00 p.m. using torchlight and that he could identify them as persons from the locality. However, in cross-examination, he admitted that several persons were present at the scene and that he could not clearly specify the overt acts committed by each individual or the implements used. He further stated that by the time he reached the spot, a pathway had already been formed. It also emerged that he had referred to a slip during his chief-examination. These circumstances detract from the clarity and reliability of his testimony and render it unsafe to place implicit reliance upon it.
16. PW5, who was examined as an occurrence witness and as a signatory to the scene mahazar, also claimed to have witnessed the incident. However, he admitted in cross-examination that he was unaware of the contents of the mahazar and that he had signed it at his residence. This

admission casts serious doubt on the manner of preparation of the mahazar and significantly diminishes its evidentiary value. He also admitted that he is an accused in another criminal case, a circumstance which, though not conclusive, calls for cautious appreciation of his testimony.

17. Significantly, PW1 and PW2, who were cited as occurrence witnesses, did not support the prosecution case and were declared hostile. Their evidence does not lend any support to the prosecution version. The evidence of PW7 and PW8, the investigating officers, is only formal in nature. Notably, PW8 admitted that the de facto complainant had not witnessed the occurrence and that the person who allegedly informed her was not examined. He further admitted that no title deed, tax receipt, or FMB sketch was collected during investigation. These omissions materially weaken the prosecution case.

18. The delay in lodging the complaint is another circumstance that assumes significance. Though the incident is alleged to have occurred on 07.11.2015, the complaint was lodged only on 09.11.2015. No satisfactory explanation has been offered for this delay. In cases of this nature, prompt reporting lends assurance to the prosecution version; unexplained delay, on the other hand, casts doubt on its genuineness.

19. On an evaluation of the evidence, it becomes evident that the prosecution has failed to establish the essential ingredients of the offences charged. There is no reliable evidence to prove that the accused formed an

unlawful assembly with a common object, as required under Sections 141 and 143 IPC. In the absence of such proof, the charge of rioting under Section 147 IPC cannot stand. There is also no satisfactory evidence to show that the accused were armed with deadly weapons so as to attract Section 148 IPC.

20. Though possession of the property is established, the prosecution has not proved that the accused committed criminal trespass with the requisite intent so as to attract Section 447 IPC. Similarly, the offence under Section 427 IPC is not made out, as the alleged damage and the quantum of loss have not been established by reliable evidence. In the absence of proof of an unlawful assembly and common object, the principle of vicarious liability under Section 149 IPC also cannot be invoked.

21. On a cumulative appreciation of the entire evidence, this Court finds that the prosecution has failed to prove the occurrence and the involvement of the accused beyond reasonable doubt. The evidence on record is marked by hearsay testimony, unreliable eyewitness accounts, hostile witnesses, and material lapses in investigation. No dependable evidence is available to establish unlawful assembly, trespass, mischief, or common object.

22. It is a cardinal principle of criminal jurisprudence that the burden lies entirely upon the prosecution to prove the guilt of the accused beyond reasonable doubt, and that the accused is entitled to the benefit of every

reasonable doubt. Where the evidence is uncertain and unreliable, a conviction cannot be sustained.

23. In the present case, the cumulative effect of the infirmities in the prosecution evidence gives rise to a reasonable doubt as to the prosecution version. Accordingly, this Court holds that the prosecution has failed to prove the charges under Sections 143, 147, 148, 447 and 427 read with Section 149 of the Indian Penal Code beyond reasonable doubt.

24. **Point No.6**:- Accused nos. 2 to 4 are entitled to orders of acquittal under this point in view of the findings rendered on the preceding point.

In the result,

1. Accused nos. 2 to 4 are found not guilty for the offense punishable under S. 143, 147, 148, 447, 427 r/w 149 of IPC and they are acquitted under Section 248(1) of the Code of Criminal Procedure, 1973.
2. The bail of bonds of accused persons cancelled and they are set at liberty forthwith.
3. The case against A1 and A5 are abated as he is no more.

Dictated to the Confidential Assistant directly, corrected and pronounced by me, in open court, on this the 19th day of March 2026).

**Judicial First Class Magistrate
Kattakada**

APPENDIX

Witnesses for prosecution

PW1 : Vijayan (CW3)

PW2 : Mohanan (CW2)

PW3 : Geetha (CW1)

PW4 : Yesudasan (CW2)

PW5 : Mohanan (CW5)

PW6 : Manoj Kumar (CW6)

PW7 : Tom jose (CW7)

PW4 : Kiran TR (CW8)

Exhibit for prosecution:

P1 : 161 statement proved through CW4

P2 : FIS proved through PW3

P3 : Scene mahazar proved through PW5

P4 : Certificate proved through PW6

P5 : FIR proved through PW8

P6 : Accused identification report proved through PW8

P7(s) : Bail bonds of accused proved through PW8

Material Objects : Nil

Witness for Defence: Nil

Exhibits for Defence: Nil

Sd/-

Judicial First Class Magistrate

Kattakada

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