

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, KALPETTA, WAYANAD

Present: Sri.Ubaidulla C, Chief Judicial Magistrate, Kalpetta

Tuesday, this the 28th day of April 2026
8th day of Vaisakha 1948(S.E)

CALENDAR CASE NO.119/2019

Complainant	- State represented by the Sub Inspector of Police, Kalpetta in Crime Number 85/2019. (By Sri.Nowshad M.A, (Deputy Director of Prosecution)
Accused	Maya R W/o.Ramachandran, Aged 43/19, Maya Nilayam, Madiyookuni, Kalpetta. (By Adv.P.Suresh)
Offence	- u/s 269, 323 of Indian Penal Code and Section 118(e) of Kerala Police Act.
Plea	- 'Not Guilty'
Finding	- 'Not Guilty'
Sentence or order	- Accused is found not guilty of the offences punishable under sections 269, 323 of Indian Penal Code and Section 118(e) of Kerala Police Act and she is acquitted under section 248(1) Cr.P.C

This case having been heard finally and stood over to this day's proceedings, the Court passed the following:

J U D G M E N T

1. This case arose on a final report filed by the Sub Inspector of Police, Kalpetta Police Station, against the accused alleging commission of offences punishable under sections 269, 323 of Indian Penal Code and Section 118(e) of Kerala Police Act, in Crime NO.85/2019 of Kalpetta Police Station.

2. **Prosecution case in brief is as follows:** On 14-02-2019 at about 12:30 p.m the accused burned plastic waste in the compound of the house bearing no. XXIV/245 situated at Madiyoorkooni, in Kalpetta amsom near De Paul Public School, despite being aware that such an act could cause a danger to the lives and safety of nearby school children and local residents, and as a result, the students studying in classes 2 and 4 in the above said school caused physical discomfort and breathing difficulty. Thus the accused has committed the offences punishable under Sections 269, 323 of Indian Penal Code and Section Section 118(e) of Kerala Police Act,

3. On filing of the final report, cognizance was taken for the offences punishable under sections 269, 323 of Indian Penal Code and Section Section 118(e) of Kerala Police Act. On appearance of the

accused, copies of records were furnished to her under section 207 of Cr.P.C After hearing both sides, charge under sections 269, 323 of Indian Penal Code and Section 118(e) of Kerala Police Act was read over and explained to the accused, to which the accused pleaded not guilty and she also claimed to be tried. Thereafter the case was posted for the evidence of prosecution. On the side of prosecution PW1 to PW12 were examined and Ext.P1 to P5 and MO1 and MO2 were marked.

4. After closing the evidence of the prosecution, the accused was examined under section 313 (1) (b) of the Code of Criminal Procedure and she denied all the incriminating circumstances that appeared in evidence against her in the evidence of the prosecution. She stated that she is innocent and a false case was registered on the basis of boundary dispute. Thereafter, the accused was called upon to enter upon her defence and adduce evidence if any. No evidence was adduced on the side of the accused.

5. Heard both sides.

6. Points that arise for consideration are:-

- 1) Did the accused burned plastic waste in the compound of the house bearing NO.XXIV/245 situated at Madiyoorkonni in Kalpetta Amsom and thereby inflicted physical discomfort and breathing difficulty to the students of the Depaul Public School on 14/02/2019 as alleged by the prosecution ?

- 2) Did the act of the accused caused bodily harm to PW5 to PW8 ?
- 3) Is the accused liable to be convicted for the offences punishable u/s 269, 323 of Indian Penal Code and Section 118(e) of Kerala Police Act ?
- 4) If so, what shall be the proper sentence or order to be imposed on the accused ?

7. **Point No.1 and 2:-** For the sake of brevity and convenience these points are discussed together. PW1 was the Principal in De Paul Public School, Kalpetta. She testified that on 14/02/2019 at 12.30 p.m due to the smoke coming from the nearby house the school children caused breathing difficulty and discomfort. The caretaker of the school, Fransis went to the place from where the smoke was coming and saw plastic and other materials being burned. The children who experienced difficulty were admitted to the hospital. She testified that the smoke was coming from the Gopika Nivas and the discomfort suffered by the children was due to the burning of plastic waste. Thereafter, she lodged a complaint with the police. During cross examination PW1 deposed that the care taker Fransis who went to the Gopika Nivas and checked there and she was busy for taking the children to the Hospital. Fransis is directly aware of all the matters. PW2, the School bus driver turned hostile to the prosecution and deposed that he had not gone to the spot and after the arrival of the police he went to the scene. The relevant portion from his statement was marked through him as Exbt.P2. The burned plastic and cable were marked through him as MO1 and MO2. PW3 is the signatory of Exbt.P3

scene mahazar. PW4, PW5, PW6, PW7, PW8, are the children in the De Pual School. All of them deposed that they suffered difficulty due suffocation. PW9, the SCPO, Kalpetta took investigation and prepared Exbt.P3 scene mahazar. In view of Exbt.P3 he seized plastic materials and the same were produced before the Court. The accused was arrested on 15/02/2019 and thereafter she was released on bail. PW10, the Doctor attached to the Leo Hospital examined 8 children and issued Exbt.P4 series wound certificates. PW11, the teacher of the De Paul school testified that on 14/02/2019 at about 2:30 p.m., while she was teaching in the fourth class, smoke entered into the classroom through the southern window. Some of the students in the class experienced breathing difficulty and coughing. She informed the Principal about this. The children were taken to the hospital. According to her, the smoke was due to something being burned, but the exact cause is not known to her. PW14 registered the case on the basis of the F.I. Statement given by CW1 and the F.I.R was marked as Exbt.P1.

8. On perusal of the evidence adduced by the prosecution it could be seen that no evidence was adduced against the accused that the accused had set fire to the plastic waste in the house compound. PW1 who lodged the complaint stated that she instructed the care taker of the School, Fransis go to the Gopika Nivas and she was busy to take the children to the Hospital. But the said Fransis was not cited and examined by the prosecution. One of the witnesses deposed the role of the accused in the alleged incident. No other evidence has been adduced by the prosecution to prove that the accused has committed the offences charged against her. Therefore, I find that prosecution has

failed to prove the offences levelled against the accused. So the accused is entitled for acquittal. So these points are found against the prosecution.

9. Point No. 3 and 4:- In view of my finding on point No.1 and 2 it is clear that the prosecution has failed to prove the offences levelled against accused and as a result no punishment would be imposed on her.

10. In the result, accused are found not guilty of the offences punishable under sections 269, 323 of Indian Penal Code and Section Section 118(e) of Kerala Police Act and she is acquitted under section 248(1) Cr.P.C Bail bond of accused shall stands cancelled and she is set at liberty forthwith..

11. MO1 and MO2 being valueless shall be destroyed after the period prescribed for filing the appeal and if any appeal is filed after the disposal of the said appeal.

(Dictated to the Confidential Assistant, transcribed and prepared by her in computer, corrected and pronounced by me in open court this the 28th day of April 2026)

**CHIEF JUDICIAL MAGISTRATE
KALPETTA**

APPENDIX**WITNESS EXAMINED FOR PROSECUTION**

PW1 -	Sister Salima Varghese, De Paul Convent School, Kalpetta
PW2 -	Pradeep S/o.Subrahmanyam
PW3 -	Jacob Joseph S/o.Joseph
PW4 -	Amaya Rose D/o.Prasad George
PW5 -	Kenza D/o.Sibi Jose
PW6 -	Anliya Shyju D/o.Shyju
PW7 -	Sradha D/o.Manikandan
PW8 -	Alna Mariya D/o.Shyju Paul
PW9 -	Jayakumar, SCPO, Kalpetta Police Station
PW10-	Dr.T.P.V.Surendran, Medical Director, Leo Hospital, Kalpetta
PW11-	Jansy W/o.Santhosh
PW12-	Naseema K, SCPO, Kalpetta Police Station

EXHIBITS MARKED FOR PROSECUTION:-

Ext.P1	14/02/2019	F.I.Statement (Proved through PW1)
Ext.P2	15/02/2019	Relevant portion from the statement of PW2 (Proved through PW2)
Ext.P3	15/02/2019	Scene Mahazar(Proved through PW3)
Ext.P4 series	14/02/2019	Wound Certificates (8 in numbers) (Proved through PW10)
Ext.P5	14/02/2019	(Proved through PW12)

MATERIAL OBJECTS MARKED FOR PROSECUTION:-

MO1 - Piece of plastic piece

MO2 - Cable

WITNESS EXAMINED FOR DEFENCE:-

NIL

EXHIBITS MARKED FOR DEFENCE :-

NIL

**CHIEF JUDICIAL MAGISTRATE
KALPETTA****Statement under rule 132 of Criminal Rules of Practice**

1. Case No. - CC.119/2019
2. Name of complainant and Crime No.- Sub Inspector of Police, Kalpetta
in Crime No.85/2019

DESCRIPTION OF ACCUSED

Sl.No	Name	Father's name	Occupation	Residence	Age
1	Maya R	W/o.Ramachandran	--	Kalpetta	43/19

DATE OF

08. Offence - 14/02/2019

09.Complaint - 06/03/2019

10.Apprehension	-	15/02/2019
11. Release on bail	-	15/02/2019
12.Commencement of trial	-	30/11/2021
13.Close of trial	-	25/04/2026
14.Sentence or order	-	28/04/2026
15. Service of copy of Judgment	-	--
finding on accused	-	
16. Explanation for delay	-	--

**CHIEF JUDICIAL MAGISTRATE
KALPETTA**