

IN THE COURT OF JUDICIAL FIRST CLASS MAGISTRATE.I, MANANTHAVADY

Present : -Sri. Anand Parathara,Judicial First Class Magistrate.I, Mananthavady

Saturday, this the 30th day of May, 2026
09th day of Jyaishta, 1948 (S.E)

Calendar Case No.403/2018

Complainant	State represented by the Sub Inspector of Police, Panamaram in Crime No.419/2018 (By Sri.Firos.E.S, APP Gr. II)
Accused	1.Mubasheer @ Vavi, S/o Moitheen, aged 21/18, Veringathodi House, Keenjakadavu, Panamaram Amsom. 2.Muhammed Munaveer @ Manu, S/o Mullakkoya Thangal, aged 21/18, Thottumukkam House, Keenjakadavu, Panamaram Amsom. (Rep. By. Adv.Biju Mathew.K)
Offence	U/Ss.353 and 506 r/w 34 of the IPC .
Plea	Not guilty
Finding	Not guilty
Sentence or order	Accused No.1 is found not guilty of the offence punishable under sections 353 and 506 r/w 34 of the IPC. He is acquitted under section 248(1) of the Code of Criminal Procedure and set at liberty. Bail bond executed by him hereby discharged. Case against accused No.2 split up and refiled as CC.425/2018.

DESCRIPTION OF ACCUSED:-

Sl.No.	Name	Father's name	Residence	Occupation	Age
1.	Mubasheer @ Vavi	Moitheen	Panamaram	-	21/18
2.	Muhammed Munaveer	Mullakkoya Thangal	Panamaram	-	21/18

Date of							
Offence	Report or complaint	Apprehension of accused	Released on bail	Commencement of trial	Close of trial	Sentence or order	Explanation of delay and remarks
08.12.2018	11.12.2018	08.12.2018	11.12.2018	30.08.2019	29.05.2026	30.05.2026	-

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

This case arises from a report filed by the Sub Inspector of Police, Panamaram Police Station, in Crime No.419/2018, alleging offences punishable under Sections 353 and 506 r/w 34 of the of the Indian Penal Code.

2. The prosecution allegation is that at 10.45 am 08/12/2018, at the Panchayat community hall (where the Panamaram Police station was situated temporarily), the accused, in furtherance of their common intention, used criminal force on PW1 and threatened him to do away with him. Thus the accused voluntarily prevented PW1 from discharging his official duty. Thus the accused are alleged to have committed the offences punishable under s. s. 353, 506 of the Indian Penal Code r/w s. 34 of the Indian Penal Code (hereinafter referred to as the IPC) .

3. On appearance of the accused, they were enlarged on bail and copies of relevant prosecution records were furnished to them under section 207 of Cr.P.C. Thereafter, charge under sections 353 and 506 r/w 34 of the IPC framed and read over and explained to the accused, to which, they pleaded not guilty and claimed to be tried.

4. On the side of the prosecution, PWs 1 to 11 were examined and Exts.P1 to P8 were marked. Ext.D1 marked on the side of the defence. After the closure of prosecution evidence, the accused No.1 was examined under Section 313(1)(b) Cr.P.C., wherein he denied all the incriminating circumstances. The accused No.1 was thereafter called upon to enter on his defence, but no evidence was adduced. Accused No.2 absconded during 313(1)(b) examination. Hence case against accused No.2 is to be split up.

5. Heard both sides.

6. From the above facts and evidence, the following points are raised for consideration:-

1. Whether at 10.45 am 08/12/2018, at the Panchayat community hall (where the Panamaram Police station was situated temporarily), the accused, in furtherance of their common intention, used criminal force to PW1 and thereby prevented PW1 from discharging his official duty and thereby committed the offence punishable under s. 353 IPC r/w s. 34 IPC as alleged?
2. Whether at 10.45 am 08/12/2018, at the Panchayat community hall (where the Panamaram Police station was situated temporarily), the accused, in furtherance of their common intention, threatened PW1 to do away with him and thereby committed the offence punishable under s. 506 IPC r/w s. 34 IPC as alleged?
3. If so, what shall be the punishment to be imposed ?

7. Point Nos.1 & 2:- These points are closely related. Hence for the sake of brevity, they are considered together. The prosecution case in brief is that at 10.45 am 08/12/2018, at the Panchayat community hall (where the Panamaram Police station was situated temporarily), the accused, in furtherance of their common intention, used criminal force on PW1 and threatened him to do away with him. Thus the accused voluntarily prevented PW1 from discharging his official duty.

8. In this case, PW1 is the victim. He deposed that he was serving as the Sub Inspector at Panamaram Police Station at the relevant period. On 08/12/2018, he was doing the patrolling duty while he received the call from the station informing him that the accused herein appeared before the police station with a bail order. PW1 returned to the station and inspected the bail order. PW1 asked the accused whether they understood the conditions in the order. Then the accused threatened PW1, in the presence of other police officers at the station, stating that he need not talk any more and the court had granted the bail. The accused also told PW1 that they will meet PW1 on the road. PW1 could not recall who all were present at the station at the relevant time. When PW1 asked why the accused were acting so, the accused snatched the bail order from PW1 and pushed him aside. Then obstructed PW1 from discharging his official duty. The First Information Statement is marked as Ext. P1. PW1 also registered the First Information Report which was marked as Ext. P2. The arrest and inspection memo of the first accused is marked as Ext. P3. The same as that of the second accused is marked as Ext. P4. The address adding report is marked as Ext. P5. PW1 identified both the accused.

9. During the cross examination PW1 deposed that he was not in the station when when the accused arrived at the police station at 10.30 am. The officers from the police station informed him. PW1 deposed that he does not remember who informed PW1 regarding the arrival of the accused. The accused handed over PW1, the order from the Honourable Sessions Court. The said order is not produced in this case. The First Information Report regarding that case is not produced in this case. The General Diary extract regarding the relevant time is not produced in this case. Ext.D1

was marked subject to proof through PW1 who admitted that it was with regard to the relevant time and the entries thereto were made by PW1. PW1 denied the suggestion that he was not on duty as alleged. If such an incident happened, it would be noted in the General Diary. But it is not mandatory if the First Information Report is registered. In this case, admittedly, both the documents are not produced. Though the accused took the effort and produced the entries, it is marked subject to proof.

10. The learned counsel for the accused argued that the document marked from the side of the defence is Ext.D1 which is the General Diary extract and the same was marked as identified by PW1. Ext.D1 includes the alleged time frame in which the incident pertaining to this case is alleged to have happened. There is no mention of the alleged incident in Ext.D1. There is no explanation from the prosecution for such omission or the absence of the General Diary extract in the evidence. PW7 admitted that he had made the entries in the General Diary at the relevant time.

11. The learned counsel for the accused argued that in order to prove the offence punishable under s. 353 of IPC, the prosecution has not produced any document. It is a settled position that there is no mandate that any document is to be produced. But in this particular case, it is the version of the prosecution witnesses that in order to prove their presence in the station at the relevant time of the alleged incident, the General Diary extract is crucial. The learned counsel pointed out that PW11 specifically deposed that in order to reveal that PW1 was on duty as alleged, the General Diary Extract is necessary and the same is not produced. PW8 admitted that there is no document produced in order to prove that PW1 was on duty at the relevant time.

12. In Ext. D1, the entries are made by PW1 only as admitted by him. PW11 admitted that in Ext. P7 , there is no mention of the person from whom the notebook was seized .

13. The learned counsel for the accused also pointed out that there are several contradictions in the time mentioned by the prosecution witnesses. As per the prosecution case, the accused allegedly came to the police station at 10.30 am. At 10.45 am, PW1 allegedly arrived. Further, PW1 and PW3 deposed that the aforesaid bail order was brought by the accused.

14. PW4 deposed that PW1 was not in the station at 10.45 am and that the bail order was with PW1 who returned after the patrolling duty, carrying the order. Then PW1 explained the bail conditions to the accused. The whole incident, as per the witnesses, lasted only 2 minutes. But PW8 deposed that the incident was at 10.40 am. PW10 claimed that he informed PW1 that the accused had arrived and it is stated by PW10 that the time of arrival of PW1 was 10.40 am. Further, PW10 is not certain of who brought the order. The learned counsel for the accused pointed out that the minor discrepancies are included by the witnesses only to conceal the fact that this is a concocted and false case. This would be revealed from the fact that the only independent witnesses who were examined as PW2 and 6 did not support the prosecution story. The learned counsel pointed out that the discrepancies in the evidence are made with purpose as the prosecution witnesses including PW1 himself, are police officers. They are supposed to know their case in which they are adducing evidence. It is further argued that as per the evidence of PW11, there are no CCTV footages or relevant documents produced with regard to the case in which the bail order is allegedly produced.

15. It is discernible from the evidence of PW6 that he is unaware of who started the alleged commotion. The police officers are supposed to observe if such an incident has happened. The discrepancy in the time mentioned also gains prominence at this point. Further, there is no concord among the prosecution witnesses as to who brought the aforementioned order.

16. The learned Assistant Public Prosecutor argued that in this case, PW2 and PW6 are independent witnesses. The other witnesses are police officials. PW1 was outside the station doing patrolling duty along with PW7 and 8. The other witnesses were present in the police station at the relevant time. The First Information Statement and the First Information Report was by PW1 himself who also arrested the accused. Further, PW1 to 5 identified the accused.

17. The learned Assistant Public Prosecutor pointed out that Ext. D1 was marked subject to proof only. Hence the same cannot be considered in evidence. The defence did not take further steps to prove the same.

18. Though PW2 did not support the prosecution case, the prosecution is not precluded from relying on his evidence. Further, this would only give a better credibility with regard to the independence of the witness. PW2 deposed that he was there in connection with another case. The place of incident was the police station itself. PW2 further identified his signature in the scene mahazar. PW3 was working as the Senior Civil Police Officer at that station at the relevant period and he also deposed the presence of PW2 at the place of incident. He identified his signature as he was a witness to the preparation of the mahazar. Further, PW4 deposed the overt act by the accused. He also mentioned the presence of the other witnesses at the place of incident and also

identified the accused. PW4 showed the place of incident to the investigating officer. PW5 also deposed in tandem with PW4. PW6 did not support the prosecution case. But he deposed that the place of incident was the police station at Panamaram. Though PW6 could not recall the exact date he deposed that he went to the police station to get bail.

19. PW7 deposed that the accused snatched the bail order from PW1. PW7 identified the accused. The evidence of PW7 further corroborates the evidence of others. PW8 also identified the accused and corroborated the evidence of others.

20. The learned Assistant Public Prosecutor further argued that PW9 is a witness to the seizure of Ext. P8 notebook. The notebook was in the custody of the Station house Officer. The place from which it was seized is stated in Ext. P7 mahazar. Further, the signature in the mahazar is identified. It is not mandatory to mention the person from whom the notebook was seized.

21. It was PW10 who informed PW1 that the accused had arrived. Further, PW10 identified the accused. PW11 is the witness who submitted the final report after completing the investigation. PW7 is the witness to the seizure mahazar. PW6 is the witness to the scene mahazar. Ext. P8 notebook was seized which proves that PW1 was on duty at the relevant time. The pages from 113 to 117 in the notebook would reveal the same. It is not stated from whom the same was seized. But it is stated that it was seized from the police station. There are no material contradictions proved as per law. Merely pointing out some minor differences in the time does not affect the prosecution case. The learned Assistant Public Prosecutor further pointed out that in the decision in *Ratheesh @ Kochani v. State of Kerala* [2024 KHC online 7101] the Hon'ble High Court of Kerala held that mere marginal variations in the statements of a witness cannot

be dubbed as improvements as the same may be elaborations of statements made by the witness earlier. Hence mere marginal variations in the statements of the witnesses does not affect their credibility.

22. The learned Assistant Public Prosecutor further argued that in this case, the ingredients of the offence punishable under s. 353 of IPC are proved. Further, the fact of threatening is also there in the evidence. Section 350 IPC defines the term criminal force as follows:-

“Whoever intentionally uses force to any person, without that person's consent, in order to the committing of any offence, or intending by the use of such force to cause, or knowing it to be likely that by the use of such force he will cause injury, fear or annoyance to the person to whom the force is used, is said to use criminal force to that other.” The learned Assistant Public Prosecutor added that the illustration (d) to the definition of criminal force, as under s. 350 of IPC includes the specific facts of this case. The illustration (d) to s. 350 of IPC reads as follows : -

“A intentionally pushes against Z in the street. Here A has by his own bodily power moved his own person so as to bring it into contact with Z. He has therefore intentionally used force to Z; and if he has done so without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy Z, he has used criminal force to Z.”

23. In the instant case, the accused has used force to snatch the bail order from PW1 and the absence of consent is there. Further, the accused also threatened PW1 to do away with him once they were outside the police station.

24. The definition of the term criminal intimidation is provided under s. 503 IPC as follows : -

“ Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.”

25. The learned Assistant Public Prosecutor added that in this case, the accused has stated to PW1 that he would show him once he was outside the police station. The accused threatened PW1 to injure him. Hence there is criminal intimidation and hence the offence punishable under s. 506 also is proved. The learned Assistant Public Prosecutor added that the term injury as defined under s. 44 of IPC includes injury to body, mind and reputation. There is threat in the mind of PW1 as the accused intimidated him to settle scores once they met outside the police station.

26. The learned Assistant Public Prosecutor further argued that the accused has no case that the PW1 to 5 were not inside the station at the relevant time. In the instant case, the witnesses including PW1 were inside the station at the relevant time of the incident. They were on duty. Hence the prosecution need not prove that PW1 was on duty at the relevant time.

27. The learned Assistant Public Prosecutor pointed out that in the decision reported as **2011 KHC 2936** in Rajan v. State of Kerala it was held that in a case in which the offence alleged is one punishable under s. 332 IPC, the offence is attracted if the accused voluntarily caused hurt to any person being a public servant in the discharge

of his duty. It is not necessary to establish further that hurt was voluntarily caused to prevent or deter that person from discharging his duty as a public servant. If hurt was voluntarily caused to a public servant, while he was discharging his official duty as such public servant, it is not necessary to establish further that it was so caused with the intention to prevent or deter that person from discharging his duty as such public servant. The learned Assistant Public Prosecutor added that in. In this case, the accused has no case that PW1 was not in the station at the relevant time. The accused has only pointed out some mere contradictions which are insignificant. Hence the General Diary is not mandatory in this case.

28. Before appreciating the oral and documentary evidence on record, it is necessary to advert to the ingredients of the offences alleged against the accused. The accused stand charged for the offences punishable under Sections 353 and 506 read with Section 34 of the Indian Penal Code. Section 353 IPC provides that "whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished." Therefore, the prosecution is bound to establish beyond reasonable doubt that (i) the victim was a public servant, (ii) he was acting in the discharge of his official duty, and (iii) the accused assaulted or used criminal force against him with the requisite intention contemplated under the section.

29. The expression "criminal force" employed in Section 353 IPC derives its meaning from Section 350 IPC. Under Section 350 IPC, criminal force is said to be

used when force is intentionally employed against another person without that person's consent in order to commit an offence or with the intention, knowledge or likelihood of causing injury, fear or annoyance. Thus, the mere existence of a quarrel or verbal altercation is insufficient. The prosecution must establish by reliable evidence that force amounting to criminal force was in fact used and that such force was directed against a public servant while discharging his official duties.

30. In the present case, the prosecution alleges that the accused entered the police station, snatched a bail order from PW1 and threatened him. The entire prosecution case regarding the alleged use of criminal force rests substantially upon the testimony of police officials. Though there is no legal prohibition against acting upon the testimony of police personnel, where the incident is alleged to have occurred inside a police station and independent witnesses are available, the Court must scrutinize such evidence with greater care, especially when the independent witnesses examined by the prosecution do not support the occurrence in the manner alleged.

31. The prosecution has examined PW2 and PW6 as independent witnesses. Both of them failed to support the prosecution version regarding the alleged overt acts attributed to the accused. PW6 specifically admitted that he was unaware as to who initiated the alleged commotion. Thus, the independent evidence available on record does not lend assurance to the version spoken to by the official witnesses. Though the testimony of a hostile witness is not to be discarded in toto, the fact remains that the independent witnesses do not corroborate the crucial allegation of use of criminal force or intimidation. Consequently, the prosecution case depends almost entirely upon the interested testimony of police officials.

32. A significant circumstance brought out by the defence relates to Ext.D1 General Diary extract. The prosecution witnesses themselves admit that entries relating to police duty and station affairs are ordinarily reflected in the General Diary. PW11 specifically admitted that the General Diary would reveal whether PW1 was on duty as alleged. PW8 also admitted that no separate document has been produced to establish that PW1 was on duty at the relevant time. The defence relies upon Ext.D1 to contend that there is no mention whatsoever of the alleged incident during the relevant period. Though the learned Assistant Public Prosecutor contended that Ext.D1 was marked only subject to proof, the omission of the prosecution to produce the relevant General Diary entries assumes significance, particularly because the alleged occurrence took place within a police station and because the prosecution witnesses themselves concede the evidentiary importance of such records.

33. Another circumstance which creates doubt regarding the prosecution version relates to Ext.P8 duty notebook and its seizure. The prosecution relies upon Ext.P8 to establish that PW1 was on official duty at the relevant time. A perusal of Ext.P8 would reveal that PW1 had continued with his duty immediately after the alleged incident on the same day and that entries pertaining to 09.12.2018 are also seen therein. Though this circumstance by itself may not be decisive, the evidentiary value of Ext.P8 is further weakened by the manner in which its seizure is sought to be proved. The seizure mahazar relating to Ext.P8 contains an apparent correction and overwriting in the date of seizure. Significantly, the said correction has not been initialled by the concerned officer. No satisfactory explanation has been offered by the prosecution regarding the said alteration. It is true that these aspects were not specifically put to the

witnesses concerned during cross-examination. However, it is equally pertinent to note that the witness relied on by the prosecution has not specifically deposed regarding the actual seizure of Ext.P8. In such circumstances, when the date of seizure itself becomes uncertain on account of an unexplained correction in the mahazar, the authenticity and reliability of the seizure process become doubtful. The absence of any explanation from the prosecution regarding the overwriting in the date assumes significance, particularly when Ext.P8 is relied upon as a material circumstance to corroborate the prosecution case. If the date of seizure is 09/12/2018, there is no explanation for the delay. These aspects, when considered along with the other infirmities in the prosecution evidence, further strengthen the doubt surrounding the prosecution version.

34. Further, the evidence adduced by the prosecution is not free from material inconsistencies regarding the sequence of events and the time of occurrence. According to certain witnesses, the accused arrived at 10.30 a.m. and PW1 reached the station at 10.45 a.m. Other witnesses have stated that PW1 arrived at 10.40 a.m. PW4 stated that PW1 was not present in the station at 10.45 a.m. and returned later from patrol duty carrying the bail order. PW10 was uncertain regarding the person who brought the bail order. There is also divergence regarding whether the accused himself produced the order or whether PW1 brought it. Though every discrepancy is not fatal, where the prosecution seeks conviction based principally upon official witnesses and where independent witnesses do not support the occurrence, such inconsistencies acquire greater significance while assessing the overall credibility of the prosecution case.

35. The prosecution has further relied upon Ext.P8 notebook to establish the presence and duty status of PW1. However, PW11 admitted that Ext.P7 seizure mahazar does not disclose the person from whom the notebook was seized. The prosecution contends that the notebook was seized from the police station and therefore no such specification was necessary. Nevertheless, the evidentiary value of the notebook is considerably weakened when the foundational facts regarding its custody and seizure are not clearly established. More importantly, the notebook cannot be treated as a substitute for the best available evidence, namely the General Diary entries, which admittedly would have reflected the relevant events and deployment of personnel.

36. Coming to the offence under Section 506 IPC, the prosecution must prove criminal intimidation as defined under Section 503 IPC. The section contemplates a threat of injury to person, reputation or property with the intention of causing alarm to the victim or compelling him to do or omit an act which he is legally entitled to do or not do. It is well settled that every expression uttered in anger or every casual threat does not constitute criminal intimidation. The prosecution must establish not merely the utterance of words, but also the intention to cause alarm and the resultant reasonable apprehension in the mind of the complainant.

37. In the instant case, the allegation is that the accused told PW1 that he would "show him" or deal with him once they were outside the police station. Such evidence comes exclusively from official witnesses. There is no independent corroboration regarding the exact words allegedly used. No evidence has been adduced to show the nature of alarm caused to PW1 or any consequential conduct on his part. The alleged statement appears to be a vague expression uttered during a heated

exchange rather than a definite threat conveying an imminent intention to cause injury. In the absence of cogent and convincing evidence establishing the ingredients of Section 503 IPC, the offence punishable under Section 506 IPC cannot be said to have been proved beyond reasonable doubt.

38. The charge framed includes Section 34 IPC. Section 34 embodies the principle of joint liability when a criminal act is done by several persons in furtherance of a common intention. However, before invoking Section 34 IPC, the prosecution must first establish the substantive criminal act and the existence of a pre-arranged plan or meeting of minds. In the present case, when the very occurrence of the alleged use of criminal force and criminal intimidation remains doubtful, there is no satisfactory evidence to infer any common intention among the accused so as to attract Section 34 IPC.

39. On an overall appreciation of the evidence, this Court finds that the prosecution has failed to establish beyond reasonable doubt that PW1 was subjected to criminal force while discharging official duty or that the accused committed criminal intimidation within the meaning of Sections 353 and 506 IPC. The absence of the best available documentary evidence, namely the relevant General Diary entries, the lack of support from independent witnesses, the inconsistencies regarding the time and manner of occurrence, and the doubtful nature of the alleged threat cumulatively create a reasonable doubt regarding the prosecution version. It is a cardinal principle of criminal jurisprudence that where two views are possible, the one favourable to the accused must be adopted. Consequently, the benefit of doubt must necessarily go in favour of the accused, and the prosecution has failed to prove the offences punishable under Sections

353 and 506 read with Section 34 IPC beyond reasonable doubt. Hence these points are found against the prosecution.

40. **Point No. 3** : - In view of the findings in Points Nos.1 and 2, this Point doesn't arise for consideration.

In the result, accused No.1 is found not guilty of the offence punishable under sections 353 and 506 r/w 34 of the IPC. He is acquitted under section 248(1) of the Code of Criminal Procedure and set at liberty. Bail bond executed by him hereby discharged. Case against accused No.2 split up and refiled as CC.425/2018.

(Dictated to the Confidential Assistant, transcribed and typed by him corrected and pronounced by me in the open Court on this the 30th day of May, 2026)

**JUDICIAL FIRST CLASS MAGISTRATE. I
MANANTHAVADY**

APPENDIX

A. WITNESSES EXAMINED FOR PROSECUTION:-

Rank	Name	Whether Eye witness, Police witness, Expert witness, Medical witness, Other witness
PW1	Ramkumar.C	Eye witness
PW2	Rajan	Eye witness
PW3	Sanal.C.K	Eye witness
PW4	Prasad	Eye witness
PW5	Jince	Eye witness
PW6	Vijayan	Eye witness
PW7	Gireesh	Eye witness
PW8	Sherin	Eye witness
PW9	Ayoob	Police witness
PW10	Sunilkumar	Eye witness

PW11	E.V.Mathai	Police witness
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B. Defence Witness : Nil

C. Court Witness : Nil

List of Prosecution/Defence/Court Exhibits:-

A. Prosecution Exhibits:

1	Exhibit P1/PW1	First Information Statement
2	Exhibit P2/PW1	FIR
3	Exhibit P3/PW1	Arrest memo of accused No.1
4	Exhibit P4/PW1	Arrest memo of accused No.2
5	Exhibit P5/PW1	Address adding report
6	Exhibit P6/PW2	Scene mahazar
7	Exhibit P7/PW9	Seizure mahazar
8	Exhibit P8/PW11	Duty notebook

B. Defence Exhibits:

1	Exhibit D1/PW1	Copy of General Diary
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C. Court Exhibits: Nil

D. Material Objects:Nil

**JUDICIAL FIRST CLASS MAGISTRATE. I
MANANTHAVADY**