

IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE -1,
PALAKKAD

*Present: Smt.Sindhu Thankam.M. B.Sc., L.L.M.,
Judicial First Class Magistrate I
Tuesday, the 9th day of June, 2015.
19th day of Jaishtam, 1938 (S.E)*

Calendar Case No. 202 / 2011

Complainant : State rep. by the Sub Inspector of
Police, Kasaba Police Station.
Cr.No. 39/2011.
(By Smt. Sheeba.K,APP)

Accused : Santhosh. S/o. Ponnuchami.
Age: 33.Kallathanveedu, Naduthara,
Pudusseri, Palakkad.
(Rep. by. Adv. K.P. Noupal)

Offence : U/s. 326 IPC.

Plea : Not guilty

Finding : Not guilty

Sentence : Accused is acquitted under sec. 248(1)of
Cr.P.C for the offence under sec.326 IPC.
He is discharged from the bail bond
obligation and set at liberty.

Description of accused

Name	Age	Father's name	Caste	Calling	Residence
Santhosh	33	Ponnuchami	Hindu		Pudusseri

Offence	Report or complaint	Apprehen- sion	Release on bail	Commence- ment of trial	Close of trial	Sentence or order
30/01/11	02/02/11	28/03/11	28/03/11	26/06/12	06/06/15	09/06/15

This case having been finally heard today, the court, the same day delivered the following:

JUDGMENT

Accused is stand trial for the offence punishable under section 326 IPC.

2. The prosecution case in brief is as follows:- CW1 is the sister of accused. Due to an enmity towards CW1 on the ground that he asked the accused to return an amount of Rs, 7,000/- and gold ornaments weighing 2 sovereigns given to him on 31/01/11 at 09.30.p.m, at their house bearing No: XXI/582 at Pudusseri Panchayath situated at Naduthara accused beat CW1 on her both legs with a wooden stick resulted in fracture of her right leg. Thus prosecution alleges that the accused has committed the above said offence.

3. The accused was arrested and released on bail. When he appeared before the court, copies of all relevant records were served on him. He was heard and charge was framed under section 326 IPC. It was read over and explained to him to which he pleaded not guilty. CW1 to 3 are the material witnesses in this case. In spite of repeated processes issued against them, they did not appear before court and adduce evidence. Hence examination of CW1 to 3 were dispensed with. Prosecution examined PW1 to PW7 and marked Ext.P1 to P7. After the closure of evidence of prosecution accused examined U/s 313 (1) (b) Cr.PC. He denied all the incriminating circumstances brought out against him in the evidence of prosecution. Accused called up to adduce defence evidence. No defence evidence adduced.

4. Heard both sides

5. **Points arise for consideration are:**

- i) Whether on 31/01/11 at 09.30.p.m, the accused voluntarily caused hurt to PW1 with a wooden stick which was used as dangerous weapon at their house situated at Naduthara?

- ii) Whether the accused is liable for the offence under sections 326 IPC?
- iii) Sentence or order?

6. **Point No: I :-** PW1 and 4 are the attesters of Ext.P1 Scene Mahazar. PW2 Sub Inspector of Police, Kasaba Police Station conducted investigation in the case and laid charge sheet before the court. PW3 recorded Ext. P2 First Information Statement of CW1. PW5 consultant at District Hospital, Palakkad treated CW1 Prakasan and issued Ext. P3 accident register cum wound certificate. PW6 consultant Orthopediac, Palakkad issued Ext. P4 discharge summary to CW1. PW7 registered Ext. P5 FIR in the case based on the first information statement recorded by PW3. He conducted investigation in the case and prepared Ext. P1 scene mahazar in the presence of witnesses. As per Ext. P1 he seized bamboo stick used for committing the offence. Statement of witnesses were recorded by him. Ext. P6 is the report filed by him altering the penal section originally alleged in the case. He arrested the accused. Ext. P7 is the arrest memo prepared by him.

7. CW1 to 3 are the material witnesses in this case. Inspite of repeated coercive processes issued against them, they did not appear before court and adduce evidence. Hence examination of CW1 to 3 were dispensed with. The evidence of PW1 to 7 are only corroborative evidence in this case. Without evidence of CW1 to 3 nothing could be served by the evidence of witnesses examined by the prosecution. Hence I find that accused cannot be connect with the crime that the evidence available on record. Hence the points are found against the prosecution.

8. **Point No. ii:** On the basis of my finding on point no.i, accused is found not guilty of offence punishable under section 326 IPC .

9. **Point No: iii:-** In the result, accused is acquitted under sec. 248(1)of Cr.P.C for the offences under sec. 326 IPC. He is discharged from the bail bond

obligation and set at liberty.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court this the 9th day of June, 2015 / 19th day of Jaishtom, 1938 (S.E).

Judicial Ist Class Magistrate – I,
Palakkad

APPENDIX

Witnesses examined for the prosecution:

- PW 1 : Muhammed Sali. S/o. Abdul Rahman, Pudusseri, Palakkad.
- PW 2 : C.Vijayakumaran, Sub Inspector of Police, Kasaba Police Station.
- PW 3 : Abdul Rasheed. Head constable, Kasaba Police Station.
- PW 4 : Chamu. S/o. Muthu, Pudusseri, Palakkad.
- PW 5 : Dr.T. Rajeev. Medical consultant, Dt. Hospital, Palakkad.
- PW 6 : Dr. Tajan. Medical consultant, Dt. Hospital, Palakkad.
- PW 7 : N.K. Kumaran, Sub Inspector of Police, Kasaba Police Station.

Exhibits Marked for the prosecution:

- Ext. P1 : Scene Mahazar dated :03/02/2011
- Ext. P2 : FIS dated : 02/02/11
- Ext. P3 : Wound Certificate dated: 01/02/11
- Ext. P4 : Discharge certificate dt: 23/03/11
- Ext. P5 : FIR dated : 02/02/11
- Ext.P6 : Report for altering the penal section dt: 03/02/11
- Ext.P7 : Arrest Memo.

Witnesses examined for the defence : Nil

Exhibits Marked for the defence : Nil

Material objects marked : Nil

Judicial Ist Class Magistrate – I,
Palakkad