

IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE, RAMANKARY

Present:-Smt. Parvathy Vijayan, Judicial First Class Magistrate

Dated, this day the 5th day of December, 2024.**C.C.No. 400/2022**

Complainant : State-represented by the Sub Inspector
of Police, Nedumudy Police Station in
crime no. 381/2022
(By A P P- Ramankary)

Accused : Gireeshkumar

Offence : U/ss. 294 (b), 323 & 324& 341 IPC
Plea : Not guilty
Finding : Not guilty.
Sentence or order : Accused is acquitted u/s 248(1) CrPC
and is set at liberty.

DESCRIPTION OF THE ACCUSED:-

Sl. No	Accused	Father's name/Husband name	Occupation	Residence	Age
	Gireeshkumar	Sivanpillai		Gireeshbhavan, Planthottam muri, Thrikkodithanam PW X	45/ 22

DATE OF:-

Offence	Complaint	Appearance	Release on bail.	Commence-ment of trial	Close of trial	Sentence or Order.
09.08.2022	10.08.2022	05.08.2023	05.08.2023	07.09.2023	03.12.2024	05.12.2024

This case coming on this day for consideration, the court on the same day delivered the following:

J U D G M E N T

This is a case charged by Sub Inspector of police, Nedumudy in crime no. 381/2022 against the accused alleging commission of offences punishable under sections U/ss. 294 (b), 323 & 324 & 341 IPC.

2. The case of the prosecution is that, accused on 09.08.2022 at 09.00 pm, near Kainakary ward, Alappuzha – Changanachery road, Pandarakkulam junction, A1 had uttered obscene words against CW1 and hit face using a key and caused injury on the lips. A1 had pulled up CW1 who fell down and had hit on the cheek and back and caused pain. Accused also had hit and beaten CW2 and caused pain and there by committed the above offences.

3. Crime was registered by S. I of police, Nedumudy based on the First Information Statement lodged by the first informant. After conducting investigation, S.I of police, Nedumudy laid charge sheet before the court citing CWs 1 to 9 as prosecution witnesses.

4. On issue of summons accused appeared before the Court and copies of all relevant prosecution case records were furnished to him. After hearing both sides, charge for offences punishable U/ss. 294 (b), 323 & 324 & 341 IPC was framed, read over, and explained to the accused, to which he pleaded not guilty. To prove it's case, the prosecution examined PW1 to PW7 and Ext. P1 to P10 were marked. CW6 & CW8 were given up by the prosecution. Thereafter, the accused was questioned

under section 313(1)(b) Cr. P.C., and the accused denied all the incriminating circumstances put in evidence against the accused. There is no evidence adduced from the side of accused.

5. Heard both sides.

6. The following points arise for consideration in this case:-

1. *Whether accused had uttered obscene words to PW1 to his annoyance at a public place and thereby committed offence punishable u/s 294(b) IPC?*
2. *Whether accused had voluntarily caused hurt to PW1 and PW2 and thereby committed offence punishable u/s 323 IPC?*
3. *Whether A1 had voluntarily caused hurt to PW1 using a key and thereby committed offence punishable u/s 324 of IPC?*
4. *Whether accused had wrongfully restrained PW1 and thereby committed offence punishable u/s 341 IPC?*
5. *What is the order as to sentence, if any, to be passed against the accused?*

7. **Point no.1 to 4** :- For the sake of convenience, these points are considered together. PW1 is the defacto complainant. He deposed that the incident happened on 09.08.2022 at Pandarakkulam junction. He deposed that, while he was working as Safety Officer at Ooralukal society, one person had assaulted him. He deposed that PW2 who was with him was also injured. He deposed that, he was injured on the lips and had taken treatment at general hospital. He had identified Ext. P1 FIS given to the police. He did not identify the accused. APP requested to declare witness hostile and allowed to put question as in cross-examination. He deposed that, the weapon was not seized by the police. He deposed that the matter is settled

between the accused and is not interested in continuing the case. He denied that he is giving false statement before the court.

8. PW2 is the other injured. He deposed that he did not see the incident. He deposed that he was not injured in the incident. He did not identify the accused. Witness was declared hostile by the prosecution. PW3 is the occurrence witness and deposed that he did not see the incident. APP requested to declare witness hostile and allowed to put question as in cross-examination. He denied that he is giving false statement before the court. PW4 deposed that he did not see the incident. APP requested to declare witness hostile and allowed to put question as in cross-examination. He denied that he is giving false statement before the court.

9. PW5 was grade SI of Nedumudy police station. He deposed that he had registered Ext. P2 FIR and also had prepared Ext. P3 scene mahazer. The statement of the witnesses were taken and had seized MO1 series (2 in numbers) as per Ext. P4 seizure mahazer. The accused was arrested and had prepared Ext. P5 arrest memo and released on Ext. P6 bail bond. He deposed that, he had prepared Ext. P7 property list and produced weapon seized before the court. He had identified name and address of the accused as per Ext. P8. He also had identified Ext. P9 and Ext. P10 wound certificates. After the investigation, charge sheet was filed. PW6 is the occurrence witness. He deposed that he did not see the incident. APP requested to declare witness hostile and allowed to put question as in cross-examination. He denied that he is giving false statement before the court.

10. PW1 is the defacto complainant and injured. He turned hostile to the prosecution. He did not identify the accused. He deposed that, matter is settled and is not interested in continuing the case. PW2 is the other injured and also had turned hostile to the prosecution. He also did not identify the accused. PW3, PW4 and PW6 are the occurrence witnesses. They had turned hostile to the prosecution. They did not identify the accused. There are no witness who had witnessed the incident and had identified the accused. From the above discussion, there is absolutely no evidence to convict the accused for the offence alleged by the prosecution.

11. From the above discussion, I find that the prosecution could not establish the guilt of the accused beyond doubt. I also find that the accused is not guilty of the offence punishable under section U/ss. 294 (b), 323 & 324 & 341 of IPC. Hence, point nos. 1 to 4 are found against the prosecution.

12. **Point No.5:-** In view of my findings on point No. 1 to 4, the accused is found not guilty of offences punishable U/ss. 294 (b), 323 & 324 & 341 of the Indian penal code and are acquitted of the said offences u/s 248 (1) Cr. P.C. The bail bond executed by him stands canceled and he is set at liberty. Material objects if any shall be disposed as per law after the period of appeal is over.

Dictated to the Confidential Assistant transcribed by her, corrected and pronounced by me in open court on this the 6th day of December, 2024.

s/d
Judicial first Class Magistrate

APPENDIX

WITNESSES FOR PROSECUTION:-

PW1. Ajmal Shah
PW2. Hiran Zen
PW3. Lalu
PW4. Ebin
PW5. Devasya MJ
PW6. Bajeesh Kumar
PW7. Vikesh

EXHIBITS FOR PROSECUTION:-

- P1. First Information Statement dated 10.08.2022 proved PW1 on 16.11.2023.
- P2. First Information Report dated 10.08.2022 proved through PW5 on 10.06.2024.
- P3. Scene Mahazer dated 11.08.2022 proved through PW5 on 10.06.2024.
- P4. Seizure mahazer dated 13.08.2022 proved through PW5 on 10.06.2024.
- P5. Arrest memo dated 13.08.2022 proved through PW 5 on 10.06.2024.
- P6. Bail bond dated 13.08.2022 proved through PW5 on 10.06.2024.
- P7. Property list dated 13.08.2022 proved through PW5 on 10.06.2024.
- P8. Address report from SI of police Nedumudy proved through PW5 on 10.06.2024.
- P9. Wound certificate, PW1 dated 09.08.2022 proved through PW 5 on 10.06.2024.
- P10. Wound certificate, PW2 dated 09.08.2022 proved through PW 5 on 10.06.2024.

WITNESSES FOR DEFENCE:-Nil

EXHIBITS FOR DEFENCE:- Nil

MATERIAL OBJECT:- TR 229/2022

MO1 series (2 in numbers) Keys

s/d
Judicial First Class Magistrate