

IN THE COURT OF THE ASSISTANT SESSIONS JUDGE (ADDL.), PALAKKAD

Present: Smt. Devika Lal,
Assistant Sessions Judge (Addl.), Palakkad.

Thursday, the 8th day of February, 2024
19th day of Magha, 1945

Sessions Case No. 1125/2022

(C.P. No. 21/2022 of J.F.C.M, Chittur)

Complainant	: State of Kerala Rep. By Sub Inspector of Police, Chittur Police Station in Cr. No. 408/2019
	(Rep. By Adv. K. M. Manojkumar, Additional Public Prosecutor, Palakkad)
Accused	: Murukesan, Aged 55/2019 S/o Kanthaswamy Kaundar, Kunnamkaduvathi, 5 th Mile, Chittur.
	(Rep. By Adv. Suresh G Nair)
Charge	: U/s. 341, 324, 308 of The Indian Penal Code, 1860.
Plea of accused	: Not guilty
Finding of Court	: Not guilty
Sentence or order	: The accused is acquitted under Section 232 of the Cr.P.C. his bail bond stands cancelled and he is set at liberty.

Description of accused

Name	Father's Name	Occupation	Residence	Age
Murukesan	Kanthaswamy Kaundar	Coolie	Kunnamkaduvathi, 5 th Mile, Chittur.	55/19

Date of:-

Occurrence	: 11.09.2019
Apprehension of accused	: 25.03.2022
Released on bail	: 25.03.2022
Final Report	: 28.01.2020
Committal	: 30.09.2022
Receipt of Record	: 25.10.2022
Appearance of accused	: 19.01.2023
Commencement of trial	: 16.08.2023
Questioning u/s.313(1)(b) of Cr.P.C	: 06.02.2024
Hearing u/s.232 of Cr. P.C	: 06.02.2024
Close of trial	: 06.02.2024
Sentence or Order	08.02.2024
Explanation for delay	: No delay

The above case was committed by the Court of Judicial First Class Magistrate, Chittur to the Hon'ble Court of Session, Palakkad on 30.09.2022 subsequently transferred to this Court for disposal.

The above Sessions Case having been heard under Section 232 of the Cr.P.C on 06.02.2024 in the presence of the learned Additional Public Prosecutor and the learned Defence Counsel and having stood over for consideration to this day, the Court delivered the following:

J U D G M E N T

The Final Report in the above case was filed by the Sub Inspector of Police, Chittur Police Station in Crime No. 408/2019 alleging offences punishable under Sections 341, 324, 308 of The Indian Penal Code, 1860.

2. The prosecution case, in brief, is as follows:- On 11.09.2019 at 16.30 hours, at Kozhinjampara, the accused had wrongfully restrained C.W.1 and

voluntarily caused hurt to his right hand using a knife which is a dangerous weapon. Further the accused had attempted to commit culpable homicide not amounting to murder of C.W.1 by trying to stab on his chest using the said knife. Thus the accused person is alleged to have committed the above mentioned offences.

3. On receipt of final report, the learned Judicial First Class Magistrate, Chittur took cognizance of the offences and the case was taken on file as C.P No. 21/2022. On appearance of the accused before the Committal Court, he was furnished with copies of all relevant prosecution records as contemplated under Section 207 of The Code of Criminal Procedure, 1973 (herein after referred to as the Cr.P.C). After complying with statutory formalities, the learned Magistrate committed the case as per Order dated 30.09.2022 to the Hon'ble Court of Session, Palakkad, under Section 209(a) of the Cr.P.C.

4. On receipt of case records in C.P No. 21/2022, the Hon'ble Court of Session, Palakkad registered the case in the present number and made over to this Court for disposal.

5. When the accused appeared before this Court, he was defended by a Counsel of his own choice. Learned Additional Public Prosecutor had opened the prosecution case as contemplated u/s. 226 of the Cr.P.C. After hearing the prosecution and the defence under Section 227 of the Cr.P.C, charge was framed alleging offences punishable under Sections 341, 324, 308 of The Indian Penal Code, 1860. When it is read over and explained to the accused, he pleaded not guilty and claimed to be tried.

6. On the side of the prosecution, P.W.1 to P.W.3 were examined and Ext.P1 and Ext.P2 were marked of which Ext.P2 was marked as subject to proof. On closure of the prosecution evidence, the accused was examined under Section 313 (1) (b) of the Cr.P.C. He denied all incriminating circumstances that appeared in

evidence against him.

7. Heard the learned Additional Public Prosecutor and the learned defence Counsel under Section 232 of the Cr.P.C.

8. The points that arise for determination are as follows:-

- (i) Had the accused wrongfully restrained P.W.1 and voluntarily caused hurt to his right hand using a knife which is a dangerous weapon?
- (ii) Had the accused attempted to commit culpable homicide not amounting to murder of P.W.1 by trying to stab on his chest using the said knife?
- (iii) Whether there are grounds for acquittal of the accused under Section 232 of the Cr.P.C?

9. **Points No. (i) to (iii):-** As these points are interlinked, they are considered together. P.W.1 is the injured and the informant who had identified his signature in Ext.P1 F.I.S. Though he deposed that he got injured in the year 2019 near Ayyavuchalla Canal, he disowned the prosecution case by pleading ignorance about the involvement of the accused in the alleged incident. P.W.2 and P.W.3 are cited as the occurrence witnesses. Both had uniformly deposed that they had not witnessed the alleged incident. Since the injured and the occurrence witnesses had turned hostile to the prosecution, the learned Additional Public Prosecutor had given up the remaining witnesses.

10. It is apparent from the evidence of P.W.1 to P.W.3 that P.W.1 got injured in an incident. But there is nothing on record to fasten the criminal liability upon the accused since the injured and occurrence witnesses had deposed against the

prosecution case. Since there is no evidence to proceed against the accused, it is obvious that the prosecution has failed to prove their case beyond reasonable doubt and the accused is entitled to an acquittal under Section 232 of the Cr.P.C. These points are found against the prosecution.

In the result,

- (i) The accused is acquitted under Section 232 of the Cr.P.C. His bail bond stands forfeited and he is set at liberty.
- (ii) The property produced in the case is one rusted knife, which shall be destructed after the expiry of appeal period or the disposal of the appeal, if any, whichever is later; subject to the result of appeal.

(Dictated to C.A and typed by him in Office Computer, corrected and pronounced by me in Open Court, on this the 08th day of February, 2024)

Sd/-
Assistant Sessions Judge (Addl.),
Palakkad

APPENDIX

Witnesses examined on the side of Prosecution:-

P.W.1	C.W.1	07.12.2023	Sambathkumar, S/o. Balraj
P.W.2	C.W.2	02.02.2024	Santhosh C/o Aisha
P.W.3	C.W.3	02.02.2024	Mohanan S/o Ponnumani

Exhibits marked on the side of prosecution:-

P1	13.09.2019	F.I.S marked through P.W.1
P2	13.09.2019	Portion of statement recorded under Section 161 of the Cr.P.C marked through P.W.1 (Subject to Proof)

Witnesses examined on the side of accused:- Nil

Exhibits marked on the side of accused:- Nil

Material objects marked: - Nil

Sd/-
**Assistant Sessions Judge (Addl.),
Palakkad.**

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**Assistant Sessions Judge (Addl.),
Palakkad.**

Judgment in
S.C No. 1125/2022
Dated: 08.02.2024