

****IN THE COURT OF THE ASSISTANT SESSIONS JUDGE,
NEYYATTINKARA.**

Present : Smt. Beveena Nath.K.S, Asst. Sessions Judge.

Tuesday the 14th day of March, 2023
23rd day of Phalgunam, 1944.

S.C No.2283/2022

(C.P No. 21/2022 of Judicial First Class Magistrate Court-I, Neyyattinkara)
(Crime No. 24/22 of Neyyattinkara Police Station.)

Complainant:

State represented by the Inspector of Police,
Neyyattinkara Police Station.

By Adv. Sri. C.D.Justin Jose (Addl. Public Prosecutor).

Accused:

Vishnu @Pappadam Vishnu, Aged 28 years, (**custody**)
S/o. Babu, Residing at the house of Anitha for rent,
Maruthoorkonam, Kakkamoola,
Kalliyoor Desom, Kalliyoor village,
Now residing at Rose mount, Nellimoodu,
Church Road, Venpakal Desom, Venpakal Village
from Remagokulam veedu, Sivapuram road,
Near Aralumoodu junction, Athiyanoor Desom,
Athiyanoor Village.

By Adv. D. Suneesh.

Offence : Under Sections 341, 294(b), 324,506(ii) &307 r/w
34 of IPC.

Plea of the accused : Not guilty

Finding of the Court : Not guilty

Sentence of Order : accused is acquitted u/S. 232 of CrPC

DESCRIPTION OF THE ACCUSED

Sl.No	Name	Father's Name	Occupation	Caste	Age	Residence
1	Vishnu @Pappadam Vishnu	Babu	Coolie		28	Resdiding at the house of Anitha for rent, Maruthoorkonam, Kakkamoola, Kalliyoor Desom, Kalliyoor village, Now residing at Rose mount, Nellimoodu, Church Road, Venpakal Desom, Venpakal Village from Remagokulam veedu, Sivapuram road, Near Aralumoodu junction, Athiyanoor Desom, Athiyanoor Village

Date of

Occurrence	Final Report	Apprehension	Release on bail	Commitment for trial	Commencement of trial	Close of trial	Sentence or order
06.01.22		20.02.22(still in custody)		05.08.22	10.01.23	04.03.23	14.03.23

The Sessions case have been finally heard on 09/03/2023 in the presence of Additional Public Prosecutor and the Defence Counsel and hearing stood over for consideration to this day, the court on 14/03/2023 delivered the following:-

J U D G M E N T

The accused stand charge sheeted by the Inspector of Police, Neyyattinkara Police Station in Crime No. 1234/12 of said Police Station, on the allegation that they committed the offences punishable U/ss. 341, 294(b), 324,506(ii) &307 r/w 34 IPC.

2. *The prosecution case in short is that,* PW1 questioned and warned the accused when he got knowledge about the sale of Gancha by the accused. Because of that enmity accused intended to abuse and hurt PW1, approached him with dangerous weapons at 11.30 pm on 06.01.2022 at the way leading towards the house of PW1 in Athiyanoor village. The accused wrongfully restrained PW1 and first accused uttered obscene words so as to abuse him. Second accused instigated the other to kill him and then the first accused attacked PW1 with a chopper, so as to cause injury on the left side of his head and above the left eye and left shoulder. The second accused hit him with a steel pipe and caused contusion on his left thigh and back. PW1 fell down due to this attack and then the first accused again hit him with a chopper and further threatened that if he give any information to the police he would be do off. Thus it is alleged that these accused have committed the offences as alleged.

3. Learned Magistrate took cognizance of the above said offences and the case was taken into file as C.P.21/2022. The accused appeared before the committal court on summons. The accused were furnished with copies of relevant prosecution records under S. 207 of the Code of Criminal Procedure (For short Cr. P.C). After complying with all the statutory formalities, the learned Magistrate committed the case as per order dated on 05.08.2022 to Hon'ble Court of Sessions, Thiruvananthapuram under section 209 (a) Cr.P.C.

4. On receipt of case records, the Hon'ble Court of Sessions, Thiruvananthapuram registered the case in the present number and made over to this court for disposal.

5. The accused entered appearance on summons. He is defended by a counsel appointed by him. Learned Additional Public Prosecutor opened the case by describing the charge brought against the accused and by what

evidence he proposes to prove the guilt of the accused. After perusing the prosecution records and hearing both sides, charge was framed under sections 341, 294(b), 324,506(ii) &307 r/w 34 IPC. The charge was read over and explained to the accused in Malayalam, to which he pleaded not guilty and claimed to be tried.

6. The prosecution evidence consists of oral evidence of PW1 to PW7 and documentary evidence of Ext P1 to P18, P1(a), P14(a) were marked.

7. After closing the prosecution evidence, accused were examined U/s.313(1) (b) of Cr.P.C. They denied the entire prosecution allegation and the incriminating circumstances raised against them and maintained that they are innocent.

8. Heard both sides U/s.232 Cr.P.C.

9. *The points that arise for determination are :*

- (1) Whether the accused abused PW1 at 11.30 PM on 06/01/2022 uttering obscene words?
- (2) Whether the accused hut PW1 with dangerous weapon?
- (3) Whether the accused cause fear of death to PW1 as alleged?
- (4) Whether the accused attempted to inflict any injury to PW1 with intend to cause his death?
- (5) Whether they have done anything in prosecution of their common object?
- (6) If so, what will be the order or sentence?

10. Point Nos. 1 to 5:- PW1 is the injured and the informant. He deposed that one day during night at about 11.30 pm he got hurt and thereby sustained injury on head, chest, hand and backside of his ear. But he could not identify the assailants as well as the weapon. Immediately after the incident he rushed to the Medical College Hospital and underwent treatment as inpatient. He

gave first information statement to the police and that statement is proved through him as Ext.P1. According to him three persons involved in the incident. But they are unknown to him. PW2 to PW4 and PW7 are the occurrence witnesses. They denied the knowledge of incident. PW5 was the grade Sub Inspector of Neyyattinkara Police station. He recorded the First Information Statement as well as the body note of the injured. That body note is marked as Ext P1(a). PW6 was the Circle Inspector of Neyyattinkara police station. He deposed that on getting Ext. P1 statement he registered Ext.P3 crime for the offence u/ss. 341, 294(b), 324, 506(ii) &307 r/w 34 IPC. In the meantime he reached at the place of incident and prepared Ext.P4 scene mahazar. The weapons he collected from the place of incident was produced before the court as per Ext. P5 property list. The dress of the injured was taken into custody for preparing Ext. P2 mahazar and the same was produced before the court as per Ext.P6 property list. CW13 was the Doctor of General hospital, Neyyattinkara. The doctor collected blood sample of the injured and entrusted the same to PW6. The same was taken into custody by preparing Ext. P7 mahazar. Thereafter the blood sample was produced before the court as per Ext. P8 property list. In order to send the same for examination he placed Ext.P9 forwarding not. Thereafter he filed Ext. P10 report stating the name and address of the first accused. Ext. P4 is wound certificate. During the investigation as it is learned that Sec. 326 of IPC was not committed, he deleted the same and filed Ext. P12 report. On 30.02.2022 the first accused was arrested as per Ext. P13 memo. On the basis of confession statement of the first accused the weapon was recovered by preparing Ext. P14 mahazar. The relevant portion of the confession statement of the accused, which led for recovery is marked as Ext. P14(a). After identifying that weapon through the witnesses the same was produced before the court as per Ext. P15 property list. Ext. P16 is the report stating the name and address of the second accused. There were mistakes in the first information statement, which was recorded by CW18. The same was corrected and filed Ext. P17 report. Ext. P18 is the

scene plan. Since the second accused was absconded. He was not arrested during the investigation. Thus the case against him was split up and filed final report against this accused.

11. This accused is charged on allegation that he and the other attacked the defacto complainant, wrongfully restrained and attacked the PW1 with dangerous weapon with intention to commit murder. Apart from that this accused abused and threatened him, so as to cause fear of death. PW1, the injured and the other occurrence witnesses did not identified the accused. The occurrence witnesses have not supported the prosecution to prove the case. They denied the knowledge of incident. This is proved that PW1 sustained injury and underwent treatment. But it is not proved that the injury was inflicted by this accused. Therefore I am of the view that the prosecution has not succeeded to prove its case against the first accused. Therefore these points are decided against the prosecution.

12. **Point No.6:** In view of the findings on points 1 to 5, accused is found not guilty for the offences punishable U/ss 341, 294(b), 324,506(ii) &307 r/w 34 IPC and thus he is acquitted of the said offence U/s.232 of Cr.P.C. Accused is set at liberty and the bails bond executed by him stands cancelled.

(Dictated to the C.A, typed by her, corrected and pronounced by me, in open court, on this the 14th day of March, 2022).

Sd/-
Beveena Nath K.S,
Assistant Sessions Judge.

APPENDIX

Exhibits marked for the Prosecution :-

P1	07.01.2021	FIS given by Shajahan (PW1) before GASI, Rajan.I, Neyyattinkara Police station.
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P1(a)	07.01.2021	Body note of PW1 prepared by GASI, Rajan.I, Neyyattinkara Police station.
P2	08.02.2021	Mahazar(Dress) prepared by V.N,Sagar, S.I of Police, NTA P.S.
P3	06.01.2022	FIR prepared by V.N,Sagar, S.I of Police, NTA P.S.
P4	08.01.2022	Scene mahazar prepared by V.N,Sagar, S.I of Police, NTA P.S.
P5	08.01.2022	Property list (Blood stain) prepared by V.N,Sagar, S.I of Police, NTA P.S.
P6	08.01.2022	Property list (dress) prepared by V.N,Sagar, S.I of Police, NTA P.S.
P7	13.01.2022	Mahazar (blood sample for DNA analysis) prepared by V.N,Sagar, S.I of Police, NTA P.S.
P8	13.01.2022	Property list (blood sample for DNA analysis) prepared by V.N,Sagar, S.I of Police, NTA P.S.
P9	10.03.2022	Forwarding note prepared by V.N,Sagar, S.I of Police, NTA P.S.
P10	10.01.2022	Address report of accused prepared by V.N,Sagar, S.I of Police, NTA P.S.
P11	07.01.2022	Wound certificate of PW1 prepared by Dr.Anil Sundaran, Duty M.O, Medical college hospital, TVPM.
P12	20.02.2022	Section alter report prepared by V.N,Sagar, S.I of Police, NTA P.S.
P13	06.01.2022	Arrest memo of A1 prepared by V.N,Sagar, S.I of Police, NTA P.S.
P14	20.02.2022	Recovery of mahazar prepared by V.N,Sagar, S.I of Police, NTA P.S.
P14(a)	20.02.2022	Confession statement of accused recorded in recovery mahazar prepared by V.N,Sagar, S.I of Police, NTA P.S.

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P15	20.02.2022	Property list (73/22) (knife, Steel pipe) prepared by V.N,Sagar, S.I of Police, NTA P.S.
P16	20.02.2022	Address report of A1 and A2 prepared by V.N,Sagar, S.I of Police, NTA P.S.
P17		Correction report regarding date recorded in FIS and Body note prepared by V.N,Sagar, S.I of Police, NTA P.S.
P18	24.02.2022	Scene plan prepared by Village officer, Athiyannor Village.

Exhibit marked for the defence:- Nil

Witnesses for the Prosecution :-

PW1	10.01.2023	Shajahan.S (Injured person)
PW2	10.01.2023	Rasheed.N
PW3	10.01.2023	Shajeela.S
PW4	10.02.2023	Muhammed Beevi
PW5	10.02.2023	Rajan.J (GSI, NTA.P.S recorded FIS)
PW6	10.02.2023	Sagar V.N (CI, NTA.P.S., I.O)
PW7	04.03.2023	Veema kannu(mother in law of PW1)

Witnesses for the defence:- NIL

Material objects :- NIL

Id/-

ASSISTANT SESSIONS JUDGE

//True copy//

ASSISTANT SESSIONS JUDGE

CALENDER STATEMENT IN SESSIONS CASE No. 2283/2022
OF THE ASSISTANT SESSIONS COURT, NEYYATTINKARA

Serial No. : Sessions Case No. 2283/2022
C.P.No. 21/2022 of the Judicial First
Class Magistrate – I, Neyyattinkara
Crime No. and Name of : Crime No. 24/2022 of
Police Station. Neyyattinkara Police station.

Description of the Accused

Name : Vishnu @ Pappadam Vishnu
Father's Name : Babu
Residence : House of Anitha for rent, Maruthoorkonam,
Kakkamoola, Kalliyoor Desom, Kalliyoor
village, now residing at Rose mount,
Nellimoodu Church Road, Venpakal Desom,
Venpakal village, from Remagokulam veedu,
Sivapuram road, near Aralumoodu junction,
Athiyanoor desom, Athiyanoor village.
Occupation : Business
Age : 28
Date of Occurrence : 06-01-2022
Date of Complaint : 07-01-2022
Date of Apprehension : 20-02-2022 (Still in custody)
Date of Release on Bail : --
Date of Commitment : 05-08-2022
Date of made over to this court: 14-10-2022
Date of Commencement : 10-01-2023
of Trial
Date of Trial closed : 04-03-2023
Date of Sentence or Order : 14-03-2023
Name and Designation of : Smt. Salini. B
the Committing Magistrate : Judicial First Class Magistrate - I,
Neyyattinkara.
Explanation for the delay : –

ASSISTANT SESSIONS JUDGE.

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COPY OF JUDGMENT IN
S.C No. 2283/2022
Dated: 14/03/2023