



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE JOHNSON JOHN

MONDAY, THE 6<sup>TH</sup> DAY OF OCTOBER 2025 / 14TH ASWINA, 1947

CRL.A NO. 2506 OF 2006

JUDGMENT DATED 22.10.2005 IN SC NO.98 OF 2004 OF ADDITIONAL  
SESSIONS COURT (ADHOC-II), ERNAKULAM

APPELLANT/ACCUSED IN S.C. NO. 98/2004:

JAISON, AGED 30, S/O.ANTONY, THEKKA VALYAPARAMBATH VEETIL,,  
NEAR KALLAKASSERI TEMPLE, CHEMMANATHKARA, T.V.PURAM  
PANCHAYATH, VAIKOM TALUK.

BY ADVS.

SRI.DHANESH MATHEW MANJOORAN

SRI.V.A.NAVAS

Sri. JAYASHANKAR P.G., STATE BRIEF

RESPONDENT:

STATE OF KERALA, REPRESENTED BY THE CIRCLE INSPECTOR OF  
POLICE, HILL PALACE POLICE STATION, THROUGH THE PUBLIC  
PROSECUTOR, HIGH COURT OF KERALA.

BY SMT. HASNAMOL N.S., PUBLIC PROSECUTOR

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 25.09.2025, ALONG  
WITH CRL.A.707/2012, THE COURT ON 06.10.2025 DELIVERED THE  
FOLLOWING:



Crl. Appeal No. 2506/2006 & connected case

2025:KER:72638

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE JOHNSON JOHN

MONDAY, THE 6<sup>TH</sup> DAY OF OCTOBER 2025 / 14TH ASWINA, 1947

CRL.A NO. 707 OF 2012

JUDGMENT DATED 22.10.2005 IN SC NO.98 OF 2004 OF ADDITIONAL SESSIONS COURT (ADHOC-II), ERNAKULAM

CP NO.29 OF 2002 OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE, ERNAKULAM

APPELLANT/COMPLAINANT:

STATE OF KERALA, REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI. ALEX M. THOMBRA, PUBLIC PROSECUTOR

RESPONDENTS/ACCUSED:

- 1 JAISON, S/O ANTONY,  
THEKKA VALIYAPARAMBATH VEETIL, NEAR KALLAKASERI TEMPLE,  
CHEMMANATHAKARA, T.V.PURAM PANCHAYATH, VAIKOM.
- 2 BIJU, S/O.VARGHESE, THAZHATHE VEETIL,, MANAKUNNAM VILLAGE,  
UDAYAMPEROOR DESOM,, ERNAKULAM DISTRICT.
- 3 MOHANAN @PHUMBAR MOHANAN  
S/O.PRABHAKARAN,MUTTATHEVELI VEETIL,, MANAKUNNAM VILLAGE,  
UDAYAMPEROOR DESOM, ERNAKULAM DISTRICT.

BY ADVS.  
SRI.P.T.JOSE  
SRI.G.SABASTIAN  
SRI.SANJAY THAMPI  
SRI. JAYASHANKAR P.G

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 25.09.2025, ALONG WITH CRL.A.2506 OF 2006, THE COURT ON 06.10.2025 DELIVERED THE FOLLOWING:

**'C.R'****JOHNSON JOHN, J.**-----  
Crl. Appeal Nos.2506 of 2006 & 707 of 2012  
-----Dated this the 6<sup>th</sup> day of October, 2025**J U D G M E N T**

These appeals are filed by the State and the first accused in S.C. No. 98 of 2004 on the file of the Additional Sessions Judge (Adhoc-II), Ernakulam challenging the judgment dated 22.10.2005. The State is challenging the acquittal of accused No.1 for the offence punishable under Section 307 IPC and the acquittal of accused Nos. 2 and 3 for the offences under Sections 341, 324 and 307 r/w 34 IPC. The first accused is challenging the conviction and sentence imposed on him for the offence under Section 324 IPC.

2. The prosecution case is that the accused persons, because of previous enmity and in furtherance of their common intention, to murder PW1 and cause hurt to PW2, joined together at a place near Narasimha Swamy temple at Udayamperoor on 05.08.2001 at about 7.30 p.m. and accused Nos. 2 and 3 wrongfully restrained PW1, and the first accused stabbed PW1 with a knife below the left chest with intention to kill him



and when PW2 intervened, the first accused inflicted a cut injury with the knife above the ankle portion of the left leg and caused hurt and the accused are thereby alleged to have committed the offences under Sections 341, 324 and 307 r/w 34 IPC.

3. Before the trial court, when the accused persons pleaded not guilty to the charge, the prosecution examined PWs 1 to 16 and marked Exhibits P1 to P20 and MOs 1 to 5 series. The chemical analysis report is marked as Exhibit C1 and from the side of the defence, Exhibits D1 to D3 are marked.

4. After hearing both sides and considering the oral and documentary evidence on record, the learned Additional Sessions Judge found the first accused guilty under Section 324 IPC and sentenced him to undergo imprisonment for two years and the first accused was found not guilty of the offence under Section 307 IPC and accused Nos. 2 and 3 are found not guilty of the offences under Sections 341, 324 and 307 r/w 34 IPC.

5. Heard Sri. Alex M. Thombra, the learned Public Prosecutor and Sri. Jayashankar P.G., the learned State Brief-advocate representing the appellant in Crl. Appeal No. 2506 of 2006 and the respondents in the



connected appeal, Crl. Appeal No. 707 of 2012.

6. The learned Public Prosecutor argued that the evidence of PWs 1 and 2, injured witnesses, regarding the occurrence and overt acts committed by the accused persons are not appreciated by the trial court in the facts and circumstances of the case and that the evidence of injured witness has greater evidentiary value and unless compelling reasons exist, their evidence are not to be discarded lightly. It is argued that for attracting conviction under Section 307 IPC, the court has to see whether the act, irrespective of its result, was done with the intention or knowledge and under circumstances mentioned in the Section, as held by the Apex Court in ***State of Maharashtra v. Balram Bama Patil and Others*** [1983 KHC 367]. It is also argued that the evidence of PWs 1 and 2 would clearly show that accused Nos. 2 and 3 wrongfully restrained PW1 at the time of occurrence so as to help the first accused to stab PW1 and therefore, the findings in the impugned judgment are liable to be set aside.

7. The learned State Brief, Adv. Jayashankar P.G., representing the accused persons, argued that there is nothing in the evidence of PWs 1 and 2 to show that the accused persons committed the alleged acts with pre-meditation and their evidence clearly shows that the alleged incident occurred after a verbal quarrel between PW2 and the first



accused and in the absence of satisfactory evidence to show that the alleged act was done with the intention or knowledge as contemplated under Section 307 IPC, there is no reason to interfere with the findings of the trial court in this regard. The learned State Brief also argued that the evidence of PWs 1 and 2 regarding the involvement and alleged overt acts of the second and third accused are contradictory and inconsistent and Exhibit P15, report for adding the name and address of accused Nos. 2 and 3, is dated 11.08.2001 and in the absence of independent evidence regarding the involvement of accused Nos. 2 and 3, the trial court rightly acquitted them and there is no reason to interfere with the findings of the trial court in this regard.

8. Exhibit P10, FIR in this case, was registered by PW13, Head Constable, on the basis of Exhibit P4 intimation from PW7, Casualty Medical Officer of Medical Trust Hospital, Ernakulam on 06.08.2001 for the offence under Section 324 IPC. According to PW13, when he reached the Medical Trust Hospital, on getting telephone message from the hospital, the injured was in the operation theatre and there was no other person having information about the incident and therefore, after



obtaining Exhibit P4, intimation letter from the doctor, he registered Exhibit P10, FIR.

9. PW1 deposed that on 05.08.2001, at about 7.30 p.m., while he was talking to his friend, Anil Kumar, inside the bus waiting shed at Udayamperoor Madom bus stop, Jaison, fuser Mohanan and Biju came there and there occurred a verbal altercation between the said persons and his friend, Anil Kumar, and then the first accused, Jaison, stabbed him with a knife, uttering to kill him. According to PW1, accused Nos. 2 and 3 caught hold of his hands to help the first accused to stab him with the knife. PW1 would say that even though the first accused stabbed him aiming at his left chest, he sustained injuries near his armpit. PW1 also deposed that when his friend, Anil Kumar, intervened, there occurred scuffle between Anil Kumar and Jaison and then Anil Kumar fell down and Jaison inflicted a cut injury with the knife above the ankle of the left leg.

10. PW1 also deposed that in the previous year, there occurred an incident in which the accused persons quarrelled with some children near the bus stop and at that time, the witness supported the said children and because of that previous enmity, the accused persons attacked



him.

11. PW2, Anil Kumar, deposed that on 05.08.2001, while he was talking to PW1 at the bus stop, Jaison, Fuser Mohanan and Biju came from southern side and on seeing the accused persons, himself and PW1 moved towards the front of the STD booth. According to PW2, the accused persons reached there and started a verbal altercation with him. PW2 would say that 6 months before, there occurred a verbal altercation between Jaison and some children near the SNDP Temple and Jaison was having enmity towards him for the reason that he has not supported Jaison at that time. PW2 deposed that during the verbal altercation, Biju and Mohanan came behind PW1 and caught on his hands from behind and at that time, Jaison stabbed PW1, Deepu, with a knife. According to PW2, when he intervened, there occurred a scuffle between him and Jaison and then Jaison pushed him down and inflicted a cut injury with the knife above the ankle of his left leg. The evidence of PW2 shows that on sustaining the cut injury, he ran and entered into Pullukadu temple and subsequently, he was taken to RCM Hospital by his friends on a bike.





12. PWs 3, 4 and 5 are the independent witnesses examined from the side of the prosecution; but, they turned hostile to the prosecution. The evidence of PWs 4 and 5 shows that they have not witnessed the alleged occurrence. The evidence of PW3 shows that he was conducting a Milma booth near the bus stop and on 05.08.2001, at about 7.30 p.m., he heard a commotion there and saw Deepu and Jaison. According to PW3, Jaison was holding a knife and it appeared to him that there occurred a scuffle and immediately, he closed the shop and left the place.

13. PW6 is a witness to Exhibit P2 scene mahazar. PW7 is the doctor who examined PW1 in the Medical Trust Hospital, Ernakulam on 05.08.2001 at 9.55 p.m. and issued Exhibit P3, wound certificate. The evidence of PW7 and Exhibit P3 shows that PW1 sustained the following injuries:

1. Incised wound on the left infra axillary region penetrating into chest cavity-bleeding profusely.
2. Aberration in the left index finger.
3. Pain on deep inspiration.

14. In Exhibit P3, the alleged cause of injury is noted as follows:

‘ജയ്സൺ എന്നയാൾ കത്തികൊണ്ടു കത്തിയത് മംം സ്റ്റോപ്പ് ഉദയംപേരൂർ വെച്ച് 5.8.2001ന് 7.15 pm’



The evidence of PW7 and Exhibit P3 shows that PW1 was conscious and oriented and smell of alcohol was present in his breath at the time of examination.

15. PW8 is the doctor who examined PW2, Anil Kumar in RCM Hospital, Tripunithura on 05.08.2001 at 7.45 p.m. and issued Exhibit P5, wound certificate. The evidence of PW8 and Exhibit P5 shows that PW2 sustained a cut injury lower one-third of left leg. In Exhibit P5, wound certificate, history and alleged cause of injury is noted as 'assault'. In cross examination, PW8 stated that the alleged cause of injury was stated by the patient.

16. PW13 deposed that on 06.08.2001, while working in Hillpalace Police Station as Head Constable, he got telephone message from Medical Trust Hospital, Ernakulam that a patient by name Deepu, who sustained stab injuries, is admitted there and accordingly, when he reached the hospital, the injured Deepu was in the operation theatre and there was no other person who is aware about the occurrence and hence, he obtained Exhibit P4, intimation letter from the doctor, and thereafter, on the basis of Exhibit P4, intimation letter, he registered



Exhibit P10 FIR.

17. PW15 is the Sub Inspector who conducted the investigation. According to PW15, he recovered the dress worn by PW2 at the time of occurrence and the dress worn by PW1 at the time of occurrence as per Exhibits P12 and P13 mahazars respectively. The report filed by PW15 for adding Section 307 IPC is marked as Exhibit P14. PW15 deposed that he arrested the first and second accused in this case on 10.08.2001. According to PW15, the first accused made a statement that he kept the knife under the bed in the Government Hospital where he was admitted for treatment and accordingly, as led by the accused, the witness proceeded to the Government Hospital, Puthenkavu and the accused took out the knife from the underside of a bed in the hospital and the same was recovered as per Exhibit P6 mahazar.

18. PW9 is an attestor to Exhibit P6 mahazar. Even though, PW9 admitted his signature in Exhibit P6, his evidence clearly shows that he has not witnessed the alleged recovery of MO1 and that the accused is not known to him.

19. The learned State Brief, Adv. Jayashankar P.G., representing



the accused, argued that the evidence of PW15, Investigating Officer, regarding the alleged recovery of MO1, knife, on the basis of the alleged confession statement of the first accused, does not satisfy the requirements of law, as he has not deposed the exact statement made by the first accused and the relevant portion of the disclosure statement is also not produced or marked in evidence.

20. It is well settled that in order to enable the court to safely rely upon the evidence of the Investigating Officer, it is necessary that the exact words attributed to an accused, as statement made by him, be brought on record and, for this purpose, the Investigating Officer is obliged to depose in his evidence the exact statement and not by merely saying that a discovery panchnama of weapon of offence was drawn as the accused was willing to take it out from a particular place, as held by the Honourable Supreme Court in ***Ramanand @ Nandlal Bharti v. State of Uttar Pradesh*** [2022 KHC 7083]. In paragraphs 53 and 54 of the said decision, the Honourable Supreme Court held thus:

53. If, it is say of the investigating officer that the accused appellant while in custody on his own free will and volition made a statement that he would lead to the place where he had hidden the weapon of offence along



with his blood stained clothes then the first thing that the investigating officer should have done was to call for two independent witnesses at the police station itself. Once the two independent witnesses arrive at the police station thereafter in their presence the accused should be asked to make an appropriate statement as he may desire in regard to pointing out the place where he is said to have hidden the weapon of offence. When the accused while in custody makes such statement before the two independent witnesses (panch witnesses) the exact statement or rather the exact words uttered by the accused should be incorporated in the first part of the panchnama that the investigating officer may draw in accordance with law. This first part of the panchnama for the purpose of S.27 of the Evidence Act is always drawn at the police station in the presence of the independent witnesses so as to lend credence that a particular statement was made by the accused expressing his willingness on his own free will and volition to point out the place where the weapon of offence or any other article used in the commission of the offence had been hidden. Once the first part of the panchnama is completed thereafter the police party along with the accused and the two independent witnesses (panch witnesses) would proceed to the particular place as may be led by the accused. If from that particular place anything like the weapon of offence or blood stained clothes or any other article is discovered then that part of the entire process would form the second part of the panchnama. This is how the law expects the investigating officer to draw the discovery panchnama as contemplated under S.27 of the Evidence Act. If we read the entire oral evidence of the investigating officer then it is clear that the same is deficient in all the aforesaid relevant aspects of the matter.

54. The reason why we are not ready or rather reluctant to accept the evidence of discovery is that the investigating officer in his oral evidence



has not said about the exact words uttered by the accused at the police station. The second reason to discard the evidence of discovery is that the investigating officer has failed to prove the contents of the discovery panchnama. The third reason to discard the evidence is that even if the entire oral evidence of the investigating officer is accepted as it is, what is lacking is the authorship of concealment. The fourth reason to discard the evidence of the discovery is that although one of the panch witnesses PW – 2, Chhatarpal Raidas was examined by the prosecution in the course of the trial, yet has not said a word that he had also acted as a panch witness for the purpose of discovery of the weapon of offence and the blood stained clothes. The second panch witness namely Pratap though available was not examined by the prosecution for some reason. Therefore, we are now left with the evidence of the investigating officer so far as the discovery of the weapon of offence and the blood stained clothes as one of the incriminating pieces of circumstances is concerned. We are conscious of the position of law that even if the independent witnesses to the discovery panchnama are not examined or if no witness was present at the time of discovery or if no person had agreed to affix his signature on the document, it is difficult to lay down, as a proposition of law, that the document so prepared by the police officer must be treated as tainted and the discovery evidence unreliable. In such circumstances, the Court has to consider the evidence of the investigating officer who deposed to the fact of discovery based on the statement elicited from the accused on its own worth.”

21. The learned counsel representing the accused persons pointed out that the prosecution has no case that any of the hospital staff witnessed the alleged recovery and no document is produced by the prosecution to show that the first accused was admitted or treated in



Government Hospital, Puthenkavu.

22. On an analysis of the evidence of PW15, Investigating Officer, and PW9, attesting witness to Exhibit P6, I find that the evidence of the Investigating Officer regarding the recovery of MO1 alleged to be kept under a bed in a Government Hospital after several days of the alleged occurrence, is not at all reliable and the same does not satisfy the requirements of Section 27 of the Indian Evidence Act and hence, cannot be accepted as legal evidence against the accused persons.

23. The prosecution is challenging the acquittal of the first accused for the offence under Section 307 IPC. The learned Public Prosecutor argued that the evidence of PWs 1 and 2 would clearly show that the first accused committed the act with the intention to kill PW1 and with the knowledge that his act would cause the death of PW1 and therefore, the trial court ought to have found that the first accused is guilty of the offence under Section 307 IPC. It is true that to convict an accused under Section 307 IPC, it is not necessary to show that bodily injury capable of causing death was inflicted and the question to be considered is whether the act, irrespective of its result, was done with



the intention or knowledge and under circumstances mentioned in the said Section.

24. The learned State Brief representing the first accused argued that there is no evidence of any pre-meditation and that the evidence of PWs 1 and 2 would clearly show that the initial verbal altercation was between PW2 and the accused and only subsequently, the first accused stabbed PW1. The evidence of PW3 indicates that there occurred a scuffle between the first accused and PW1 and even as per the prosecution case, the first accused stabbed PW1 only once and there was no second attempt from the side of the first accused to stab PW1.

25. It is well settled that when a person sustains injuries in a fight between two parties in a sudden quarrel, the case does not fall under Section 307 IPC, as held by the Honourable Supreme Court in ***Hari Kishan and State of Haryana v. Sukhbir Singh and others*** [AIR 1988 SC 2127]. I find no reason to disagree with the finding of the trial court that the totality of the circumstances does not indicate that the first accused committed the act with the intention or knowledge contemplated under Section 307 IPC.





26. The learned Public Prosecutor argued that the trial court was not justified in discarding the evidence of PWs 1 and 2 against accused Nos. 2 and 3. The learned Public Prosecutor invited my attention to the evidence of PWs 1 and 2 to point out that PWs 1 and 2 categorically deposed regarding the involvement of accused Nos. 2 and 3 and the specific overt acts committed by them at the time of occurrence. The learned State Brief representing the accused argued that the evidence of PWs 1 and 2 regarding the involvement of accused Nos. 2 and 3 does not tally with the contemporaneous documents and that their evidence regarding the involvement and alleged overtacts against accused Nos. 2 and 3 can only be seen as an after-thought or embellishment and there is no reason to interfere with the finding of the trial court in this regard.

27. As noticed earlier, PW13, Head Constable, registered Exhibit P10, FIR, on the basis of Exhibit P4, intimation letter from the doctor. In Exhibit P4, the alleged history is shown as assault by Jaison with a knife and there is nothing in Exhibit P4 to indicate the involvement of accused Nos. 2 and 3 in the incident. It is true that if any information disclosing a cognizable offence is laid before an officer in charge of a police station



satisfying the requirements of Section 154(1) of Cr.P.C., the said police officer has no other option except to enter the substance thereof in the prescribed form, that is to say, to register a case on the basis of such information.

28. In ***Lalita Kumari v. Government of Andhra Pradesh*** [2013 (4) KLT 632 (SC)], the Honourable Supreme Court held that the object sought to be achieved by registering the earliest information as F.I.R. is *inter alia* two fold: one, that the criminal process is set into motion and is well documented from the very start; and second, that the earliest information received in relation to the commission of a cognizable offence is recorded so that there cannot be any embellishment etc., later.

29. It is pertinent to note that in Exhibit P10, FIR registered under Section 324 IPC, the name of accused Nos. 2 and 3 are not shown as accused persons. In column No. 7 of Exhibit P10, the accused is shown as 'Jaison', who is the first accused in this case. The evidence of PW15, Investigating Officer, shows that he arrested accused Nos. 1 and 2 on 10.08.2001 at 2.30 p.m. In cross examination, PW15 admitted that



when he arrested the second accused, there was no document before the court to show the involvement of the second accused in this case. It is also pertinent to note that Exhibit P15 report regarding the name and address of accused Nos. 2 and 3 is dated 11.08.2001. Even though PW3 was declared hostile to the prosecution, his evidence indicates the presence of the first accused and a scuffle between the first accused and PW1 and there is nothing in the evidence of PW3 to indicate the presence of accused Nos. 2 and 3 at the time of occurrence. Therefore, considering the delay in recording the statements of PWs 1 and 2 by the Investigating Officer and the absence of the name of accused Nos. 2 and 3 in the contemporaneous documents, I find no reason to interfere with the finding of the trial court that accused Nos. 2 and 3 are entitled to the benefit of reasonable doubt and in that circumstance, I find no reason to interfere with the acquittal of accused Nos. 2 and 3.

30. The first accused is the appellant in Crl. Appeal No. 2506 of 2006 and he is challenging his conviction and sentence for the offence under Section 324 IPC. On behalf of the first accused, it is argued that the trial court has not believed the evidence of PWs 1 and 2 as against



accused Nos. 2 and 3 and therefore, the trial court is not justified in accepting the evidence of PWs 1 and 2 against the first accused. It is also argued that the prosecution has suppressed material facts and the evidence of PW15, Investigating Officer, regarding the recovery of the weapon of offence, is not at all reliable and in that circumstance, the first accused is also entitled for the benefit of reasonable doubt.

31. It is well settled that the evidence of injured witness has greater evidentiary value and unless compelling reasons exist, their statements are not to be discarded lightly, as held by the Honourable Supreme Court in ***Balu Sudam Khalde v. State of Maharashtra [(2023) 13 SCC 365]***

32. The learned Public Prosecutor argued that the principle governing "*falsus in uno falsus in omnibus*" has got no application to the courts in India and merely because a prosecution witness was not believed in respect of one accused, the testimony of the said witness cannot be disregarded against the other accused. The decision of the Honourable Supreme Court in ***Ram Vijay Singh v. State of U.P.*** [2021 (1) KLT OnLine 1159 (SC)] and ***T. G. Krishnamurthy & Ors. v. State***



**of Karnataka & Ors.** [2023 LiveLaw (SC) 67], shows that the principle governing “Falsus in uno, falsus in omnibus” has got no application to the courts in India and therefore, it is the duty of the court to remove the chaff from the grain in its pursuit for truth.

33. In this case, the evidence of PWs 1 and 2 regarding the involvement of the first accused and the overt act committed by him is corroborated by medical evidence and contemporary documents marked in evidence. There is no material contradiction or omission in the evidence of PWs 1 and 2 as against the first accused. Even though, the evidence of PW15 regarding the recovery of MO1 on the basis of disclosure statement of the first accused is not reliable, it is pertinent to note that PWs 1 and 2 identified MO1 as the knife used by the first accused and further, for convicting an accused, recovery of the weapon used in commission of an offence is not a *sine qua non*, as held by the Honourable Supreme Court in **Rakesh v. State of U.P.** [2021 (4) KLT OnLine 1170 (SC)].

34. On a careful re-appreciation of the entire evidence, I find no reason to interfere with the conviction and sentence imposed on the first



accused for the offence under Section 324 IPC. Therefore, the conviction and sentence as against the first accused/appellant is confirmed.

For the above stated reasons, I find no merit in the present appeals. In the result, both the above appeals stand dismissed.

sd/-  
**JOHNSON JOHN,**  
**JUDGE.**

Rv