



2026:KER:20486

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

THURSDAY, THE 5<sup>TH</sup> DAY OF MARCH 2026 / 14TH PHALGUNA, 1947

CRL.A NO. 972 OF 2014

CRIME NO.337/2005 OF TIRUR POLICE STATION, MALAPPURAM

AGAINST THE JUDGMENT DATED 25.09.2014 IN S.C. NO.145 OF 2009 OF

ADDITIONAL DISTRICT AND SESSIONS COURT-I, MANJERI

**APPELLANT/ACCUSED:**

MOOSANTEPURAKKAL MANAF  
S/O.ABOOBACKER, KOTHAPARAMBA, KOOTTAYI

BY ADVS.  
SHRI.AVM.SALAHUDIN  
SMT.A.D.DIVYA  
SMT.EMIL STANLEY  
SRI.BABU S. NAIR

**RESPONDENT/COMPLAINANT:**

STATE OF KERALA  
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,  
ERNAKULAM

SR PP - RENJIT GEORGE

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 05.03.2026,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**“C.R”****JUDGMENT****Dated this the 5<sup>th</sup> day of March, 2026**

The accused in S.C. No.145/2009 on the files of the Court of the Additional District and Sessions Judge-I, Manjeri, has filed this appeal, under Section 374(2) of the Code of Criminal Procedure, 1973 [hereinafter referred as ‘Cr.P.C.’ for short], challenging the conviction and sentence imposed by the Sessions Judge, against him as per the judgment dated 25.09.2014. The State of Kerala, represented by the Public Prosecutor is arrayed as the respondent herein.

2. Heard the learned counsel for the appellant and the learned Public Prosecutor, in detail. Carefully gone through the verdict under challenge and the records of the Sessions Court.

3. Parties in this appeal shall be referred as ‘accused’ and ‘prosecution’, hereafter.

4. The prosecution allegation is that, at about 05.00 p.m. on 17.05.2005, in front of the Govt. Hospital, Tirur, the



accused herein and 4 other co-accused in the charge formed themselves into an unlawful assembly in prosecution of a common object of causing death of PW1 and bodily hurt on PW1 to PW3 and indulged in the act of rioting armed with deadly weapons and that the accused had wrongfully restrained PW1 to 3 from proceeding in any direction and that the accused herein stabbed on the back of PW1 with a knife with the intention or the knowledge that by such act if death of PW1 had resulted the accused would have been guilty of murder and that the co-accused had voluntarily caused hurt to PW2 and 3 by beating them with hands. On this premise, the prosecution alleges commission of offences punishable under Sections 143, 147, 148, 341, 323, 307 read with 149 of the Indian Penal Code [hereafter referred as 'IPC' for short], by the accused.

5. After framing charge for the offences punishable under Sections 143, 147, 148, 341, 323, 307 read with 149 of the IPC, the Sessions Court recorded evidence and completed trial. During trial, PWs 1 to 17 were examined, Exts.P1 to P15 and MO1 and MO2 were marked on the side of the prosecution. Even though, the accused was given



opportunity to adduce defence evidence after questioning him under Section 313(1)(b) of Cr.P.C, he did not opt to adduce any defence evidence.

6. On appreciation of evidence, the Sessions Court found that the 1<sup>st</sup> accused was guilty for the offences punishable under Sections 307, 341 and 323 of IPC. Accordingly, the 1<sup>st</sup> accused was convicted for the said offences and sentenced as under:

*“In the result, the accused is sentenced to undergo Rigorous Imprisonment for 7 years and a fine of Rs.10,000 (rupees ten thousand only), in default, to undergo Rigorous Imprisonment for 1 more year for the offence punishable u/s 307 of IPC, further a sentence of Simple Imprisonment for 1 month and to pay a fine of Rs.500 (rupees five hundred only), in default, to undergo Simple Imprisonment for 5 days for the offence punishable u/s 341 of IPC and further Rigorous Imprisonment for 6 months and to pay fine of Rs.1,000 (rupees one thousand only), in default, to undergo Rigorous Imprisonment for 2 months for the offence punishable u/s 323 of IPC.”*

7. While assailing the verdict impugned, the learned counsel for the appellant/1<sup>st</sup> accused argued that, in fact, the 1<sup>st</sup> accused was not properly identified. Further, the evidence



available are insufficient to enter into conviction for the offence punishable under Section 307 of IPC. At the most, the offence would attract in this case is only under Section 324 of IPC and not under Section 307 of IPC. Therefore, the learned Sessions Judge went wrong in finding commission of offence punishable under Section 307 along with 341 and 323 of IPC, in the instant case. On these grounds, the learned counsel for the accused pressed for interference in the verdict impugned and to reverse the finding of the trial court.

8. The learned Public Prosecutor supported the verdict of the Sessions Court and submitted that the evidence available in this case would substantiate that the 1<sup>st</sup> accused committed the offences punishable under Sections 307, 323 and 341 of IPC. Therefore, the verdict impugned is liable to sustain.

9. In view of the rival submissions, the points arise for consideration are:

*1. Whether the Sessions Court is justified in finding that the 1<sup>st</sup> accused committed the offence punishable under Section 307 of the IPC?*

*2. Whether the Sessions Court is justified in finding that the 1<sup>st</sup> accused committed the offence*



*punishable under Section 341 of the IPC?*

*3. Whether the Sessions Court is justified in finding that the 1<sup>st</sup> accused committed the offence punishable under Section 323 of the IPC?*

*4. Whether the verdict of the trial court would require interference?*

*5. Order to be passed?*

10. Point Nos.1 to 3:- On perusal of the verdict impugned, it could be gathered that the learned Sessions Judge relied on the evidence of PW1, PW15 and PW2 supported by Exts.P2, P3 and P4 as well as the evidence given by PW4, the doctor who examined PW1 and issued Ext.P2 would certificate to find commission of the above said offences by the 1<sup>st</sup> accused.

11. Even though, the learned counsel for the appellant/1<sup>st</sup> accused disputed identity of the 1<sup>st</sup> accused, when the questions asked during cross-examination were perused, it could be seen that the dispute regarding identity was not at all raised before the Sessions Court and even though, PW1 failed to identify the accused at the dock in specific, he referred him as the accused, who assaulted him. In such view of the matter, the contentions raised by



the learned counsel for the appellant/1<sup>st</sup> accused to make the prosecution case unbelievable on the issue of identity could not sustain.

12. On evaluating the evidence of PW1, he deposed that he is familiar with the 1<sup>st</sup> accused and the 1<sup>st</sup> accused married the daughter of one Hamsakutty. According to PW1, at about 05.00 p.m. on 17.05.2005, the 1<sup>st</sup> accused along with other accused attacked him in front of Government Hospital, Tirur when he visited his friend Siddique, who got admitted in the hospital. He was accompanied by Prasanth and Sreenivasan. While they were returning and reached nearby the gate, the 1<sup>st</sup> accused and other persons wrongfully restrained them and uttered filthy words. Thereafter, the 1<sup>st</sup> accused caused stab injury on his shoulder and thereby he fell down. There was bleeding. At this juncture, other accused persons kicked and beat him and when PW2 and PW15 attempted to rescue him, the 1<sup>st</sup> accused attacked them also. PW1 deposed about the treatment he underwent, after identifying MO1 as the knife used by the 1<sup>st</sup> accused to stab him and he also identified



MO2, the shirt worn by him at the time of occurrence. He supported Ext.P1 FIS by identifying his signature. Even though he was cross-examined, the cross-examination is suggestive of the motive behind this crime and expressive of the identity of the 1<sup>st</sup> accused. Apart from the evidence of PW1, the evidence given by PW2 and PW15, who accompanied PW1 also deposed about the occurrence, though they did not sustain any injuries, as per Exts.P3 and P4 wound certificates issued by PW4.

13. It is the well settled law that, in order to attract the offence under Section 307 of IPC, there must be an intentional attempt to commit murder. In the instant case, going through the manner in which the incident occurred and the attack at the instance of the 1<sup>st</sup> accused, either intention or knowledge to cause death of PW1 could not be found and the 1<sup>st</sup> accused only caused one injury that also on the shoulder of PW1, as borne from the wound certificate. Therefore, on no stretch of imagination, it is safe to conclude that the 1<sup>st</sup> accused committed the offence punishable under Section 307 of IPC. Though, from the



evidence of PW1 supported by the evidence of PW2 and PW15 and the doctor, who examined PW1 and other witnesses, offence punishable under Section 324 of IPC is made out. The learned Sessions Judge found offences punishable under Sections 341 and 323 of IPC also by the appellant/1<sup>st</sup> accused. On evaluation of the evidence, the said offences are also made out.

14. Therefore, the impugned verdict would require interference by holding that the appellant/1<sup>st</sup> accused committed the offences punishable under Sections 323, 324 and 341 of IPC.

15. Point Nos.4 and 5:- In the result, this appeal stands allowed in part. The conviction and sentence imposed by the Sessions Court against the 1<sup>st</sup> accused for the offence punishable under Section 307 of IPC is set aside and the 1<sup>st</sup> accused is convicted for the offences punishable under Sections 323, 324 and 341 of the IPC. Accordingly, the 1<sup>st</sup> accused is sentenced for the offences punishable under Sections 323, 324 and 341 of the IPC as under:

*i. The accused is sentenced to pay a fine of Rs.1,000/- (Rupees Thousand only) for the*



*offence punishable under Section 323 of IPC and in default of payment of fine to undergo simple imprisonment for a period of three weeks.*

*ii. The accused is sentenced to pay a fine of Rs.40,000/- (Rupees Forty Thousand only) for the offence punishable under Section 324 of IPC and in default of payment of fine to undergo simple imprisonment for a period of four months.*

*iii. The accused is sentenced to pay a fine of Rs.500/- (Rupees Five Hundred only) for the offence punishable under Section 341 of IPC and in default of payment of fine to undergo simple imprisonment for a period of one month.*

*iv. The fine amount if paid or realized, Rs.30,000/- (Rupees Thirty Thousand only) shall be released to PW1, as compensation and the remaining amount shall go to the State Exchequer.*

16. The order suspending sentence and granting bail to the 1<sup>st</sup> accused stands vacated, with direction to the 1<sup>st</sup> accused to appear before the Sessions Court, on 23.03.2026, to undergo the modified sentence, failing which, the



Sessions Court is directed to execute the sentence, without fail.

Registry is directed to forward a copy of this judgment to the Sessions Court for information and compliance, forthwith.

**Sd/-  
A. BADHARUDEEN  
JUDGE**

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