



2026:KER:47094

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE EASWARAN S.

MONDAY, THE 29TH DAY OF JUNE 2026 / 8TH ASHADHA, 1948RSA NO. 254 OF 2026

AGAINST THE JUDGMENT DATED 30.03.2023 IN AS NO.175 OF 2018 OF ADDITIONAL DISTRICT COURT - VIII, ERNAKULAM, ARISING OUT OF THE JUDGMENT DATED 28.03.2018 IN OS NO.728 OF 2010 OF II ADDITIONAL SUB COURT, ERNAKULAM.

APPELLANT(S) / APPELLANT / 1ST DEFENDANT:

SUKUMARAN P. N.
AGED 44 YEARS, S/O. NARAYANAN,
P.C 87821, KADAVANTHARA STATION, COCHIN-20,
RESIDING AT PULICKAL HOUSE, KARIMANNUR VILLAGE,
KARIMANNUR P.O, THODUPUZHA TALUK,
IDUKKI DISTRICT, PIN - 685584.

BY ADV.
SRI. P. T. SHEEJISH

RESPONDENT(S) / RESPONDENTS / PLAINTIFF AND 2ND DEFENDANT:

- 1 VIMAL K. CHARLES
S/O. K. C. CHARLES, AGED 32 YEARS,
RESIDING AT KANATHEKKATTU HOUSE, ELAMKULAM VILLAGE,
KANAYANNUR TALUK, ERNAKULAM, COCHIN, PIN - 682017.
- 2 STATE OF KERALA
REPRESENTED BY ITS SECRETARY TO THE DEPARTMENT OF
HOME AFFAIRS, GOVERNMENT SECRETARIATE,
THIRUVANANTHAPURAM, PIN - 695001.



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BY ADVS.

SMT. A. T. RENJU

SRI. E. N. HARI

SRI. M. N. MANMADAN

THIS REGULAR SECOND APPEAL HAVING COME UP FOR ADMISSION
ON 29.06.2026, ALONG WITH RSA.256/2026, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:



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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE EASWARAN S.

MONDAY, THE 29TH DAY OF JUNE 2026 / 8TH ASHADHA, 1948RSA NO. 256 OF 2026

AGAINST THE JUDGMENT AND DECREE DATED 30.03.2023 IN AS
NO.176 OF 2018 OF ADDITIONAL DISTRICT COURT - VIII, ERNAKULAM,
ARISING OUT OF THE JUDGMENT AND DECREE DATED 28.03.2018 IN OS
NO.670 OF 2012 OF II ADDITIONAL SUB COURT, ERNAKULAM.

APPELLANT(S) / APPELLANT / 1ST PLAINTIFF:

SUKUMARAN P. N.
AGED 44 YEARS, S/O. NARAYANAN,
P.C 87821, KADAVANTHARA STATION, COCHIN-20,
RESIDING AT PULICKAL HOUSE, KARIMANNUR VILLAGE,
KARIMANNUR P.O, THODUPUZHA TALUK,
IDUKKI DISTRICT, PIN - 685584.

BY ADV.
SRI. P. T. SHEEJISH

RESPONDENT(S) / RESPONDENTS / PLAINTIFF AND DEFENDANTS 2 TO 4:

- 1 VIMAL K CHARLES
S/O. K. C. CHARLES, AGED 32 YEARS,
RESIDING AT KANATHEKKATTU HOUSE, ELAMKULAM VILLAGE,
KANAYANNUR TALUK, ERNAKULAM, COCHIN, PIN - 682017.
- 2 E. V. MANU
SUB INSPECTOR OF POLICE, KADAVANTHRA POLICE
STATION, ELAMKULAM VILLAGE,
KANAYANNUR TALUK, KOCHI, PIN - 682020.



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- 3 MONI HC (9)
7998, KADAVANTHTRA POLICE STATION,
KOCHI, PIN - 682020.
- 4 STATE OF KERALA
REPRESENTED BY ITS SECRETARY TO THE DEPARTMENT OF
HOME AFFAIRS, GOVERNMENT SECRETARIATE,
THIRUVANANTHAPURAM, PIN - 695001.
- BY ADVS.
SMT. A. T. RENJU
SRI. E. N. HARI
SRI. M. N. MANMADAN

THIS REGULAR SECOND APPEAL HAVING COME UP FOR ADMISSION
ON 29.06.2026, ALONG WITH RSA.254/2026, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:



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EASWARAN S., J.**RSA Nos. 254 & 256 of 2026**Dated this the 29th day of June, 2026**JUDGMENT**

These appeals are by the 1st defendant, a Civil Police Officer who manhandled the plaintiff, a young Lawyer.

2. The dispute started in the year 2010. For 16 years, the appellant was successfully dragging and evading the payment of compensation ordered by the Courts below. Two suits were tried together. The plaintiff filed a claim for compensation on account of an alleged incident which happened on 30.04.2010. The plaintiff alleges that the information regarding the incident which occurred on 30.04.2010 at about 11.45 p.m. was passed on to the Kadavanthara Police Station, pursuant to which Police personnel reached the place of occurrence. When the police personnel arrived at the place of incident, the 1st defendant caught hold of the assailants who were leaving the road. The plaintiff informed the 1st defendant that the boys who were caught hold by him were innocent and informed them that he is a lawyer residing nearby and further intimated to him that it was he who informed the



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Police about the incident. However, the 1st defendant assaulted the plaintiff and caused injury and later the Sub Inspector of Police, Kadavanthara Police Station falsified the registration of the case against the plaintiff under Section 160 of the IPC (Section 194 of Bharatiya Nyaya Sanhita). The plaintiff also alleged that the 1st defendant along with the Sub Inspector of Police had falsified the medical records in the General Hospital, Ernakulam, stating that the Doctor had examined the plaintiff on 04.04.2010 and then he had found traces of alcohol. The plaintiff alleged that, immediately on his release from the hospital, he was taken to the Medical Trust Hospital for treatment and was treated as an inpatient. Certificates regarding the treatment were also produced.

2.1. On behalf of the plaintiff, Exts. A1 to A34 documents were produced and marked and PW1 to PW5 were examined. The 1st defendant did not adduce any oral or documentary evidence.

2.2. Though the plaintiff has sought for fastening of the vicarious liability against the State of Kerala as well, the Trial Court did not accept the said plea and confined the liability to pay the compensation on the defendant 1 to 3 alone. While arriving at the conclusion that the plaintiff is entitled to the reliefs sought for, the Trial Court took note of the fact that the defendants did not adduce any evidence in support of his plea.



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Aggrieved, the 1st defendant alone preferred an appeal.

2.3. Before the First Appellate Court, extensive arguments were raised touching upon the sustainability of the findings of the Trial Court and it was pointed out that since there were already a medical examination carried out on the plaintiff, the plea that the plaintiff has sustained severe injuries is not probable and unsustainable. The First Appellate Court, on the other hand, on reappreciation of the evidence and after appreciation of the rival submissions, came to the conclusion that, if as contended by the 1st defendant, medical examination was conducted by the Doctor in the General Hospital, nothing prevented the 1st defendant from producing the records. Moreover, the witnesses who were examined on behalf of the plaintiff were not cross-examined on behalf of the 1st defendant leading to inference that the 1st defendant has nothing to offer in explanation. Further, the inconsistent plea in the written statement as well as the contentions in the appeal were also taken note of by the First Appellate Court and it was concluded that the 1st defendant has no consistent case regarding the incident. Accordingly, one of the appeals was dismissed upholding the judgment and decree and the other appeal was allowed in part by modifying the compensation granted by the Trial Court and limiting the same to Rs. 1,26,554/-



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(Rupees One lakh twenty-six thousand five hundred and fifty four only) as against Rs. 1,50,000/- together with interest at the rate of 6% p.a. from the date of the suit till realization with cost throughout. Aggrieved thereby, the present appeals are preferred.

3. Heard Sri. P. T. Sheejish, the learned Counsel for the appellant/1st defendant and Smt. A. T. Renju, the learned Counsel appearing for the 1st respondent/plaintiff and Sri. Prasanth B., the learned Government Pleader for the State Government.

4. In this appeal, what is contended by the appellant is that a claim for compensation on account of a noxious act must be proved beyond any probable doubt. It is contended that there is no evidence on record to suggest that the appellant had caused injury to the plaintiff which led to the filing of the suit. It is the specific case of the appellant that, on the date of incident, he had reached the spot on instructions from the Police Station in scooter and that if as alleged by the 1st respondent, he was taken in a jeep and manhandled, the 1st respondent must prove that the appellant had reached the spot in the Police jeep and had taken the 1st respondent/plaintiff in custody. It is also pointed that the quantification of the damages by the Courts below is not proper and even the medical records produced by the plaintiff including the oral testimony



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of PW3, the doctor, who examined the plaintiff is not conclusive to prove the extent of injuries suffered by the plaintiff on the date alleged.

5. Smt. A. T. Renju, the learned Counsel appearing for the 1st respondent, pointed out that the conscious absence of the 1st defendant while the plaintiff was examining his witnesses is a testimony of the fact that the 1st defendant had nothing to offer. She further points out that the evidence of PW4, the Sub Inspector, is crucial inasmuch as the Sub Inspector has spoken to the fact that the 1st defendant was standing outside the Court premises and was watching the proceedings without even attempting to participate in the same. Since there was unimpeachable evidence in the form of PW3 - the doctor and PW4 - the Sub Inspector, the nature of the incident which the plaintiff alleged has been proved beyond doubt and, therefore, the 1st defendant cannot maintain this appeal in the absence of any contra evidence adduced by him.

6. I have considered the rival submissions and have perused the judgments impugned in this appeal. The question before this Court is; *notwithstanding the failure of the appellant to adduce evidence, both oral and documentary, whether this Court should interfere with the findings rendered by the Courts below?* It is beyond doubt that on the



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date of incident, the plaintiff was taken into custody. What followed is a brutal attack on the plaintiff at the instance of the 1st defendant. It is also indisputable that the 1st defendant/appellant was suspended from service. Though it is contended that, later the 1st respondent was exonerated from his role in the alleged incident in the departmental enquiry conducted by the State, nothing has been produced to prove that the appellant was exonerated by the State Government.

7. In a claim for damages on account of a noxious act committed by the 1st defendant on the plaintiff, the strict rules of evidence cannot be insisted on and only the plaintiff is expected to prove beyond doubt as regards the alleged incident. If, as a matter of fact, the 1st defendant had a case regarding the plaintiff was taken to hospital on 04.04.2010 and was examined, nothing prevented him from producing the medical certificate issued by the doctor of General Hospital, Ernakulam, which was not done. No possible explanations are forthcoming from the side of the appellant as regards the failure to produce both oral and documentary evidence. Moreover, this Court cannot remain oblivious of the finding of the First Appellate Court that the inconsistent plea raised by the appellant in the written statement as well as before that Court.



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8. The First Appellate Court in paragraph No. 26 of the judgment and decree has concluded that, in the written statement filed before the Court, the plea that is raised by the 1st defendant is that the plaintiff was chargesheeted in a criminal case. But it came out in evidence that the plaintiff was acquitted in the said case. Moreover, the specific averment in the written statement is that the police party under the leadership of the Sub Inspector came to the scene in a jeep and the plaintiff and others were taken to the Police Station by them. But, in Ext. A33, he has admitted that there are no other Police personnel from the Police Station who came to the place of incident. Such inconsistent plea was rightly taken note of by the First Appellate Court to conclude that the case projected by the 1st defendant is unacceptable. That be so, the First Appellate Court has correctly appreciated the oral and documentary evidence and concluded that the plea set up by the appellant cannot be sustained.

9. In the peculiar facts of the case, this Court is not persuaded to hold that any substantial questions of law arise for consideration in these appeals for the reasons discussed above. The failure of the appellant to adduce oral and documentary evidence is detrimental to the cause projected by him. In ***Vidhyadhar v. Manikrao & Another [1999***



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(1) KLT OnLine 928 (SC)] the Supreme Court has held that the Courts are entitled to draw adverse inference on the failure of the defendant(s) to adduce evidence. In such circumstances, this Court finds that this appeal is bereft of any merits and liable to be dismissed. Hence, these appeals are hereby dismissed. The 1st respondent/plaintiff will also be entitled for the cost of this appeal which is quantified as Rs. 15,000/-.

**Sd/-
EASWARAN S.
JUDGE**

Svn