IN THE COURT OF THE ADDITIONAL SPECIAL JUDGE, (SPE/CBI

ERNAKULAM

Present : Sri. SABARINATHAN.P, SPECIAL JUDGE.

Thursday, the 19th day of November, 2026
28th Agrahayana, 1948.

SC No. 421 of 2020

Crime No. RC 9(S)/2016/CBI/SCB/TVPM

&

Crime No. 136/2012 of Kannapuram Police Station

(CNR No. KLER 570000032020)

Complainant : Additional Superintendent of Police,
Central Bureau of Investigation,
Special Crime Branch,
Thiruvananthapuram.

(Represented by:
Shri. M. Navas, Senior Public Prosecutor
&
Shri. Nitheesh T.P, Public Prosecutor)

Accused :

1. Sumesh. K.V, S/o. Chandran, aged 41 years, Kizhakkevalappil House, Poomalakkavu, Cherukunnu Ambalam Road, Kannapuram.

Represented by :
Advs. Raman Pillai, Senior Advocate, Nicholas Joseph, Muhammed Shaheel B and Rangeeth G.S.

2. Ganesan. P, S/o. Balan Nair, aged 49 years,
Parayil House, Raj Quarters, China Clay Road, Kannupuram.

Represented by :
Advs. Raman Pillai, Senior Advocate, Nicholas Joseph, Muhammed Shaheel B

and Rangeeth G.S.

3. Anoop, S/o. Balan, aged 46 years, Kaniyarathvalappil House, Kannupuram, Idakkepuram.

(Represented by :
Advs. Raman Pillai, Senior Advocate, Nicholas Joseph, Muhammed Shaheel B and Rangeeth G.S.)

4. Vijesh @ Babbotty, S/o. Krishnan, aged 41 years, Thaiyyil House, Morazha.

(Represented by :
Advs. Raman Pillai, Senior Advocate, Nicholas Joseph, Muhammed Shaheel B and Rangeeth G.S.)

5. Prakasan. K, S/o. Sreedharan, aged 46 years, Pappinisserikkaran Kannoth House, Panthottam, Near K.K.N. Smaraka Vayanasala, Morazha.

(Represented by :
Advs. Raman Pillai, Senior Advocate, Nicholas Joseph, Muhammed Shaheel B and Rangeeth G.S.)

6. Umesan.V, S/o. Gopalan, aged 46 years, Pattuvam Ariyil, Dharmakinnar.

Represented by :
Advs. Raman Pillai, Senior Advocate, Nicholas Joseph, Muhammed Shaheel B and Rangeeth G.S.

7. Pavithran. P, S/o. Kunjappa, aged 52 years, Porayil House, Karakkunnu Road, Keezhara, Kannur.

Represented by :

Advs. Raman Pillai, Senior Advocate, Nicholas Joseph, Muhammed Shaheel B and Rangeeth G.S.

8. Latheesh. C, S/o. Kunjambu, aged 43 years, Chalil House, Muthuvani, Morazha.

Represented by :
Advs. Raman Pillai, Senior Advocate, Nicholas Joseph, Muhammed Shaheel B and Rangeeth G.S.

9. Manoharan. P.V, S/o. Late Kunjiraman, aged 48 years, Palangottuvalappil House, Kannapuram, Keezhara, Valluvankadavu.

(Represented by :
Advs. Raman Pillai, Senior Advocate, Nicholas Joseph, Muhammed Shaheel B and Rangeeth G.S.

10. N.P. Dinesan @ Maina Dinesan, S/o. Kunjiraman, aged 54 years, Naduvilepurayil House, Kannapuram, Keezhara, Valluvankadavu.

(Represented by :
Advs. Raman Pillai, Senior Advocate, Nicholas Joseph, Muhammed Shaheel B and Rangeeth G.S.

11. C.N.Mohanan, S/o. Govindan, aged 52 years, Chevan Naroth House, Morazha, Near Grameena Vayanasala.

(Represented by :
Advs. Raman Pillai, Senior Advocate, Nicholas Joseph, Muhammed Shaheel B and Rangeeth G.S.

12. Bijumon, S/o. Vady Ravi, aged 46 years, Vady House, C.H. Nagar, Morazha.

(Represented by :
Advs. Raman Pillai, Senior Advocate,

Nicholas Joseph, Muhammed Shaheel B, Rangeeth G.S.

13. N. Nidhin, S/o. Narayanan, aged 37 years, Naduvilepurayil House, Kannapuram, Keezhara, Valluvankadavu.

(Represented by :
Advs. Raman Pillai, Senior Advocate, Nicholas Joseph, Muhammed Shaheel B and Rangeeth G.S.

14. E.P. Radhakrishnan, S/o. Kunjiraman, aged 51 years, Eliyanpola House, Valluvankadavu, Keezhara, Kannapuram.

Represented by :
Advs. Raman Pillai, Senior Advocate, Nicholas Joseph, Muhammed Shaheel B and Rangeeth G.S.

15. Shijin Mohan @ Shijin, S/o. Mohanan, aged 35 years, Naduvilepurayil House, Kannapuram, Keezhara, Valluvankadavu.

(Represented by :
Advs. Raman Pillai, Senior Advocate, Nicholas Joseph, Muhammed Shaheel B and Rangeeth G.S.

16. K.V. Sajith, S/o. Chandran, aged 44 years, Kizhakkevalappil House, Kannapuram, Idakkepuram.

(Represented by :
Adv. Nicholas Joseph, Muhammed Shaheel B and Rangeeth G.S.

17. Sudhakaran @ Conductor Sudhakaran, S/o. Kannan, aged 52 years, Moolayil House, Morazha.

(Represented by :
Advs. Nicholas Joseph, Muhammed Shaheel B and Rangeeth G.S.)

18. Naveen. N.P, S/o. Narayanan,

Naduvilepurayil House, Kannapuram, Keezhara, Valluvankadavu.

Represented by :
Advs. Nicholas Joseph, Muhammed Shaheel B, Rangeeth G.S. and Abhishek Kurian.

19. Syamjith, S/o.Govindan, Syamala Nivas, Mottamayal, Morazha.

Represented by :
Advs. Nicholas Josheph, Muhammed Shaheel B and Rangeeth G.S.

20. Sareesh. A, S/o. Narayanan, aged 41 years, Aachali House, Koranpeedika, Morazha. **(No more)**

21. Shaji.K.V, S/o. Kunjiraman, aged 48 years, Koolothvalappil House, Periyadavu, Vellakkeel, Morazha.

Represented by :
Advs. Nicholas Joseph, Sojan Micheal, Muhammed Shaheel B, Rangeeth G.S, Delwin B.P., Joju J Mannoor and Sivasankar.

22. Prakasan Muthuvany, S/o. Kappadan Kannan, aged 51 years, Kappadan House,
Muthuvany, Morazha Colony Road.

Represented by :
Advs. Nicholas Joseph, Sojan Micheal, Muhammed Shaheel B, Rangeeth G.S, Delwin B.P., Joju J Mannoor and Sivasankar.

23. Ajayakumar N.P @ Ajayan,
S/o. Kumaran, aged 55 years,
Naduvilepuram, Kannapuram, Keezhara, Valluvankadavu.

Represented by :
Advs. Nicholas Joseph, Sojan Micheal, Delwin B.P., Joju J Mannoor, Sivasankar, Muhammed Shaheel B and Rangeeth G.S.

24. Rajeevan. P, S/o. Narayanan, aged 56 years, Poyil House, Pattuvam, Ariyil.

Represented by :
Advs. Nicholas Joseph, Sojan Micheal, Delwin B.P., Joju J Mannoor, Sivasankar, Muhammed Shaheel B and Rangeeth G.S.

25. V.V. Mohanan, S/o. Balan, aged 62 years, Naduvilepurayil House, Kannapuram, Keezhara, Valluvankadavu.

Represented by :
Advs. Nicholas Joseph, Sojan Micheal, Delwin B.P., Joju J Mannoor, Sivasankar, Muhammed Shaheel B and Rangeeth G.S.

26. Purushothaman.M.V @ Purushu, S/o. Koran, aged 58 years, Melothvalappil House, Kannapuram, Keezhara, Valluvankadavu.

Represented by :
Advs. Nicholas Joseph, Abhishek Kurian, Muhammed Shaheel B., Muhammed Shaheel B and Rangeeth G.S.

27. P. K.Ajithkumar, S/o. Raveendran Nambiyar, aged 56 years, Konath House, Morazha, Panneri.

Represented by :
Advs. Thomas Abraham, Sunil Kumar M and Ressil Lonan.

28. P.P. Suresan, S/o. Narayanan, aged 55 years, Padinjarepurayil House, Pattuvam, Idamudavu, Kaichanthadam.

Represented by :
Advs. Nicholas Joseph, Abhishek Kurian, Muhammed Shaheel B., Muhammed Shaheel B and Rangeeth G.S.

29. K. Babu, S/o. Balan, aged 53 years, Karangadan House, Pattuvam, Ariyil, Dharmakkinar.

Represented by :
Advs. Nicholas Joseph, Sojan Micheal, Muhammed Shaheel B, Abhishek Kurian, Jyothi R Nair and Rangeeth G.S.

30. U.V. Venu, S/o.Kunjiraman, aged 63 years, Ubravalappil House, Mulloor, Pattuvam.

Represented by :
Advs. Abishek Kurian, Sojan Micheal, Muhammed Shaheel B. and Rangeeth G.S.

31. A.V. Babu, S/o. Krishnan, aged 51 years, Anthoorveettil House, Vellikkeel, Morazha. **(No more)**

32. P. Jayarajan, S/o. Kunjiraman, aged 69 years, Kairali House, Pookkode, Koothuparambu.

Represented by :
Advs. Viswan K and Arun Bose.

33. T.V. Rajesh, S/o. Chanthukkutty, aged 52 years, Athrakkal House, Kulappuram, Cheruthadam.

Represented by :
Advs. Viswan K and Arun Bose.

Offence charged **:** U/ss. 143, 147, 148, 447, 450, 506(1), 364, 341, 323, 324, 307, 302, 109, 201, 120-B r/w

149 IPC.

Plea of Accused : Not guilty

Finding of Court : (i)The accused Nos.2, 4 to 6, 8, 11, 13, 17 to 19, 21 to 24, 29, 30, 32 and 33 are found not guilty of the offences charged against them and they acquitted U/s.235(1) of Cr.P.C/258(1) of BNSS. The bail bonds executed by them stand cancelled and they are set at liberty forthwith.

(ii)The accused No.1 is found guilty of the offences punishable U/Ss. 143, 147, 148, 302, 341, 323 and 324 r/w 149 IPC and he is convicted there under.

(iii)The accused No.3 is found guilty of the offences punishable U/Ss. 143, 147, 148, 302, 341, 323 and 324 r/w 149 IPC and he is convicted there under. He is found not guilty of the offence punishable U/s.307 IPC and acquitted for the said offence U/s.235(1) of Cr.P.C/258(1) of BNSS.

(iv)The accused No.7 is found guilty of the offences punishable U/Ss. 143, 147, 447, 452, 506(1), 364, 302, 341, 323 and 324 r/w 149 IPC and he is convicted there under.

(v)The accused No.9 is found guilty of the offences punishable U/Ss. 143, 147, 148, 447, 452, 506(1), 364, 302, 341, 323 and 324 r/w 149 IPC and he is convicted there under.

(vi)The accused No.10 is found guilty of the offences punishable U/Ss. 143, 147, 447, 452, 506(1), 364, 302, 341, 323 and 324 r/w 149 IPC and he is convicted there under.

(vii)The accused No.12 is found guilty of the offences punishable U/Ss. 143, 147, 447, 452, 506(1), 364, 302, 341, 323 and 324 r/w 149 IPC and he is convicted there under.

(viii)The accused No.14 is found guilty of the offences punishable U/Ss. 143, 147, 447, 452, 506(1), 341 r/w 149 IPC and he is convicted there under.

(ix)The accused No.15 is found guilty of the offences punishable U/Ss. 143, 147, 447, 452, 506(1), 364, 302, 341, 323 and 324 r/w 149 IPC and he is convicted there under.

(x)The accused No.16 is found guilty of the offences punishable U/Ss. 511 of 201 IPC and he is convicted there under.

(xi)The accused No.25 is found guilty of the offences punishable U/Ss. 143, 147, 447, 452, 506(1) and 341 r/w 149 IPC and he is convicted there under.

(xii)The accused No.26 is found guilty of the offences punishable U/Ss. 143, 147, 447, 452, 506(1) and 341 r/w 149 IPC and he is convicted there under.

(xiii)The accused No.27 is found guilty of the offences punishable U/Ss. 143, 147, 447,

452, 506(1) and 341 r/w 149 IPC and he is convicted there under.

(xiv)The accused No.28 is found guilty of the offences punishable U/Ss. 143, 147, 447, 452, 506(1) and 341 r/w 149 IPC and he is convicted there under. He is found not guilty of the offence punishable U/s. 120-B IPC and acquitted for the said offence U/s. 235(1) Cr.P.C/258(1) BNSS for the said offence.

(xv)The accused Nos.1, 3, 7, 9, 10, 12, 14, 15 and 25 to 28 are found not guilty of the offence punishable U/s. 109 IPC and accused Nos.1, 3, 7, 9, 10, 12 and 15 also U/s 307 r/w 149 IPC and acquitted for the said offences U/s 235(1)Cr.P.C/258(1) BNSS for the said offences.

(xvi)Charge against A20 and A31 abated as they are no more.

Sentence or Order : i) The accused No.1/convict is sentenced to suffer imprisonment for life and to pay fine of ₹.1,00,000/- and in default of payment of fine to suffer rigorous imprisonment for two years U/s.302 IPC. He is also sentenced to suffer rigorous imprisonment for 3 months U/s.143 IPC, rigorous imprisonment for 6 months U/s.147 IPC, rigorous imprisonment for one year U/s.148 IPC, rigorous imprisonment for 3 months U/s.323 IPC, rigorous imprisonment for one year U/s.324 IPC r/w. 149 IPC,

simple imprisonment for 2 weeks U/s.341 r/w.149 IPC. The substantive sentences shall run concurrently. The detention undergone by him during the course of investigation from 01.06.2012 to 07.09.2012 can be considered for set off, while the appropriate Government passes orders of remission of the sentence of imprisonment for life U/S. 473 of BNSS, subject to the provisions in section 475 of BNSS.

ii) The accused No.3/convict is sentenced to suffer imprisonment for life and to pay fine of ₹.1,00,000/- and in default of payment of fine to suffer rigorous imprisonment for two years U/s.302 r/w.149 IPC. He is also sentenced to suffer rigorous imprisonment for 3 months U/s.143 IPC, rigorous imprisonment for 6 months U/s.147 IPC, rigorous imprisonment for one year U/s.148 IPC, rigorous imprisonment for 3 months U/s.323 r/w. 149 IPC, rigorous imprisonment for one year U/s.324 IPC, simple imprisonment for 2 weeks U/s.341 r/w.149 IPC. The substantive sentences shall run concurrently. The detention undergone by him during the course of investigation from 01.06.2012 to 07.09.2012 can be considered for set off, while the appropriate Government passes orders of remission of the sentence of

imprisonment for life U/S. 473 of BNSS, subject to the provisions in section 475 of BNSS.

iii) The accused No.7/convict is sentenced to suffer imprisonment for life and to pay fine of ₹.1,00,000/- and in default of payment of fine to suffer rigorous imprisonment for two years U/s.302 r/w. 149 IPC. He is also sentenced to suffer rigorous imprisonment for 3 months U/s.143 IPC, rigorous imprisonment for 6 months U/s.147 IPC, rigorous imprisonment for 2 months U/s.447 r/w. 149 IPC, rigorous imprisonment for 6 months U/s.506(1) r/w. 149 IPC, rigorous imprisonment for 2 years and to pay fine of ₹.10,000/- and in default of payment of fine to suffer rigorous imprisonment for 3 months U/s.452 r/w.149 IPC, rigorous imprisonment for 4 years and to pay fine of ₹.25,000/- and in default of payment of fine to suffer rigorous imprisonment for one year U/s.364 r/w.149 IPC, simple imprisonment for 2 weeks U/s.341 r/w.149 IPC, rigorous imprisonment for 3 months U/s.323 r/w. 149 IPC, rigorous imprisonment for one year U/s.324 r/w. 149 IPC. The substantive sentences shall run concurrently. The detention undergone by him during the course of investigation from

29.03.2012 to 12.06.2012 can be considered for set off, while the appropriate Government passes orders of remission of the sentence of imprisonment for life U/S. 473 of BNSS, subject to the provisions in section 475 of BNSS.

iv) The accused No.9/convict is sentenced to suffer imprisonment for life and to pay fine of ₹.1,00,000/- and in default of payment of fine to suffer rigorous imprisonment for two years U/s.302 r/w. 149 IPC. He is also sentenced to suffer rigorous imprisonment for 3 months U/s.143 IPC, rigorous imprisonment for 6 months U/s.147 IPC, rigorous imprisonment for one year U/s.148 IPC, rigorous imprisonment for 2 months U/s.447 r/w. 149 IPC, rigorous imprisonment for 6 months U/s.506(1) r/w. 149 IPC, rigorous imprisonment for 2 years and to pay fine of ₹.10,000/- and in default of payment of fine to suffer rigorous imprisonment for 3 months U/s.452 r/w.149 IPC, rigorous imprisonment for 4 years and to pay fine of ₹.25,000/- and in default of payment of fine to suffer rigorous imprisonment for one year U/s.364 r/w.149 IPC, simple imprisonment for 2 weeks U/s.341 r/w.149 IPC, rigorous imprisonment for 3 months U/s.323 r/w. 149 IPC, rigorous

imprisonment for one year U/s.324 r/w. 149 IPC. The substantive sentences shall run concurrently. The detention undergone by him during the course of investigation from 29.03.2012 to 12.06.2012 can be considered for set off, while the appropriate Government passes orders of remission of the sentence of imprisonment for life U/S. 473 of BNSS, subject to the provisions in section 475 of BNSS.

v) The accused No.10/convict is sentenced to suffer imprisonment for life and to pay fine of ₹.1,00,000/- and in default of payment of fine to suffer rigorous imprisonment for two years U/s.302 r/w. 149 IPC. He is also sentenced to suffer rigorous imprisonment for 3 months U/s.143 IPC, rigorous imprisonment for 6 months U/s.147 IPC, rigorous imprisonment for 2 months U/s.447 r/w. 149 IPC, rigorous imprisonment for 6 months U/s.506(1) r/w. 149 IPC, rigorous imprisonment for 2 years and to pay fine of ₹.10,000/- and in default of payment of fine to suffer rigorous imprisonment for 3 months U/s.452 r/w.149 IPC, rigorous imprisonment for 4 years and to pay fine of ₹.25,000/- and in default of payment of fine to suffer rigorous imprisonment for one year U/s.364 r/w.149 IPC, simple imprisonment for 2 weeks

U/s.341 r/w.149 IPC, rigorous imprisonment for 3 months U/s.323 r/w. 149 IPC, rigorous imprisonment for one year U/s.324 r/w. 149 IPC. The substantive sentences shall run concurrently. The detention undergone by him during the course of investigation from 29.03.2012 to 23.06.2012 can be considered for set off, while the appropriate Government passes orders of remission of the sentence of imprisonment for life U/S. 473 of BNSS, subject to the provisions in section 475 of BNSS.

vi) The accused No.12/convict is sentenced to suffer imprisonment for life and to pay fine of ₹.1,00,000/- and in default of payment of fine to suffer rigorous imprisonment for two years U/S.302 r/w. 149 IPC. He is also sentenced to suffer rigorous imprisonment for 3 months U/s.143 IPC, rigorous imprisonment for 6 months U/s.147 IPC, rigorous imprisonment for 2 months U/s.447 r/w. 149 IPC, rigorous imprisonment for 6 months U/s.506(1) r/w. 149 IPC, rigorous imprisonment for 2 years and to pay fine of ₹.Rs.10,000/- and in default of payment of fine to suffer rigorous imprisonment for 3 months U/s.452 r/w.149 IPC, rigorous imprisonment for 4 years and to pay fine of ₹.25,000/- and in default of payment of fine

to suffer rigorous imprisonment for one year U/s.364 r/w.149 IPC, simple imprisonment for 2 weeks U/s.341 r/w.149 IPC, rigorous imprisonment for 3 months U/s.323 r/w. 149 IPC, rigorous imprisonment for one year U/s.324 r/w. 149 IPC. The substantive sentences shall run concurrently. The detention undergone by him during the course of investigation from 29.03.2012 to 12.06.2012 can be considered for set off, while the appropriate Government passes orders of remission of the sentence of imprisonment for life U/S. 473 of BNSS, subject to the provisions in section 475 of BNSS.

vi) The accused No.14/convict is sentenced to suffer rigorous imprisonment for 3 months U/s.143 IPC, rigorous imprisonment for 6 months U/s.147 IPC, rigorous imprisonment for 2 months U/s.447 r/w. 149 IPC, rigorous imprisonment for 6 months U/s.506(1) r/w. 149 IPC, rigorous imprisonment for 2 years and to pay fine of ₹.10,000/- and in default of payment of fine to suffer rigorous imprisonment for 3 months U/s.452 r/w.149 IPC and simple imprisonment for 2 weeks U/s.341 r/w.149 IPC. Set off is allowed U/s. 428 Cr.P.C/468 of BNSS in respect of the detention already undergone by him during

the course of investigation from 13.05.2012 to 26.07.2012.

viii) The accused No.15/convict is sentenced to suffer imprisonment for life and to pay fine of ₹.1,00,000/- and in default of payment of fine to suffer rigorous imprisonment for two years U/s.302 r/w. 149 IPC. He is also sentenced to suffer rigorous imprisonment for 3 months U/s.143 IPC, rigorous imprisonment for 6 months U/s.147 IPC, rigorous imprisonment for 2 months U/s.447 r/w. 149 IPC, rigorous imprisonment for 6 months U/s.506(1) r/w. 149 IPC, rigorous imprisonment for 2 years and to pay fine of ₹.10,000/- and in default of payment of fine to suffer rigorous imprisonment for 3 months U/s.452 r/w.149 IPC, rigorous imprisonment for 4 years and to pay fine of ₹.25,000/- and in default of payment of fine to suffer rigorous imprisonment for one year U/s.364 r/w.149 IPC, simple imprisonment for 2 weeks U/s.341 r/w.149 IPC, rigorous imprisonment for 3 months U/s.323 r/w. 149 IPC, rigorous imprisonment for one year U/s.324 r/w. 149 IPC. The substantive sentences shall run concurrently. The detention undergone by him during the course of investigation from 29.05.2012 to 14.08.2012 can be considered

for set off, while the appropriate Government passes orders of remission of the sentence of imprisonment for life U/S. 473 of BNSS, subject to the provisions in section 475 of BNSS.

ix) The accused No.16/convict is sentenced to suffer rigorous imprisonment for 2 years and to pay fine of ₹.10,000/- and in default of payment of fine to suffer rigorous imprisonment for 3 months under section 511 r/w.201 of IPC. Set off is allowed U/s. 428 Cr.P.C/468 of BNSS in respect of the detention already undergone by him during the course of investigation from 01.06.2012 to 07.09.2012.

x) The accused No.25/convict is sentenced to suffer rigorous imprisonment for 3 months U/s.143 IPC, rigorous imprisonment for 6 months U/s.147 IPC, rigorous imprisonment for 2 months U/s.447 r/w. 149 IPC, rigorous imprisonment for 6 months U/s.506(1) r/w. 149 IPC, rigorous imprisonment for 2 years and to pay fine of ₹.10,000/- and in default of payment of fine to suffer rigorous imprisonment for 3 months U/s.452 r/w.149 IPC and simple imprisonment for 2 weeks U/s.341 r/w.149 IPC. The substantive sentences shall run concurrently. Set off is allowed U/s. 428 Cr.P.C/468 of BNSS in

respect of the detention already undergone by him during the course of investigation from 28.04.2012 to 17.07.2012.

xi) The accused No.26/convict is sentenced to suffer rigorous imprisonment for 3 months U/s.143 IPC, rigorous imprisonment for 6 months U/s.147 IPC, rigorous imprisonment for 2 months U/s.447 r/w. 149 IPC, rigorous imprisonment for 6 months U/s.506(1) r/w. 149 IPC, rigorous imprisonment for 2 years and to pay fine of ₹.10,000/- and in default of payment of fine to suffer rigorous imprisonment for 3 months U/s.452 r/w.149 IPC and simple imprisonment for 2 weeks U/s.341 r/w.149 IPC. Set off is allowed U/s. 428 Cr.P.C/468 of BNSS in respect of the detention already undergone by him during the course of investigation from 25.05.2012 to 14.08.2012.

xii) The accused No.27/convict is sentenced to suffer rigorous imprisonment for 3 months U/s.143 IPC, rigorous imprisonment for 6 months U/s.147 IPC, rigorous imprisonment for 2 months U/s.447 r/w. 149 IPC, rigorous imprisonment for 6 months U/s.506(1) r/w. 149 IPC, rigorous imprisonment for 2 years and to pay fine of ₹.10,000/- and in default of payment of fine to suffer rigorous imprisonment for 3 months U/s.452 r/w.149

IPC and simple imprisonment for 2 weeks U/s.341 r/w.149 IPC. The substantive sentences shall run concurrently. Set off is allowed U/s. 428 Cr.P.C/468 of BNSS in respect of the detention already undergone by him during the course of investigation from 29.02.2012 to 26.05.2012.

xiii) The accused No.28/convict is sentenced to suffer rigorous imprisonment for 3 months U/s.143 IPC, rigorous imprisonment for 6 months U/s.147 IPC, rigorous imprisonment for 2 months U/s.447 r/w. 149 IPC, rigorous imprisonment for 6 months U/s.506(1) r/w. 149 IPC, rigorous imprisonment for 2 years and to pay fine of ₹.10,000/- and in default of payment of fine to suffer rigorous imprisonment for 3 months U/s.452 r/w.149 IPC and simple imprisonment for 2 weeks U/s.341 r/w.149 IPC. The substantive sentences shall run concurrently. Set off is allowed U/s. 428 Cr.P.C/468 of BNSS in respect of the detention already undergone by him during the course of investigation from 18.05.2012 to 01.08.2012.

xiv) Out of the compensation amount, if realised, ₹.5,00,000/- shall be paid to CW25, Athika, the mother of the deceased, as compensation U/s 357(1)(b) of Cr.P.C/395(1)(b) of BNSS.

xv) Send the accused Nos.1, 3, 7, 9, 10, 12, and 15 to Central Prison, Kannur, through the Superintendent of Sub Jail, Ernakulam, with warrant of confinement to suffer the sentence. The accused Nos.14, 16 and 25 to 28 can be released on bail, if they offer bail.

xvi) Destroy MO.1 to MO.5, MO.9 to MO.16, MO.18 and MO.19, being valueless (MO5 has become valueless due its old age and non user for the last 14 years). MO.6 to MO.8, MO.17 and MO.20 (with MO.8 knife) shall be confiscated and MO.21 can be released in favour of accused No.16. Disposal of MOs can be on expiry of appeal period or when an appeal is presented, after the disposal of the appeal. The motor cycles bearing Regn. Nos. KL-13-U-2973, KL-13-W-9804 and KL-13-V-3601 were already released in favour of accused Nos.16, 2 and 3 on bond, as per orders of the Hon'ble Court of Session, Thalassery and the said bonds are made absolute.

This Sessions Case coming on for final hearing on 16.11.2026 in the presence of Senior Public Prosecutor and Public Prosecutor/Counsel on both sides and having stood over for consideration till this day, the Court delivered the following :-

JUDGMENT

This is a case originally charge sheeted by the Inspector of Police, Valapattanam against the accused, thirty three in number, alleging offence punishable u/s. 143, 147, 148, 447, 450, 294(b), 506(i), 364, 341, 323, 324, 307, 302, 109, 201, 118 and 120B r/w. 149 IPC, in crime No. 136/2012 of Kannapuram police station.

Prosecution case

2. The prosecution case in short is as follows:- On 20.02.2012, at about 12.15 hours, while CWs. 1, 3 and 4, named P. Sakkariya/PW.1, N.K. Haris and Abdul Salam.P, along with one Abdul Shukkoor (the deceased) were walking after crossing the Valluvankadavu for the purpose of taking CW.2/PW.2, Ayoob P.V, to the St. Martin D' Poris Hospital, Cherukunnu, as he sustained injuries while playing cricket on the same day at about 9.00 am, the accused Nos. 4, 10, 13, 15 and 18 followed them, misunderstanding that they were involved in assaulting the accused Nos. 32 and 33, Sri. P.Jayarajan and Sri. T.V. Rajesh, who were the then Secretary of CPM, Kannur District Committee and MLA respectively, on the same day at 11.45 am. The accused Nos. 7 to 9, 21, 22, 23 and 26 along with some other persons came in front of the aforesaid witnesses and deceased, seeing them the witnesses and the deceased, due to fear of attack by the aforesaid persons, took shelter in the house of one Muhammed Kunhi (CW6). Thereafter, the accused Nos. 6, 11, 12, 14, 17, 19, 20, 24, 25, 27, 28 and 29 along with above

mentioned accused and 10-16 unidentified persons formed themselves into an unlawful assembly, armed with deadly weapons like iron rod, iron pipe etc., and wrongfully restrained PW.1, PW2, CW.3 and CW.4 referred to above and Abdul Shukkoor (the deceased) in the house of CW.6 referred to above from 12.30 noon till 2.00 p.m and criminally intimidated them. The accused No. 10 took photos of PW.1, PW.2, CW.3, CW.4 and Abdul Shukkoor in his mobile phone, the accused No. 11 take down the name and address of the aforesaid persons, the accused No. 10 informed the details to accused No. 31, who was there in room No. 315 of Co-operative Hospital, Taliparamba, where the accused Nos. 32 and 33 were admitted for treatment, the accused Nos.30, 28, 31 and 29 were also present in the said hospital, the accused Nos.28 to 31 hatched a criminal conspiracy inside the aforesaid room and also from outside the room of the said hospital between 1.00 p.m to 1.20 p.m, in furtherance of the said criminal conspiracy, the accused No. 30 stated to handle the Muslim League workers, who were confined in the house of CW.6 and authorized accused No.29, the Branch Secretary of CPM at Ariyil for that purpose. Thereupon, accused No. 29 went to the house of CW.6 along with accused No. 17 and gave direction to the accused Nos. 10 and 11 to execute the plan and thereafter the accused No.10 contacted the second accused over phone, thereupon the second accused along with first accused came to the scene of occurrence on the motor cycle bearing Regn. No.KL-13-W 9804 owned by the second accused, the third accused came there on his motor

cycle bearing Regn. No. KL-13-V 3601 and the 5th accused also reached there. The accused Nos.1 to 3 and 5, armed with deadly weapons, hide themselves near a vegetable garden panthal, by that time, PW.2, CW.3 and CW.4 referred to earlier were brought from the house of CW.6 forcibly by accused Nos.4, 6, 7, 8, 9, 10, 12, 13 and 15 to the paddy field named Chulliyottuvayal, which situates 300 metres north west from the house of CW.6 and at about 2.15 pm, the accused Nos. 1 and 6 slapped on the face of PW.2, the accused No.8 attempted to inflict injury to the aforesaid witnesses by means of an iron rod and the accused No.9 by means of an iron pipe and fearing attack the aforesaid witnesses ran away from the paddy field. Thereupon, the accused persons again went to the house of CW.6 and forcibly took PW.1 and Abdul Shukkoor to the aforesaid paddy field and from the ridge on the middle side of the paddy field at about 2.30 p.m, the accused Nos. 1 to 3 armed with daggers along with accused Nos 4,7 and 10 formed themselves into an unlawful assembly, the accused No.10 shouted to do away with PW.1 and Abdul Shukkoor and thereafter, the accused Nos. 4 and 7 caught hold on both hands of PW.1 towards rear side, the first accused slapped on the face of PW.1, the second accused inflicted injury on the back of left shoulder of PW.1 by means of a dagger and the third accused inflicted injury on the right hand muscle and forearm of PW.1 by means of a dagger and thereby attempted to murder PW.1. Seeing the said incident and on fear of death, Abdul Shukkoor attempted to ran away from

there, at that time the accused Nos.1 to 5 attempted to restrain Abdul Shukkoor, he escaped from the clutches of the accused and while he was running away from there, the second accused, from the ridge of the paddy field, inflicted injury on the abdomen of Abdul Shukkoor by means of a dagger and the first accused inflicted injury near the left chest of Abdul Shukkoor by means of another dagger.

3. On getting information about restraining of some IUML workers by the CPM activists in the house of CW.6, the police party under the leadership of one Narayanan, Grade Sub Inspector of Kannapuram police station (CW.56/PW.9) reached there at about 2.30 pm, they took PW.1, who came along the road with injury, to the St. Martin D' Poris Hospital, Cherukunnu. Later Abdul Shukkoor was seen at the ridge of paddy field inside the grasses with serious injuries, he was taken to the Medical College Hospital, Pariyaram, but unfortunately he succumbed to the injuries on his way to the hospital.

4. It is alleged that, the accused No. 16 concealed the dagger used by the first accused for inflicting injury to PW.1 and Abdul Shukkoor, with intention to cause disappearance of evidence of the offence. The accused Nos. 32 and 33 have knowledge about the plan to commit the aforesaid offences as a result of criminal conspiracy by accused Nos. 28 to 31 from inside room No. 315 and also from outside the said room of the Co-operative Hospital, Taliparamba to commit an offence punishable with death or

imprisonment for life, willfully concealed the said plan by not divulging to others. The acts of the accused persons were in furtherance of their common object. Thus the accused Nos.1 to 31 alleged to have committed the offence punishable u/s. 143, 147, 148, 447, 450, 294(b), 506(i), 364, 341, 323, 324, 307, 302, 109, 201 and 120B r/w. 149 IPC and the accused Nos. 32 and 33 alleged to have committed the offence punishable u/s. 118 r/w. 364, 307 and 302 IPC.

Registration of FIR and laying of Final Report

5. FIR in Crime 136/2012 of Kannapuram police station was registered by CW.56/PW.9, referred to above on the basis of first information statement of PW.1 and after completing the investigation, the Inspector of Police, Valapattanam laid final report before the JFCM Court-I, Kannur (hereinafter referred to as the first committal Court). During investigation, the accused Nos.1 to 3, 8, 11, 13 to 16, 20 to 22, 24 to 28 and 30 to 32 were arrested and produced before the first committal Court on different dates, they were remanded to judicial custody, some of them were entrusted to the police custody and subsequently, all of them were released on bail in compliance of orders in the bail applications passed by the Hon'ble High Court of Kerala. The accused Nos.4, 6, 7, 9, 10, 12, 17, 29 and 33 surrendered before the first committal Court on different dates, they were also remanded to judicial custody and subsequently released on bail. The accused Nos.5, 18, 19 and 23 were not arrested during investigation, as they were reported absconding.

Cognizance and Committal

6. On the basis of the final report, cognizance has been taken by the first committal Court for the said offences and registered the case as CP. No. 73/2012. All the accused, except A5, A18, A20 and A23, entered appearance before the learned Magistrate, the accused No.19 was released on bail during committal stage and the remaining appeared accused were already on bail during the course of the investigation. A20 was reported no more and accused Nos.5, 18 and 23 were reported absconding. Copies of the relevant prosecution records were furnished to the accused, who entered appearance before the first committal Court u/s.207 Cr.P.C and as per order dated 30.10.2012, the learned Magistrate has committed the case against A1 to 4, 6 to 17, 19, 21, 22 and 24 to 33 to the Hon'ble Court of Session, Thalassery U/s. 209(a) Cr.P.C and case against A5, A18 and A23 was split up and refiled as CP. No. 95/2012. Subsequently, on appearance of A5, he was released on bail and after complying sec. 207 Cr.P.C. the case against him was also committed to the Hon'ble Court of Session referred to above as per order dated 22.12.2012 and case against A18 and A23 was split up and refiled as C.P No.106/2012. Subsequently, on appearance of A18, he was also released on bail and after complying sec. 207 Cr.P.C. the case against him was also committed to the Hon'ble Court of Session referred to above.

7. On receipt of the records from the first Committal Court, the Hon'ble Court of Session, Thalassery took cognizance of the offences referred to earlier and registered the case as SC.845/2012.

Further Investigation and second committal

8. Meanwhile the mother of the deceased Abdul Shukkoor, one Smt.P.C. Athikka/CW.25 preferred Writ Petition before the Hon'ble High Court of Kerala as W.P.(C) No. 25123 of 2013 (M) to order further investigation by the CBI in order to rope in A32 and A33 for the offence punishable u/s. 120-B of IPC instead of 118 IPC charged by the police. The Hon'ble High Court of Kerala, as per judgment dated 08.02.2016, has allowed the said application and ordered further investigation as requested by the petitioner therein and entrusted the CBI for the same. On the basis of the said judgment, the CBI, Thiruvananthapuram unit has registered FIR No. RC.9(S)/2016/CBI/SCB/TVPM and conducted further investigation. After completing further investigation, Sri.Y.Harikumar, Additional Superintendent of Police, CBI/SCB/SPE/Thiruvananthapuram/PW.41 has laid supplementary final report u/s. 173 (8) Cr.P.C against the accused Nos. 32 and 33 for the offence punishable u/s. 120B r/w. 364, 307 and 302 IPC, before the Chief Judicial Magistrate, Ernakulam. The said final report has been returned by the CJM Court, Ernakulam to the CBI for filing before the proper Court, i.e. the Hon'ble Court of Session, Thalassery, which has already taken cognizance of the offence on the basis of the police report. Accordingly,

supplementary final report has been submitted before the Hon'ble Court of Session, Thalassery. Thereafter the Hon'ble High Court of Kerala, as per order in TR. P (CRL) No. 43 of 2019 dated 17.06.2019, has withdrawn the final report along with the supplementary charge laid by the CBI in SC. No. 845/2012 from the Hon'ble Court of Session, Thalassery and ordered to transmit the same to the CJM, Ernakulam with a direction to commit the case to this Court for trial and disposal. Accordingly, the records were transmitted to the CJM Court, Ernakulam.

9. On receipt of the records, the CJM Court, Ernakulam (hereinafter referred to as the Second Committal Court) has registered the case on the basis of the police report as C.P. No.3/2019 and the case on the basis of the supplementary charge was registered as C.P. No.4/2019.

10. The accused Nos.1 to 19 and 21 to 33 entered appearance before the Second Committal Court. The accused No. 23 was released on bail by the said Court. As stated earlier, A20 was reported no more and the remaining accused were already on bail. After complying the formalities, the case against the accused was committed by the Second Committal Court to the Hon'ble Court of Session, Ernakulam u/s. 209 (a) Cr.P.C as per two separate orders in CP. No. 03/2019 and 04/2019 dated 06.03.2020.

11. On receipt of the records, the Hon'ble Court of Session, Ernakulam took cognizance of the offences referred to earlier and registered the case against A1 to A33 on the basis of the final report by the State Police as SC.

No. 421/2020 and the case on the basis of the supplementary final report by the CBI as SC. No. 420/2020. These cases were made over to this Court for trial and disposal.

Appearance of the accused before this Court and Framing of Charge

12. All the accused except A20 entered appearance before this Court. SC. No. 420/2020 has been clubbed with SC. No. 421/2020, ie., the present case, as A32 and A33 are already arraigned in the present case. During the pendency of this proceeding, the accused No. 31 is also reported no more, the copy of the death certificate has been produced and accordingly, charge against A31 stood abated.

13. The accused Nos. 32 and 33 have filed Criminal M.P. No. 155/2023 for discharging them u/s. 227 of Cr.P.C. No application has been filed by the remaining accused for discharge.

14. After hearing both sides, this Court, as per order dated 19.09.2024, has disallowed the prayer for discharge by the accused Nos.32 and 33 and opined that there is a prima facie case against A32 and A33 for the offences punishable U/Ss. 120-B r/w 364, 307 and 302 IPC. Since the offence U/s. 120-B of IPC is prima facie attracted, there was no need to frame charge against the accused Nos.32 and 33 for the offence punishable U/s. 118 of IPC. This Court also formed an opinion that, as against accused Nos.1 to 19 and 21 to 30, offences U/Ss. 143, 147, 148, 447, 450, 506(i), 364, 341, 323, 324, 307, 302, 109, 201 and 120B r/w. 149 IPC is prima facie attracted.

Further, this Court was of the considered view that, the offence U/Ss. 294(b) and 118 of IPC was not prima facie attracted. Thereupon, a separate charge was framed against A1 to A19, 21 to 30, 32 and 33 on 18.10.2024 for the offences referred to above, the same was read over and explained to them, to which they pleaded not guilty and claimed to be tried.

Commencement of witness examination

15. Thereupon, after hearing both sides the case is scheduled for trial. At that stage, Senior Advocate Sri. B. Raman Pillai was instructed by the counsel appearing for accused Nos.1 to 15 to conduct the case on their behalf and a separate memo in that regard was filed before Court. Advocate K. Padmanabhan, Kanhangad was appointed as new lawyer by CW.25, the mother of the deceased along with earlier counsel Sri. P.A. Mohammed Shah and he has assisted the prosecution in conducting the case.

16. On the side of the prosecution PWs.1 to 41 were examined and marked Exts.P1 to P239, P10(a), P12(a) and P13(a). MO.1 to MO.21 were also identified and marked on the side of the prosecution. Exts.D1 to D14, C1 and C2 were marked during cross examination of the prosecution witnesses. CWs.3 to 6, 8 to 11, 13, 14, 16, 17, 19 to 21, 25, 27, 29, 31, 32, 35, 37, 39, 40, 43, 47, 52, 58 to 61, 63, 64, 67 to 69, 72, 74, 76, 78 and 80 to 82 were given up by the prosecution and separate endorsement has been made by the prosecutor on the final report. CWs.22 and 23 were not produced by the prosecution, as they were reported abroad. Though coercive steps were

taken to secure their presence, their presence could not be secured before Court. CW.50 is reported no more. CWs.16, 17, 18, 20, 22 and 24 in the supplementary final report submitted by the CBI were also given up by the prosecution. CW.15 in the supplementary final report submitted by the CBI was also reported no more. PWs.33, 34 and 36 are additional witnesses cited by the prosecution. CWs.1 to 14 and 19 shown in the supplementary final report by the CBI were already cited by the prosecution in the original final report submitted by the State Police.

Examination of the accused U/s.313 (1)(b) Cr.P.C/351(1)(b) of BNSS.

17. At the close of the evidence, the accused Nos.1 to 16, 18, 19, 21 to 30, 32 and 33 were examined U/s.313 (1)(b) Cr.P.C/351(1)(b) of BNSS. They generally denied all incriminating circumstances brought out against them in the prosecution evidence, through the witnesses. When the case was posted for examination of the accused, it is reported that the accused No.17 was admitted in the hospital for an operation and in the post operative ward. Since he could not appear before Court in person for the purpose of examination, the questionnaire of A17 was handed over to the counsel for the purpose of answering by the accused and returning with separate affidavit of the accused, as per order in Crl. M.P No.05/2026, dated 17.06.2026. The accused No.17 answered the questionnaire and resubmitted along with a separate affidavit on 22.06.2026.

18. The first accused has filed separate statement, saying that the entire prosecution case alleged against him and sought to be proved through the oral and documentary evidence are false and without any basis. PWs.1 and 2 and the deceased Shukkoor were not known to him and he had no animosity towards them, so as to attack and inflict injuries to them. He did not share common object with any of the accused in this case. On 31.05.2012 at about 10.00 a.m., two police officers came to his house and took him to the office of Dy.S.P Kannur and produced before Sri.P. Sukumaran, the then Dy.S.P. Kannur. From there he was taken to the Kannur City Police Station and he was interrogated by the police. He was requested to confess regarding the murder of Shukkoor, but he pleaded his ignorance. He was taken to the upstair hall of the police station and brutally assaulted by the Dy.S.P. and other police officers. Later, on 02.06.2012, he was produced before the Doctor at the District Hospital, Kannur and at that time, the police officers did not permit him to show the injuries to the doctor and also to give information regarding the assault by the police officers to the doctor. Later, he was taken to the office of Dy.S.P. and again he was assaulted by Dy.S.P Sukumaran on the allegation that he tried to disclose the details to the doctor. Later, at about 08.30 p.m., he was produced before the Magistrate, he has disclosed the ill-treatment by the police to the Magistrate and necessary direction was given by the Magistrate to the Superintendent of the Jail to render medical aid to him. Accordingly, he was treated at the District Hospital,

Kannur for a period from 03.06.2012 to 08.06.2012. Subsequently, when he was again produced before Court after medical aid, his detailed statement was recorded by the Magistrate. Besides that the statement of accused No.3 Anoop and accused No.16 Sajith were also recorded by the Magistrate and a suo-motu case was registered by the Magistrate against Dy.S.P. Sukumaran and the same is now pending before the JFCM Court-II, Kannur as C.C. No.1132/2012. Though the aforesaid Dy.S.P Sukumaran has preferred application to quash the said proceedings, the same was dismissed by the Hon'ble High Court of Kerala. He is falsely implicated in this case after taking into custody and subjecting him to brutal ill-treatment by the police. Since he gave statement before the Magistrate against the Dy.S.P and others, false evidence has been created against him. He did not gave confession statement before Dy.S.P. Sukumaran or before PW.39, Sri. Preman, the investigating officer of this case. The accused No.16 was not found out pursuant to the statement of the first accused and no weapons were recovered pursuant to such statement. He has no connection with MO.8 knife allegedly seized and produced before Court by the police. The allegation that the said knife is used by himself or other accused is only a created story by the prosecution. He did not point out any place to PW.39 as a place of concealment of the knife. Since the real culprits were not able to be booked for the alleged offence, he has been falsely implicated at the instance of the leaders of Muslim League in that locality. He was an active worker of D.Y.F.I

at Cherukunnu-Kannapuram Bhagam and he has been falsely implicated after brutal ill-treatment. The CDR allegedly in respect of his phone number is also a fabricated document. While he was in the custody of the police, he was shown to the witnesses and his photographs were also taken, to show the same to the witnesses before the test identification parade. Only with the aid of the said photographs and instruction, the witnesses identified by him before the Magistrate during test identification parade and also during evidence before Court. The Circle Inspector of Police, valapattanam had shown himself and other accused to the witnesses from the police station by mentioning their names. The witnesses were tutored by showing the photographs and only on the basis of the same, PWs.1 and 2 identified by him before Court. He maintained his stand of innocence.

19. The second accused has also filed a separate statement, contending that the entire allegations against him is false, the deceased Shukkoor and PWs.1 and 2 were not known to him and he had no animosity towards them. He did not inflict injuries to them. He has not participated in any offence by sharing common object with other accused as alleged by the prosecution. He was arrested by the police after 3 months of the incident at the instigation of the leaders of the Muslim League, as the real culprits were not able to be traced out by the police. When he was taken to police custody, he was brutally ill-treated by the police. He did not gave any statement before the police, no weapons were seized pursuant to his statement and he

has no connection with MO.6 knife produced before Court. The alleged seizure of the said weapon is only a created story by the police. The CDR details produced by the police in respect of his alleged phone number is also a created document. His name was informed to the witnesses before trial of this case and that is the reason why the witnesses have mentioned his name before Court. He was not identified by witnesses during test identification proceeding. He also maintained his stand of innocence.

20. The third accused has also filed a separate statement, contending that the entire allegations against him is false, the deceased Shukkoor and PWs.1 and 2 were not known to him and he had no animosity towards them. He did not inflict injuries to them. He has not participated in any offence by sharing common object with other accused as alleged by the prosecution. On 31.05.2012, the police officers came to his house and took him to the Kannur City Police Station and he was interrogated by the police. He was taken to the upstair hall of the police station, at that time Dy.S.P Sukumaran and others were seen assaulting the first accused Sumesh. Seeing the same, he cried aloud and at that time he was also brutally assaulted by the Dy.S.P. and other police officers, with a demand to confess regarding the murder of Shukkoor. Subsequently, on the same day, in the night, accused No.16, Sajith was also brought to the police station and he was also assaulted by the Dy.S.P. Later, on 02.06.2012 at about 4.30 p.m., he along with Sumesh and Sajith were produced before the Doctor at the District Hospital, Kannur. At

that time, the police officers did not permit Sumesh to disclose the details of assault before the doctor. Later, they were taken to the office of Dy.S.P. and again Sumesh was assaulted by Dy.S.P Sukumaran on the allegation that he tried to disclose the details to the doctor. Later, at about 08.30 p.m., they were produced before the Magistrate and Sumesh has disclosed the ill-treatment by the police to the Magistrate and necessary direction was given by the Magistrate to the Superintendent of the Jail to render medical aid to him. Accordingly, Sumesh was treated at the District Hospital, Kannur. On the basis of the statement of himself, Sumesh and Sajith, the Magistrate has suo-motu registered a case against Dy.S.P. Sukumaran and the same is now pending before the JFCM Court-II, Kannur. He is falsely implicated in this case after taking into custody and subjecting him to brutal ill-treatment by the police. Since he gave statement before the Magistrate against the Dy.S.P and others, false evidence has been created against him. He did not gave confession statement before Dy.S.P. Sukumaran or before PW.39, Sri. Preman, the investigating officer of this case and no weapons were recovered pursuant to such statement. He has no connection with MO.7 knife allegedly seized and produced before Court by the police. The allegation that the said knife is used by himself or other accused is only a created story by the prosecution. He did not point out any place to PW.9 as a place of concealment of the knife. The fact that MO.7 knife was shown to the doctor on 12.06.2012, as deposed by Dr.Gopalakrishna Pillai itself shows the falsity

of the prosecution case as MO.7 was allegedly seized only on 16.06.2012. The CDR allegedly in respect of his phone number is also a fabricated document. While he was in the custody of the police, he was shown to the witnesses and his photographs were also taken, to show the same to the witnesses before the test identification parade. Only with the aid of the said photographs and instruction, the witnesses identified by him before the Magistrate during test identification parade and also during evidence before Court. The Circle Inspector of Police, valapattanam had shown himself and other accused to the witnesses from the police station by mentioning their names. The witnesses were tutored by showing the photographs and only on the basis of the same, the witnesses identified him before Court. He also maintained his stand of innocence.

21. The 4th accused has also filed a separate statement, contending that the entire allegations against him is false, the deceased Shukkoor and PWs.1 and 2 were not known to him and he had no animosity towards them. He did not inflict any injuries to them. He has not participated in any offence by sharing common object with other accused as alleged by the prosecution. Since the investigating officer was not able to found out the real culprits, at the instance of the leaders of Muslim League and Indian National Congress at the locality, the activists of CPI(M), D.Y.F.I, S.F.I were falsely implicated in this case. As a result of the same, he himself was also added as an accused. He himself and others were produced before the JFCM-I, Kannur. They were

remanded to the judicial custody and before taking to the jail, their photographs were taken near the canteen, which situates close to the said Court building. He was the Branch Secretary of CPI(M), Chera Branch and President of D.Y.F.I of that zone and only due to that reason he has been falsely implicated as an accused. Only at the instruction and instigation of the CBI Officers and the lawyer aiding the prosecution, his name was stated by PW. 1 and PW.2 before Court. The CDR details allegedly in respect of his phone number is a created document. The fact that PWs. 1 and 2 were not able to identify him from the dock itself shows the falsity of the allegations against him. The evidence created by the investigating officer to connect him with the alleged crime are also false. He also maintained his stand of innocence.

22. The 5th accused has also filed a separate statement, contending that the entire allegations against him is false, the deceased Shukkoor and PWs.1 and 2 were not known to him and he had no animosity towards them. He did not inflict injuries to them. He has not participated in any offence by sharing common object with other accused as alleged by the prosecution. He is falsely implicated in this case at the instruction of League-Congress leaders. He was available in the locality, interrogated by the Circle Inspector of Police, valapattanam on several occasions and he was subsequently, added as an accused at the instance of Dy.S.P. Sukumaran. The allegation in the final report that he has absconded is incorrect. His photographs were

taken at the time of his interrogation by the Circle Inspector and only with the aid of the photographs and as instructed by the lawyer, who is assisting the prosecution, PW.1 has identified him before Court. He had no occasion to see PW.1 or PW.2 prior to their examination before Court. The fact that PW.2 identified him by mentioning the name of accused No.18 Naveen from the dock itself shows his false implication in this case. He is falsely implicated due to political pressure. He also maintained his stand of innocence.

23. The 6th accused has also filed a separate statement, contending that the entire allegations against him is false, the deceased Shukkoor and PWs.1 and 2 were not known to him and he had no animosity towards them. He did not inflict any injuries to them. He has not participated in any offence by sharing common object with other accused as alleged by the prosecution. There was series of incidents, by which the Muslim League activists committed acts of mischief to the house and establishments of CPI(M) sympathizers and also assault towards them during February, 2012 and the Tea shop of his father Gopalan was set at blaze in an incident which took place on 19.02.2012. There was tensed situation at Ariyil bhagam during that time. On 20.02.2012 at about 10.00 a.m., Sri. P. Jayarajan, the then Secretary of CPI(M) Kannur District Committee (A32 herein) and the then MLA Sri. T.V. Rajesh (A33 herein) along with other local leaders visited the houses and establishments, towards which violence has been unleashed by the League workers. While they were returning from Ariyil, certain persons

pelted stones towards the vehicle in which they were travelling, which resulted in sustaining injuries to Jayarajan and Rajesh and causing damage to the said vehicle. The injured persons were admitted at the Co-operative Hospital, Thaliparamba. On the same day at about 2.00 p.m., there was protest march under the leadership of K. Babu, the Branch Secretary of CPI(M), Ariyil Branch. He also participated in that protest march. When the march reached near K.M. Store at Ariyil, at about 2.15 p.m., a group of Muslim League activists came against them. At that time, some one from the last row of the march threw some explosive items, which resulted in explosion and as a result of the same, the League activists named Jubair, Ubaid, Mubasheer and others sustained injuries. In respect of the same, on the basis of the statement of Jubair, a case was registered by the police against himself, K. Babu (A29), Shaji, Bineesh, Sujin and other identifiable persons for the offence punishable U/s. 307 IPC and also U/s. 3 and 5 of the Explosive Substance Act, as crime No. 232/2012 of Thaliparamba police station. In that case, he himself and Babu were arrested and detained in judicial custody for several days. Subsequently, after arraying them in the present crime, a false report has been created stating that he himself and Babu were deleted from array of accused in crime No. 232/2012 of Thaliparamba police station and the same was done only after laying of the final report in the present case. He himself along with Babu and others were present at Ariyil from the morning on 20.02.2012 and participated in the

protest march at 2.15 p.m. and they were arrayed as accused in bomb blast case and in such circumstances the allegation that he along with others participated in the crime in the present case, which allegedly took place at a longer distance is not at all a believable story.

24. The accused No.7 also filed separate statement contending that he is falsely implicated in this case. According to him also, the deceased Shukkoor and PWs.1 and 2 were not known to him and he has no animosity against them. The photograph of himself and others were taken by the police and Muslim League activists near the canteen at the court compound and with the aid of the said photographs he himself and others were identified by the witnesses in the test identification parade. Moreover, his name was stated to the witnesses by the investigating officer. His name was not mentioned by any of the occurrence witnesses when the investigating officer questioned them on the next day of the incident. According to him, the final report has been laid with the aid of false and created documents. He also maintained his stand of innocence.

25. The accused No.8 also filed separate statement contending that he is falsely implicated in this case. According to him also, the deceased Shukkoor and PWs.1 and 2 were not known to him and he has no animosity against them. He is falsely implicated in this case at the instance of Muslim League-Congress leaders. He was not identified by the witnesses during test identification parade or before Court during trial. That itself shows the falsity

of the allegations against him. Only on the basis of the instructions given to the witnesses they deposed his name before Court. He also maintained his stand of innocence.

26. The accused No.9 also filed separate statement contending that he is falsely implicated in this case. According to him also, the deceased Shukkoor and PWs.1 and 2 were not known to him and he has no animosity against them. He is falsely implicated in this case at the instance of Muslim League-Congress leaders. His photograph was taken during investigation and also near the canteen at the Court compound and with the aid of the same, he was identified during test identification parade. Further, being an autorickshaw driver he used to go trip to Keezhara and nearby places. On the basis of the instruction and also with the aid of a photograph he was identified by Pws.1 and 2 before Court. If he was really involved in the incident, PW.3 Fathima and CWs.5 to 8 could have identified him and revealed his name before the investigating officer. He is arrayed as an accused only on the basis of false and fabricated evidence. He also maintained his stand of innocence.

27. The accused No.10 also filed separate statement contending that he is falsely implicated in this case. According to him also, the deceased Shukkoor and PWs.1 and 2 were not known to him and he has no animosity against them. He is falsely implicated in this case at the instance of Muslim League-Congress leaders. His photograph was taken during investigation

and also near the canteen at the Court compound and with the aid of the same, he was identified during test identification parade. Further, being the collection agent at the Service Co-operative Bank, Kannapuram, he used to go to Vellikkeel, Ariyil and nearby places. On the basis of the instruction and also with the aid of a photograph he was identified by PWs.1 and 2 before Court. If he was really involved in the incident, PW.3 Fathima and Cws.5 to 8 could have identified him and revealed his name before the investigating officer. He is arrayed as an accused only on the basis of false and fabricated evidence. The CDR produced by the investigating officer is not relevant for this case. During 2012, he was the Branch Secretary of CPI(M) and also the office bearer of D.Y.F.I and used to involve in various public issues. He used to call Vijesh, Santhosh (PW.18) and others for discussing the political matters and his mobile phone was inspected by the investigating officer, but the same was not seized to prove the allegation against him that he took the photographs of Shukkoor and others from the house of Muhammed Kunhi. If the mobile phone was seized and examined, the truth will be revealed and that is why the same was not seized by the police. He also maintained his stand of innocence.

28. The accused No.11 also filed separate statement contending that he is falsely implicated in this case. According to him also, the deceased Shukkoor and PWs.1 and 2 were not known to him and he has no animosity against them. He is falsely implicated in this case at the instance of Muslim

League-Congress leaders. He is the Assistant Manager of the then District Co-operative Bank, Kannur (Presently Kerala Bank) and he is residing at Morazha. There was no reason for him to reach the scene of occurrence, which situates at a longer distance. He was added as an accused at the instance of Sri.P. Sukumaran, the then Dy.S.P of Kannur, who was loyal to the then ruling party. His photograph was taken during investigation and with the aid of the same, he was identified during test identification parade. Only on the basis of the instruction, PWs.1 and 2 deposed his name before Court. The fact that, PWs.1 and 2 failed to identify him from the dock, shows that he is innocent of the offence charged against him. He is arrayed as an accused only on the basis of false and fabricated evidence. He also maintained his stand of innocence.

29. The accused No.12 also filed separate statement contending that he is falsely implicated in this case. According to him also, the deceased Shukkoor and PWs.1 and 2 were not known to him and he has no animosity against them. He is falsely implicated in this case at the instance of Muslim League-Congress leaders, as he is the son of one Vadi Ravi, member of CPI(M), Taliparamba Area Committee, District President of CITU and former Chairman of Taliparamba Municipality. His photographs in different poses were collected from his house and due to the continuous trouble by the police he along with others surrendered before Court on 29.03.2012, remanded to judicial custody and subsequently entrusted to police custody.

His photograph was taken during investigation and with the aid of the same, he was identified during test identification parade. He was subsequently pointed out by the investigating officer to the witnesses and his name was also stated to them for the purpose of recording the statement. Only on the basis of the same and with instruction, PW.1 identified him before Court. The evidence of PW.2 reveal that he was not present at the spot. He is arrayed as an accused only on the basis of false and fabricated evidence. He also maintained his stand of innocence.

30. The accused No.13 also filed separate statement contending that he is falsely implicated in this case. According to him also, the deceased Shukkoor and PWs.1 and 2 were not known to him and he has no animosity against them. He is falsely implicated in this case at the instance of Muslim League-Congress leaders. He was not identified by the witnesses during test identification parade. His photographs were taken after the test identification parade, the same was shown to the witnesses and further, he was shown to the witnesses by the investigating officer. Only on the basis of the same and with instruction, PW.1 identified him before Court. The evidence of PW.2 reveal that he was not able to identify this accused, instead he pointed accused No.16 as accused No.13. Moreover, his name was not stated by PW.3 or CWs.5 to 8 before the investigating officer, when they were interrogated on the next day of the incident. He is arrayed as an accused

only on the basis of false and fabricated evidence. He also maintained his stand of innocence.

31. The accused No.14 also filed separate statement contending that he is falsely implicated in this case. According to him also, the deceased Shukkoor and PWs.1 and 2 were not known to him and he has no animosity against them. He is falsely implicated in this case at the instance of Muslim League-Congress leaders. His photographs were taken during investigation and with the aid of the same, he was identified during the test identification parade. At the time of trial, he was pointed out by the leaders of Muslim League from the Court compound to PW.1 and on the basis of the same and instruction PW.1 identified him before Court. The evidence of PW.2 reveal that this accused was not present at the scene of occurrence. He was the ward member of local Panchayat and that is the reason for his false implication. Moreover, his name was not stated by PW.3 or CWs.5 to 8 before the investigating officer, when they were interrogated on the next day of the incident. He is arrayed as an accused only on the basis of false and fabricated evidence. He also maintained his stand of innocence.

32. The accused No.15 also filed separate statement contending that he is falsely implicated in this case. According to him also, the deceased Shukkoor and PWs.1 and 2 were not known to him and he has no animosity against them. He is falsely implicated in this case at the instance of Muslim League-Congress leaders. His photographs were taken during investigation

and with the aid of the same, he was identified during the test identification parade. Further, the investigating officer has introduced him to the witnesses by mentioning his name and recorded their statement. Moreover, he is a fisherman, frequently going to Valluvankadavu river and familiar to the witnesses. At the time of trial, he was pointed out by the leaders of Muslim League from the Court compound to PW.1 and on the basis of the same and instruction PW.1 identified him before Court. The evidence of PW.2 reveal that he identified one Naveen (A18) as A15 Shijin and the same also shows the innocence of this accused. He is a close neighbour of PW.3 Fathima and classmate of her daughter, frequently visiting their house. Moreover, his name was not stated by PW.3 or CWs.5 to 8 before the investigating officer, when they were interrogated on the next day of the incident. The fact that PW.3 failed to identify him as an accused also shows his innocence. He is arrayed as an accused only on the basis of false and fabricated evidence. He also maintained his stand of innocence.

33. The accused No.16 also filed separate statement contending that he is falsely implicated in this case. According to him also, the deceased Shukkoor and PWs.1 and 2 were not known to him and he has no animosity against them. He was taken to the Kannur City Police Station on 31.05.2012 and from there Sri.P. Sukumaran, the then Dy.S.P. of Kannur brutally assaulted him and asked him to admit that Sumesh has entrusted the knife to him, otherwise he will be implicated in the murder case. He declined for the

said demand and accordingly, he was again brutally attacked by Dy.S.P. At that time, one Sumesh was being taken by the police in an unhealthy condition. He was detained there till 02.06.2012 and on that day, he along with Sumesh and Anoop were produced before the doctor at the District Hospital, Kannur. When Sumesh attempted to disclose the assault by the police before the doctor, the accompanying police officers threatened them and as a result of the same, they were not able to disclose the details to the doctor. Subsequently, they were taken to the office of the Dy.S.P. Kannur and from there also, Sumesh was assaulted by the Dy.S.P. Later, when they were produced before the Magistrate, Sumesh and Anoop informed the acts of assault by the police to the Magistrate, accordingly, necessary directions were given to the jail Superintendent to render medical aid and accordingly, Sumesh was admitted to the District Hospital, Kannur. On the basis of the statement of Sumesh, Anoop and also on the basis of the medical records a suo motu case was registered by the Magistrate against Sri. Sukumaran Dy.S.P. Kannur and the same is now pending before the JFCM Court-II, Kannur. He did not gave statement before PW.39, Sri.Preman, the Circle Inspector of Police and nothing has been recovered pursuant to such statement or as lead by him. He has no connection with MO.8 knife and the same was not recovered at his instance. The allegation that the said knife was seized from the motor cycle parked at his house compound is only an imagination story created by the Dy.S.P. PW.20, Junaid has identified him

before Court only with the aid of the photograph taken while he was in custody. He never saw the said Junaid at any point of time. The said witness also had no occasion to see him earlier. He is only a witness sponsored by the Muslim League leaders. He also maintained his stand of innocence.

34. The accused No.17 also filed separate statement contending that he is falsely implicated in this case. According to him also, the deceased Shukkoor and PWs.1 and 2 were not known to him and he has no animosity against them. He has not committed any acts of violence in prosecution of the common object as alleged by the prosecution. He is residing at a long distance away from Keezhara, worked as conductor in KSRTC and there was no occasion for him to reach the scene of occurrence. Since the real culprits were not able to be searched out, he has been falsely implicated at the instance of Muslim League-Congress leaders. He along with others surrendered before Court on 29.03.2012, he was remanded to judicial custody and also in police custody. His photographs were taken during that period and the same was shown to the witnesses prior to the test identification parade and only with the aid of the same, PW.1 identified him during test identification parade. Though the witnesses/PWs.1 and 2 deposed his name before Court, they were unable to identify him before Court. He also maintained his stand of innocence.

35. The accused No.18 also filed separate statement contending that he is falsely implicated in this case. According to him also, the deceased

Shukkoor and PWs.1 and 2 were not known to him and he has no animosity against them. He has not committed acts of violence in prosecution of the common object as alleged by the prosecution. He was working abroad in a shipping company and came to India during February, 2012 to participate in the “Kaliyattam” festival of Keezhara koolom Bhagavathy temple, managed by Valluvan Community. He was falsely implicated in this case, as the investigating agency was not able to get confession statement from the accused No.10, as expected by them. The accused Nos.13, 15, 23 and 25, his close relatives were also falsely implicated in this case. He went back abroad and got information about his implication in this case at a later stage. On getting information about the same, he returned to India, surrendered before the Magistrate and he was released on bail on the same day. The allegation that, he absconded from the process of law is incorrect. PWs.1 and 2 deposed his name before Court only as per the instructions given by the police officers and counsel. It is also relevant that at the first instance PW.1 identified him as accused No.15 Shijin Mohan and only in the afternoon session, that too on getting his photograph over phone, PW.1 identified him. PW.2, though claimed that he can identify him, he identified accused No.5 Prakasan as the present accused No.18. That also indicates the falsity in the prosecution case. The fact that PW.3 and CWs.5 to 8 were not able to state his name before the investigating officer on the next day of the incident also shows that he is falsely implicated. Further, the non-identification of him by

PW.3 from dock also shows that he is falsely implicated. He also maintained his stand of innocence.

36. The accused No.19 also filed separate statement contending that he is falsely implicated in this case. According to him also, the deceased Shukkoor and PWs.1 and 2 were not known to him and he has no animosity against them. He has not committed acts of violence in prosecution of the common object as alleged by the prosecution. Since the death of Abdul Shukkoor was a sensational political issue during that period, several CPI(M) activists and sons of several CPI(M) leaders were falsely implicated in this case at the instance of UDF leaders. As a result of the same, he is also falsely implicated in this case being the son of State leader of CPI(M), named M.V. Govindan Master. Likewise the accused No.12 Bijumon was also added, being the son of a CPI(M) leader, Vadi Ravi. PWs.1 and 2 never mentioned his name during the investigation and he is falsely shown as an accused in the final report at the instance of the UDF leaders. He was interrogated by the Circle Inspector of Police, Valapattanam on various occasions and his innocence was ascertained by the Circle Inspector. Later, he was granted anticipatory bail by the Hon'ble High Court of Kerala. During further investigation by CBI, false statements were recorded, inculpating him. When PW.2 was examined before Court, it was stated by him that he knew about the name of this accused during examination alone. There was no steps taken by the CBI Officer to identify him through the witnesses. At the time of

trial, the political leaders of Muslim League had pointed out him to PW.2 and only on the basis of the same, PW.2 has identified him from the dock. If he was actually involved in the incident, attempt could have been made for his identification through PW.1. His parents are known politicians and he is also a social worker, having several friends. Mere production of CDR for one day will not serve any purpose and that itself shows the falsity in the prosecution allegation. He also maintained his stand of innocence.

37. The accused No.21 also filed separate statement contending that he is falsely implicated in this case. According to him also, the deceased Shukkoor and PWs.1 and 2 were not known to him and he has no animosity against them. He has not committed any acts of violence in prosecution of the common object as alleged by the prosecution. Since the investigating agency was not able to search out the real culprits, he has been falsely implicated in this case at the instance of the Muslim League-Congress leaders, being a CPI(M) activist. Though he was subjected to test identification during the course of the investigation, the witnesses were not able to identify him during test identification parade. During trial also, PWs.1 and 2 were not able to identify him from the dock. His name was given by the investigating officer to the witnesses and only on the basis of the same, the witnesses deposed his name before Court. He also maintained his stand of innocence.

38. The accused No.22 also filed separate statement contending that he is falsely implicated in this case. According to him also, the deceased

Shukkoor and PWs.1 and 2 were not known to him and he has no animosity against them. He has not committed any acts of violence in prosecution of the common object as alleged by the prosecution. Since the investigating agency was not able to search out the real culprits, he has been falsely implicated in this case at the instance of the Muslim League-Congress leaders, being a CPI(M)-CITU activist. Though he was subjected to test identification during the course of the investigation, the witnesses were not able to identify him during test identification parade. His photograph was taken by the investigating officer during investigation. His name and photographs were given by the investigating officer to the witnesses and only on the basis of the same, PW.1 has pointed out him from the dock. The fact that the witnesses were unable to identify him during test identification parade in all the three attempts establishes that he was not involved in the incident. He also maintained his stand of innocence.

39. The accused No.23 also filed separate statement contending that he is falsely implicated in this case. According to him also, the deceased Shukkoor and PWs.1 and 2 were not known to him and he has no animosity against them. He has not committed acts of violence in prosecution of the common object as alleged by the prosecution. He was working abroad and came to India during February, 2012 to participate in the “Kaliyattam” festival of Keezhara koolom Bhagavathy temple, managed by Valluvan Community. He was falsely implicated in this case, as the investigating agency was not

able to get confession statement from the accused No.10, as expected by them. The accused Nos.13, 15, 18 and 25, the close relatives of accused No.10 were also falsely implicated in this case. He returned to abroad and got information about his implication in this case at a later stage. On getting information about the same, he returned to India, surrendered before the Magistrate and he was released on bail on the same day. The allegation that, he absconded from the process of law is incorrect. PWs. 1 and 2 deposed his name before Court only as per the instructions given by the police officers and counsel. It is also relevant that, no attempt was made by PW.2 to identify him from the dock. His photographs were taken by the investigating officer during investigation and the same were shown to the witnesses and only on the basis of the same and also taking the fact that he was pointed out by the Muslim League leaders to PW.1 from the Court premises, PW.1 has identified him from the dock. The fact that PW.3 and CWs.5 to 8 were not able to state his name before the investigating officer on the next day of the incident also shows that he is falsely implicated. Further, the non-identification of him by PW.3 from dock also shows that he is falsely implicated. He also maintained his stand of innocence.

40. The accused No.24 also filed separate statement contending that he is falsely implicated in this case. According to him also, the deceased Shukkoor and PWs.1 and 2 were not known to him and he has no animosity against them. He has not committed acts of violence in prosecution of the

common object as alleged by the prosecution. He is engaged in prawn farming at the Ariyil river side for the last several years and he has purchased property for the same from PW.2's father. He is familiar to the persons residing there, including PW.1, PW.2, CW.3, CW.4 and the deceased Shukkoor. He was in friendly relationship with them and used to discuss various issues including politics. He had no occasion to reach Keezhara to commit the alleged offence. He was not present at the scene of occurrence as deposed by PW.1 and PW.2. If he was present there on the date of the incident, PW.1 ought to have mentioned his name while giving Ext.P1 F.I statement on 20.02.2012. His involvement has been recorded in the statement of the witnesses at a later stage on 28.02.2012, at the imagination of the investigating officer and not stated by the witnesses. Subsequently, he was falsely arrested on 11.03.2012, his custody has been obtained on the basis of the aforesaid false statement of the witnesses. After the death of Abdul Shukkoor, the Muslim League activist unleashed violence at Ariyil and Pattuvam area and his prawn farm (ചെമ്മീൻകണ്ടി) and the equipments therein were also destroyed by them. Since he has complained about the same before the police, at the instance of the Muslim League leaders he has been falsely implicated in this case. He was not subjected to any test identification during investigation. Though the call data records (CDR), connecting his mobile phone number was seized during investigation under Ext.P37 seizure mahazar, the same was not produced before Court. He

reiterated his contention that he is falsely implicated in this case and maintained his stand of innocence.

41. The accused No.25 also filed separate statement contending that he is falsely implicated in this case. According to him also, the deceased Shukkoor and PWs.1 and 2 were not known to him and he has no animosity against them. He has not committed acts of violence in prosecution of the common object as alleged by the prosecution. He was falsely implicated in this case, as the investigating agency was not able to trace out the real culprits. Several CPI(M), D.Y.F.I and S.F.I activists were falsely implicated in this case at the instance of Muslim League-Congress leaders. Since the investigating officer was not able to obtain the expected statement from those accused persons including N.P. Dinesan, the accused Nos.13, 15, 18 and 23, the close relatives of accused No.10 were also falsely implicated in this case. His photographs were taken by the investigating officer during investigation and the same were shown to the witnesses and only on the basis of the same the witnesses identified him during test identification parade. Later, on obtaining police custody also he was shown to the witnesses by the Circle Inspector of Police, Valapattanam. His name was also informed to the witnesses. Only on the basis of the same, PW.1 has identified him before Court. He has been implicated as an accused in this case being the father of a S.F.I leader named Shijin. The fact that PW.3 and CWs.5 to 8 were not able to state his name before the investigating officer on the next day of the

incident also shows that he is falsely implicated. Further, the non-identification of him by PW.3 from dock also shows that he is falsely implicated. He also maintained his stand of innocence.

42. The accused No.26 also filed separate statement contending that he is falsely implicated in this case. According to him also, the deceased Shukkoor and PWs.1 and 2 were not known to him and he has no animosity against them. He has not committed acts of violence in prosecution of the common object as alleged by the prosecution. He was falsely implicated in this case, as the investigating agency was not able to trace out the real culprits. Several CPI(M), D.Y.F.I and S.F.I activists were falsely implicated in this case at the instance of Muslim League-Congress leaders. His photographs were taken by the investigating officer during investigation and the same were shown to the witnesses and only on the basis of the same the witnesses identified him during test identification parade. Later, on obtaining police custody also he was shown to the witnesses by the Circle Inspector of Police, Valapattanam. His name was also informed to the witnesses. Only on the basis of the same, PW.1 and PW.2 have identified him before Court. He also maintained his stand of innocence.

43. The accused No.27 also filed separate statement contending that he is falsely implicated in this case. According to him, he was working as a driver in the Kerala Fire Force since 2001 and retired on 30.04.2026 from Fire Station Payyannur. He is a drama artist and acted in dramas organized by

different ‘Nataka Samithees’. Due to urinary infection he availed leave for two weeks from 08.02.2012 and he was on medical leave during that period. On 20.02.2012 at 11.00 a.m., he went to the Taliparamba Co-operative Hospital along with his wife to visit his brother-in-law’s wife Bindu, who was admitted in that hospital for delivery. He was there in that hospital for some time and returned home by 04.00 p.m. He came to know about the incident at Keezhara only through Television. After completing his medical leave he went to Kasaragod and joined at the Kasaragod Fire Station on 22.02.2012. While so, he was arrested from Kasaragod on 29.02.2012 on the false allegation of his involvement in the Shukkoor murder case. He did not went to Keezhara on 20.02.2012 to participate in commission of the offence as alleged by the prosecution and he was not at all involved in the alleged incident. While he was interrogated by the police, his photographs in different poses were taken by the investigating officer. His photographs were exhibited in different flex boards, for publicity of the dramas. He is having cat’s eye (പൂച്ചക്കണ്ണ്) and that similarity was informed to the witnesses, besides showing his photographs and only on the basis of the same, the witnesses identified him during test identification parade. He is seeing PW.1 and PW.2 for the first time during test identification parade. Only on the basis of the reason stated above, PW.1 and PW.2 identified him from the dock during trial. He has informed the investigating officer about his innocence even at the time of his arrest and it was also stated by him that his innocence can be proved by

verifying the tower location and call details relating to his phone number. He has furnished the details of his mobile phone -9846843769- to the investigating officer and the call details record and tower locations were collected by the investigating officer under Ext.P72 seizure mahazar, but the same were not produced before Court. He did not went to the house of Muhammed Kunhi or to the Keezhara locality on the date of alleged incident and he has been falsely implicated in this case, being an artist associated with 'Nataka Samithi', which is loyal to LDF. He has not involved in any case till date and he has no connection with the incident relating to the death of Shukkoor. He maintained his stand of innocence.

44. The accused No.28 also filed separate statement contending that he is falsely implicated in this case. According to him also, the deceased Shukkoor and PWs.1 and 2 were not known to him and he has no animosity against them. He has not committed any acts of violence in prosecution of the common object as alleged by the prosecution. He is residing at Mullool near Ariyil. Several LDF activists were attacked by the Muslim League activists during February 2012. The houses and establishments of LDF activists were also destroyed by them. Such an incident took place on 19.02.2012 in the morning and night. Due to that there was tensed situation prevailing in that area. On 20.02.2012 at about 10.00 a.m., the accused Nos.32 and 33 visited those places and while they were returning from there and reached near the Muslim League Office at Ariyil at about 11.45 a.m., the Muslim League

activists pelted stones towards the vehicle in which accused Nos. 32 and 33 were travelling which resulted in sustaining of injuries to them and others. Several protest marches were conducted in Kannur District on that day and a similar protest march was conducted at Taliparamba on that day at 1.30 p.m., under the leadership of himself and accused No.30, U.V. Venu. He was the Secretary of the CPI(M), local committee, Ariyil. Similar protest march was conducted at Ariyil under the leadership of accused No.29, K. Babu, the Secretary of Ariyil Branch of CPI(M). A bomb blast occurred while the said march was in progress at Ariyil. He did not went to Keezhara as on the date of the incident, the allegation that PW.1 and PW.2 identified him from the scene of occurrence is incorrect, if actually PW.1 and PW.2 have seen him on the date of the incident, PW.1 ought to have mentioned his name while giving the F.I. statement on 20.02.2012. He was not identified by PW.2 Ayoob, Haris or Abdul Salam during test identification parade. Since he is known to PW.1 earlier and also on the basis of the information given by the police, PW.1 has identified him during test identification parade. After the test identification parade the investigating officer has shown him to the witnesses by mentioning his name and false statements were recorded. His photographs were also taken at that time. Relying on the same, PW.1 and PW.2 have identified him from the dock during trial. He has been falsely implicated in this case at the instance of Muslim League leaders. He did not went to Co-operative Hospital, Taliparamba on 20.02.2012 after 01.00 p.m as alleged by

the prosecution and he was not a party to the alleged criminal conspiracy with Jayarajan, T.V. Rajesh, U.V. Venu, A.V. Babu and K. Babu. He also maintained his stand of innocence.

45. The accused No.29 also filed separate statement contending that he is falsely implicated in this case. According to him also, the deceased Shukkoor and PWs.1 and 2 were not known to him and he has no animosity against them. He has not committed acts of violence in prosecution of the common object as alleged by the prosecution. He is residing at a place away from Keezhara and he had no occasion to reach the scene of occurrence as alleged by the prosecution. He is residing near Dharmakinar, Ariyil in Pattuvam Panchayat and several LDF activists were attacked by the Muslim League activists during February 2012. The houses and establishments of LDF activists were also destroyed by them. Such an incident took place on 19.02.2012 in the morning and night. Due to that there was tensed situation prevailing in that area. On 20.02.2012 at about 10.00 a.m., the accused Nos.32 and 33 visited those places and while they were returning from there and reached near the Muslim League Office at Ariyil at about 11.45 a.m., the Muslim League activists pelted stones towards the vehicle in which accused Nos. 32 and 33 were travelling, which resulted in sustaining injuries to them and others. They along with other injured persons were taken to the Co-operative hospital, Taliparamba for treatment. Several protest marches were conducted in Kannur District on that day and a similar protest march was

conducted at Ariyil under his leadership. A bomb blast occurred while the said march was in progress at Ariyil, which resulted in sustaining injuries to Muslim League activists named Jubair, Ubaid, Mubasheer and others. Fearing that the Muslim League activists will attack them, he along with others escaped from there. In respect of the said bomb blast a case was registered by the police arraying himself and accused No.6 Umesan as accused No.1 and 2 and one Shaji, Vineesh, Sujin and other identifiable persons as co-accused, alleging the offence punishable U/s. 307 IPC and also U/s. 3 and 5 of the Explosive Substance Act, as Crime No. 232/2012 of Taliparamba police station. He himself and Umesan/A6 were arrested for that crime and detained in judicial custody for several days. They were subsequently falsely implicated in this case and only after submission of final report in this case, he himself and Umesan were deleted from the array of accused in Crime No. 232/2012 referred to above. The allegation that the witnesses identified him from Keezhara is a false allegation. If he was present at Keezhara at the time of the incident, PW.1 ought to have furnished his name while giving F.I statement on 20.02.2012 as he is well known to PW.1 and PW.2, being a neighbour. The prosecution has not collected the call history relating to his phone number for one week prior to the incident and that itself indicate that he was falsely implicated in this case. Collection of the call details for a single day alone was done by the investigating agency. He also maintained his stand of innocence.

46. The accused No.30 also filed separate statement contending that he is falsely implicated in this case. According to him, the allegation of criminal conspiracy against him is a false allegation. He has not participated in any such conspiracy and he has no knowledge about the same. He was the Manager of Ezhome Service Co-operative Bank and also the Secretary of the local committee of CPI(M) at Ariyil. The allegation against him is the imagination of the investigating agency to implicate the accused Nos. 32 and 33 for the criminal conspiracy. He did not went to Co-operative Hospital, Taliparamba on 20.02.2012 between 01.00 p.m. and 1.20 p.m., as alleged by the prosecution. He did not met Sri. P. Jayarajan or T.V. Rajesh (A32 and A33) from the Co-operative Hospital, Taliparamba. He did not met the accused Nos. 28, 29 and 31, Suresan, K. Babu and A.V. Babu (he is no more) as alleged by the prosecution. The accused Nos. 32 and 33 were falsely implicated in this case at the instance of the then Dy.S.P of Kannur Sri.P. Sukumaran and as a part of the story created by him, the accused No.30 is also falsely implicated as an accused. He participated in a protest march at Taliparamba from 01.00 p.m. onwards on 20.02.2012 and as per his request, a similar protest march was conducted at Ariyil under the leadership of accused No.29, K. Babu and a bomb blast occurred while the said march was in progress, which resulted in sustaining injuries to 3 Muslim League activists. The accused Nos. 29 and 6 were arrayed as accused in that case. He had conversation over phone with Branch Secretaries and party workers

in connection with the said march and incidents and besides that he had no conversation with any of the accused in this case as alleged by the prosecution. The call data records relating to his phone number were created by the police after 3 months of the incident. The customer application form and other details relating to his phone number were not produced by the prosecution. He has no knowledge about the incident in connection with this case. He also maintained his stand of innocence.

47. The accused No.32 also filed separate statement contending that he is falsely implicated in this case. According to him, the allegation of criminal conspiracy against him is a false allegation. He has not participated in any such conspiracy and he has no knowledge about the same. Since there was series of attacks against the CPI(M) activists/sympathizers and also towards their houses, establishments etc., at Pattuvam – Ariyil bhagam, at the instance of Muslim League activists in the month of February, 2012, several persons sustained injuries and mischief has been committed to the houses and establishments. On getting information about the same, he along with the accused No.33, T.V. Rajesh, who was the then MLA of that constituency, visited Ariyil bhagam on 20.02.2012 at about 10.00 a.m. After completing their visit, while they were returning from there and reached near the Muslim League office and mosque at Ariyil, some Muslim League activists pelted stones towards the vehicle in which they were travelling, as a result of the same, he himself, accused No.33 Rajesh, one Balakrishnan and

Rajeevan also sustained injuries and all of them were taken to the Co-operative Hospital, Taliparamba, they reached there at 12.30-12.40 p.m., admitted for treatment at Room No.315 and they were discharged on 21.02.2012. Several CPI(M) activists and leaders came to the hospital and a meeting was held in Room No. 315 and they decided to protest against the attack by Muslim League activists by conducting peaceful harthal on 21.02.2012 in Kannur District. The Taliparamba police has recorded his statement and registered F.I.R as Crime No. 229/2012 against Muslim League activists. Absolutely, there was no conspiracy to commit any offence from Room No. 315 of the hospital as alleged by the prosecution. There was no conversation between himself and accused No.33 with the accused Nos.29 to 31 from said Room of the hospital to commit the offence alleged in this case. Further, the accused No.29 to 31 were not at all present within the vicinity of the hospital. Further, Sakkariya, PW.1, PW.2 or Cws.3 and 4 were not arrayed as accused in Crime No.229/2012 and as such absolutely, there was no reason to conspire to do away with them. He is accompanied by a Police Security Officer at all time and one Pramod K. was the PSO present along with him on 20.02.2012. Though he was cited as a witness to prove the conspiracy, he was not examined by the prosecution on the belief that if he is examined, the truth will come out. He himself and accused No.33 were arrayed as accused in this case at the instance of Sri.P. Sukumaran, the then Dy.S.P. of Kannur, as instigated by the Muslim League-Congress leaders.

Though the State Police has charged section 118 IPC against himself and accused No.33, as per the directions of the Muslim League leaders, the mother of the deceased Shukkoor has preferred Writ Petition before the Hon'ble High Court of Kerala and the CBI, without conducting proper investigation, has charged them for the offence of criminal conspiracy. Many of the witnesses cited to prove the alleged criminal conspiracy were not examined before Court. He also maintained his stand of innocence.

48. The accused No.33 also filed separate statement contending that he is falsely implicated in this case. According to him, the allegation of criminal conspiracy against him is a false allegation. His statement is almost in tune with the statement submitted by the accused No.32. In order to avoid repetition I am not reproducing the very same statement. He also maintained his stand of innocence.

Hearing under Section 232 Cr.P.C/255 of BNSS

49. After examination of the accused U/s.313(1)(b) Cr.P.C/351(1)(b) of BNSS, the case was posted for hearing U/s.232 Cr.P.C/255 of BNSS. Both sides were heard U/s.232 Cr.P.C/255 of BNSS. Absolutely, there was no prayer by any of the accused to acquit them U/s.232 Cr.P.C/255 of BNSS. I have perused the available records. There is evidence against the accused and accordingly, I was of the view that this is not a case in which Section 232 Cr.P.C/255 of BNSS is to be invoked to acquit the accused. Accordingly, the

accused persons were called upon to enter their defence and to adduce evidence, if any, on their side.

Defence Evidence and Hearing

50. Thereupon, list of witnesses has been submitted on behalf of accused No.27. DWs.1 and 2 were examined and Exts. D15 and D16 were marked on the side of accused No.27. Subsequently, PW.36 was summoned to produce the documents, as per order in Crl.M.P 609/2025. The documents produced by him were marked as Ext.X1 series. No further evidence has been adduced on the side of accused No.27. Absolutely, there is no further evidence adduced on the side of the accused No.1 to 19, 21 to 26, 28 to 30, 32 and 33.

51. Both sides were heard at length. The learned counsel appearing for the accused and the counsel, who has assisted the prosecution have submitted separate memorandum of arguments, along with copies of the citations relied on by them. I have perused the available records.

Points for determination

52. Now the points that arise for determination are as follows:-

i) Whether the accused Nos. 4, 10, 13, 15 and 18 followed the PW.1, PW.2, Abdul Shukkoor(deceased), CWs.3 and 4 by forming themselves into an unlawful assembly with the common object of attacking the aforesaid witnesses and Shukkoor and as a part of the same transaction, the accused

Nos.7 to 9, 21 to 23, 26 along with 10 to 12 unidentified persons came in front of the aforesaid witnesses and Shukkoor by forming themselves into an unlawful assembly at Valluvankadavu on 20.02.2012 at about 12.15 hours as alleged by the prosecution?

ii) Whether on the same day at about 12.30 hours, the accused Nos.6, 11, 12, 14, 17, 19, 20(no more), 24, 25 and 27 to 29 along with other unidentified 10-16 persons joined the aforesaid unlawful assembly with the common object of assaulting aforesaid witnesses and Shukkoor as alleged by the prosecution?

iii) Whether the accused Nos. 4, 10, 13, 15, 18, 7 to 9, 21 to 23, 26, 6, 11, 12, 14, 17, 19, 20(no more), 24, 25 and 27 to 29, being members of unlawful assembly used force and violence as alleged by the prosecution?

iv) Whether the accused Nos. 4, 10, 13, 15, 18, 7,8, 9, 21 to 23, 26, 6, 11, 12, 14, 17, 19, 20(no more), 24, 25 and 27 to 29 along with other unidentified persons criminally trespassed into the house compound of CW.6 Mohammed Kunhi, with an intention to assault and criminally intimidate the witnesses as alleged by the prosecution?

v) Whether the accused Nos. 4, 10, 13, 15, 18, 7,8, 9, 21 to 23, 26, 6, 11, 12, 14, 17, 19, 20(no more), 24, 25 and 27 to 29 along with other unidentified persons criminally intimidated PW.1, PW.2 and others as alleged by the prosecution?

vi) Whether the accused Nos.28 to 33, on the same day between 01.00 p.m. and 1.20 p.m., hatched criminal conspiracy from Room No.315 of Co-operative Hospital, Taliparamba to assault and commit murder of Abdul Shukkoor and also to attempt the murder of PW.1 Sakkariya, by abducting them from the house of CW.6 Mohammed Kunhi as alleged by the prosecution?

vii) Whether pursuant to the conspiracy referred to above, the accused Nos.17 and 29 reached the house of CW.6 and gave instruction to accused Nos.10 and 11 to execute the plan and after giving information over phone to the accused Nos.1 to 3 and 5 and as a result of the same, the accused Nos.1 to 3 and 5 also joined the unlawful assembly and committed rioting as alleged by the prosecution?

viii) Whether the accused Nos. 1 to 3, 8 and 9 being members of an unlawful assembly were armed with deadly weapons like daggers/knife, iron rod and iron pipe as alleged by the prosecution?

ix) Whether the accused Nos.4, 6, 7 to 10, 12, 13 and 15 committed house trespass to the house of one Muhammed Kunhi/CW.6 with an intention to commit offence punishable with imprisonment for life as alleged by the prosecution?

x) Whether the accused Nos. 4, 6, 7 to 10, 12, 13 and 15 abducted PW.2 Ayoob, CW.3 Haris and CW.4 Abdul Salam from the house of Muhammed Kunhi/CW.6 to a paddy field named Chulliyottuvayal, as alleged by the prosecution?

xi) Whether the accused Nos.1 and 6 voluntarily caused hurt to PW.2, Ayoob as alleged by the prosecution?

xii) Whether the accused Nos.8 and 9 criminally intimidated PW.2, Ayoob, CW.3 Haris and CW.4 Abdul Salam by showing iron rod and iron pipe as alleged by the prosecution?

xiii) Whether the accused Nos. 4, 6 to 10, 12, 13 and 15 abducted PW.1 Sakkariya and the deceased Abdul Shukkoor from the house of Muhammed Kunhi/CW.6 to a paddy field named Chulliyottuvayal, as alleged by the prosecution?

xiv) Whether the accused Nos.4 and 7 wrongfully restrained PW.1, Sakkariya from the paddy field as alleged by the prosecution?

xv) Whether the accused No.1 voluntarily caused hurt to PW.1 by slapping on his face as alleged by the prosecution?

xvi) Whether the accused Nos.2 and 3 voluntarily caused hurt to PW.1 Sakkariya by means of dagger/knife, deadly weapons as alleged by the prosecution?

xvii) Whether the accused Nos.2 and 3 attempted to commit murder of PW.1 Sakkariya by inflicting serious injuries to him by means of dagger/knife, deadly weapons as alleged by the prosecution?

xviii) Whether the accused Nos. 1 to 5 wrongfully restrained Abdul Shukkoor (the deceased) from the paddy field as alleged by the prosecution?

xix) Whether the accused Nos.1 and 2 inflicted serious injuries to the abdomen and chest respectively of Abdul Shukkoor (the deceased) by means of dagger/knife, with the intention and knowledge of causing his death and as a result of the same, Shukkoor succumbed to the injuries and thereby whether A1 and A2 have committed murder of Abdul Shukkoor as alleged by the prosecution?

xx) Whether the accused Nos.1 to 19 and 21 to 29 have abetted commission of the aforesaid offences as alleged by the prosecution?

xxi) Whether the accused No.16 concealed the dagger used by the first accused to inflict injury to Abdul Shukkoor and thereby

attempted to disappear evidence, with an intention to screen the accused No.1 from legal punishment as alleged by the prosecution?

xxii) Whether the aforesaid acts of the accused persons were in prosecution of the common object of the unlawful assembly as alleged by the prosecution?

xxiii) Whether the accused Nos. 1 to 19, 21 to 30, 32 and 33 are guilty of the offences charged against them?

xxiv) If they are found guilty, what is the proper sentence to be imposed on them?

Oral and Documentary Evidence

53. Before considering the points the available evidence before Court can be briefly stated.

PW1

54. PW.1, Sakkariya is the injured and occurrence witness. It is the version of PW.1 that on 20.02.2012, while they were playing cricket at Kothayi, his friend Ayoob (PW.2) sustained injuries, accordingly he along with his other friends Haris (CW.3), Abdul Salam (CW.4) and Abdul Shukkoor (the deceased) took PW.2 to the Mission Hospital, Cherukunnu and for that purpose, they crossed the river at Ariyil Kuthirappuramkadavu in a boat and reached Valluvankadavu. The boat was controlled by CW.3 Haris and PW.1 also took control of the boat for sometime. While they were walking towards

Mission Hospital from the Valluvankadavu, 5-6 persons followed them. On the previous day there was commotion between CPI(M) League activists at Ariyil and there was a propaganda by CPI(M) activists that Shukkoor and others have committed acts of mischief to the house of CPI(M) activists. So PW.1 and others feared that those persons followed them due to that reason. While they entered the varamba of Chulliyottuvayal from the road and moved some distance, around 10-12 persons came in front of them with wooden stick and iron pipe for assaulting PW.1 and others. Therefore, PW.1 and others went to the veranda of house of one Muhammed Kunhi (CW.6) and Abdul Shukkoor (the deceased) requested for drinking water and all of them drunk water from that house. By that time, the persons followed them also reached at the courtyard of that house. They beat on the grills on the veranda of the house by means of wooden stick and iron rod, which resulted in sustaining injuries to the right hand finger of PW.1, as he was catching hold on the grills. They shouted to release PW.1 and others by saying that "ഇറക്കി വിടെടാ ഈ നായിന്റെ മക്കള" and also that "ഇവർ ഇന്നലെ ഞങ്ങളുടെ പ്രവർത്തകന്റെ കാല് അടിച്ചു പൊളിച്ചു. ഇന്ന് ഞങ്ങളുടെ ജില്ലാ secretary Jayaraj ന്റെയും MLA Rajesh ന്റെയും വാഹനം അക്രമിച്ചു". At that time, PW.1 and others stated that they are not the culprits. By that time, around 30 persons assembled at the courtyard of the house of

CW.6, and they were armed with wooden stick and iron pipe. CW.6, Muhammed Kunhi stated to them that PW.1 and others can be released only after arrival of the police, to which they have not acceded. One among them, wearing brown shirt along with another person entered the veranda of the house, the person, who wore brown shirt take down the address and phone number of PW.1 and others and other man was calling over phone and getting the details of PW.1 and others. The other man took the photographs of PW.1 and others in his mobile phone and PW.1 felt that he is sharing the photos to someone through the mobile phone, so as to identify PW.1 and others. PW.1 and others again stated that they are not the culprits. At that time, CW.4, Abdul Salam contacted A29 K. Babu, the Secretary of the CPI(M) Ariyil Local Committee, over phone and informed their detention at that house. At that time, Babu replied that 'if you have done anything, you have to suffer'. The persons assembled there threatened by saying that the house of Muhammed Kunhi will be set at blaze by bomb explosion and CW.6 will be do away with, if PW.1 and others were not released from the house. Thereupon, Haris/ CW.3, Abdul Salam/CW.4 and Ayoob/PW.2 were forcibly taken from the house to the nearby Chulliyottuvayal. At that time, some persons stood inside the house of CW.6 to guard PW.1 and Shukkoor. After sometime, the persons, who took Haris/ CW.3, Abdul Salam/CW.4 and Ayoob/PW.2 came back to the house and stated that they were released at the Kadavu and agreed for release of PW.1 and Abdul Shukkoor at the

Kadavu. He himself and Abdul Shukkoor were not amenable for that request and at that time, CW.6 Muhammed Kunhi stated that they can be released on arrival of the police. Those persons have not heeded to the request of CW.6 and PW.1 and Abdul Shukkoor were forcibly taken to the Chulliyottuvayal by a group of persons consisting of 8-9 persons. When they reached at the Chulliyottuvayal, one person among them caught hold on the right hand of PW.1 and another man caught hold on the left hand of PW.1. According to him, they are Pavithran and Vijesh. He identified accused No.7 Pavithran from the dock and failed to identify Vijesh(A4), instead he pointed accused No.16 K.V. Sajith as Vijesh and the said fact has been recorded at the end of chief examination. He further deposed that one person shouted to do away with PW.1 and Shukkoor, at that time, one person hit him by means of an iron pipe, aiming his leg, he evaded from that blow and as a result of the same, he did not sustain injuries to his leg. According to him, the accused No.9 Manoharan had beat him by means of iron rod and he identified accused No.9 from the dock. He further deposed that the person shouted to do away with him and also took photographs from the house of CW.6 is one Dinesan and he identified accused No.10 N.P. Dinesan as the said culprit from the dock. One person slapped on his ear, and he stated that it was by Sumesh and he identified the accused No.1 Sumesh from the dock as the culprit. He suffered severe pain due to the slapping and fell on the ground. He further deposed that prior to the slapping by the accused No.1, one Latheesh

attempted to beat him by means of an iron rod, aiming his head and he has evaded from that attack. He identified accused No.8 Latheesh from the dock as the said culprit. He further deposed that prior to the slapping by the accused No.1, one person inflicted injury on the back of his left shoulder by means of a dagger/knife and he identified the said person as the second accused Ganesan. He sustained bleeding injuries to his left shoulder. Another man inflicted injury to the right hand muscle portion and also to the forearm by means of a knife and according to him, the said culprit is one Anoop and he identified the accused No.3 Anoop as the culprit. Seeing the attack towards PW.1, Shukkoor (the deceased) ran away from there to some distance by pushing aside the culprits, who were restraining him. The culprits chased Shukkoor and attempted to beat him by means of stick and inflicting injuries by means of dagger/knife. He had seen the assault towards Shukkoor. According to him, the accused No.2 Ganesan inflicted injury on the abdomen of Shukkoor by means of a dagger/knife and at that time, the accused No.1 Sumesh sat on the body of Shukkoor and inflicted injuries on the chest of Shukkoor by means of another dagger/knife. Shukkoor cried aloud by calling his mother. Fearing that, he will be again attacked by the culprits, he ran away from there to the nearby road, i.e., Keezhara-Valluvankadavu road. When he moved towards some distance, he had seen a police jeep parked at the road. Driver alone was there in the said jeep and he informed the details to the driver. The driver called upon other police

officers and after their arrival PW.1 was taken to the Mission Hospital, Cherukunnu in the police jeep. He was taken to the casualty and first aid was given from there. While he was there in that hospital, police has recorded his Ext.P1 F.I statement on the same day. He identified his signature and Ext.P1 F.I statement. He got discharged from the hospital on the same day itself and he was admitted to the Lourde Hospital, Taliparamba. It is the version of PW.1 that due to fear of attack by the culprits by coming to the Mission Hospital, Cherukunnu, he got discharge from that hospital. PW.2 Ayoob was also seen admitted at the Lourde Hospital, Taliparamba. One Abu and Sabir came to the hospital to see them and PW.1 informed the details of the incident to them. It is the version of PW.1 that, the phone numbers and address of PW.1 and others were taken down by one C.N. Mohanan. Though it was stated by him that he can identify Mohanan from the dock, he failed to identify him correctly, instead he pointed out the accused No.21 Shaji.K.V. as C.N. Mohanan. According to him, accused No.14, E.P. Radhakrishnan was present among the culprits while they were detained in the house of CW.6 as well as when they were taken to the Chulliyottuvayal. He identified accused No.14 correctly from the dock. It is his further version that one Shijin was present among the culprits, while they were detained in the house of CW.6 as well as when they were taken to the Chulliyottuvayal. However, he was not able to identify Shijin at that time, but when he was examined in the afternoon session, he identified accused No.15 Shijin correctly. Earlier, he has pointed

out accused No.18 Naveen as Shijin. According to him, one Nithin was present among the persons, who followed PW.1 and others from Valluvankadavu, also among the persons, who took them to Chulliyottuvayal and also among the persons, who attacked him. He identified accused No.13 N. Nithin correctly from the dock. He also stated that, one Naveen, Ajayakumar, Umesan, K. Prakasan, another Prakasan, Ajithkumar, V.V. Mohanan, Rajeevan, Purushothaman and Suresan were also present among the persons, who followed PW.1 and others from Valluvankadavu, also among the persons, who took them to Chulliyottuvayal and also among the persons, who attacked him. He identified accused No.18 Naveen, accused No.23 Ajayakumar, accused No.6 Umesan, accused No.5 K. Prakasan, accused No.22 Prakasan Muthuvani, accused No.27 Ajithkumar, accused No.25 V.V. Mohanan, accused No.24 Rajeevan, accused No.26 Purushothaman and accused No.28 Suresan. As stated above, accused No.15 Shijin was correctly identified him in the afternoon session. One Bijumon was also present among the culprits and he identified accused No.12 Bijumon correctly from the dock. According to him, he himself and 4 others were not involved in attacking CPI(M) activists or in attacking the vehicle of CPI(M) District Secretary. It is the version of PW.1 that, the intention of the culprits was to do away him and Shukkoor. According to him, Shukkoor died due to the injuries sustained to him in the incident and he came to know about the same at a later stage.

55. PW.1 had shown the scene of occurrence to the investigating officer and PW.2 had shown the scene of occurrence, from where he was attacked. He has also produced his shirt and pant worn at the time of the incident before the police and the shirt and pants were identified by him and marked as MO.1 and MO.2. MO.3 and MO.4, the shirt and pants worn by Shukkoor were also identified by him. MO.5 mobile phone of Shukkoor was also identified by him. PW.1 has deposed description of the knife used by accused Nos.1 to 3. He has identified MO.6 knife as the weapon used by accused No.2, MO.7 knife as the weapon used by the accused No.3 and MO.8 knife as the weapon used by the accused No.1. During investigation, he gave statement before the JFCM-II, Kannur U/s. 164 of Cr.P.C and the statement was not marked on the side of prosecution, as omnibus marking of the statement is not permissible in view of Rule 56A (11) of the Criminal Rules of Practice. During the test identification parade conducted at the Special Sub Jail, Kannur, he has identified accused No.10 Dinesan, accused No.7 Pavithran, accused No.4 Vijesh, accused No.3 Anoop, accused No.1 Sumesh, accused No.9 Manoharan, accused No.17 Sudhakaran, accused No.25 V.V. Mohanan, accused No.27 Ajithkumar, accused No.14 Radhakrishan, accused No.29 K. Babu, accused No.6 Umesan and some others. Later during investigation he identified accused Nos.2, 5 and 8, Ganesan, K.Prakasan and Latheesh from the police station. According to him, the accused Nos.6, 29 and 24, Umesh, Babu and Rajeevan alone were

known to him earlier and he had seen the remaining accused at the time of the incident.

PW2

56. PW.2, Ayoob. P.V. is also an injured and occurrence witness. According to him also, on 20.02.2012, he sustained injuries to his hand while playing cricket at Ariyil-Kothayi. He was taken to the hospital by his friends Sakkariya (PW.1), Abdul Shukkoor (the deceased), Abdul Salam (CW.4) and Haris (CW.3). They went to the hospital by crossing the river from the Ariyil, Kuthirappuram Kadavu. They reached the opposite kadavu, i.e., Valluvankadavu at about 12.30 hours, and they went towards the hospital along the varamba and also through the Valluvankadavu – Keezhara road. When they entered Chulliyottuvayal, 5-6 persons were seen following them. They walked quickly along the paddy field. On the previous day, there was clashes between League-CPM activists at Ariyil and the houses of CPM activists were destroyed. There was a propaganda by CPM activists that Shukkoor was also involved in those incident. When they moved further, some persons were seen coming from southern side and they were armed with weapons. Hence, due to fear, they entered the house of CW.6 Muhammed Kunhi. They demanded for water and drunk water from there. By that time, those persons, who followed and also came from southern side reached at the courtyard of Muhammed Kunhi. It was stated to the inmates of the house of Muhammed Kunhi that those persons are following them and

requested to inform them that they came for inviting for the marriage of one Nisar. One person among the culprits beat on the grills on the front side of the house of Muhammed Kunhi and requested to release PW.2 and others and they threatened the inmates of the house. According to him, the person, who beat on the grills is one Ajithkumar and he identified accused No.27 Ajithkumar during test identification parade and he identified accused No.27 from the dock as well. According to him, he ascertained the name of Ajithkumar after the test identification parade. Another man also beat on the grills of the house of Muhammed Kunhi and threatened by saying that you are the persons attacked the vehicle of our MLA and District Secretary P. Jayarajan. He also stated that the power of the party will be shown to them. It is also stated by him that you have not studied a lesson, though one among you were finished 5-6 months back. According to him, the said person is accused No.19. He identified accused No.19 from the dock saying that he is not aware about his name. It is also the version of PW.2 that, one Pavithran requested to release PW.2 and others from the house of Muhammed Kunhi. Though it was stated to them that the release can be after arrival of the police, they uttered that they will destroy the house by bomb blasting and also finish the inmates of the house. According to him, such a statement was uttered by the aforesaid Pavithran and he identified Pavithran during test identification parade. He identified accused No.7 Pavithran from the dock. Later, the inmates of the house opened the grills and by that time, one person

entered inside the house and took down the name and address of PW.2 and others. Then, he called another man over phone and stated that, 'hello Venuvettan, this is Mohanan, 5 League activists, who have attacked the vehicle of MLA and District Secretary. P. Jayarajan are detained in a house at Ariyil and I shall say their name and fathers name'. Thereupon, he has furnished the names and details to the person at the other end and replied that o.k., we will do that. Thereupon, one person took the photographs of PW.2 and 4 others in the mobile phone. According to him, the person, who telephoned from the house is one Mohanan and he failed to identify accused No.11 Mohanan from the dock, instead he pointed accused No.21 Shaji. K.V as Mohanan. The person, who took photograph in the mobile phone is one Maina Dinesan, who has been identified during test identification parade and his name was ascertained after the parade. He identified accused No.10 N.P. Dinesan from the dock. Later, the person, who took down the name and address stated that the person, who can identify you is coming and thereafter you will be released. They also threatened PW.2 and others with threat to their life. After sometime, PW.2, CW.3 Haris and CW.4 Abdul Salam were forcibly taken from the house to Chulliyottuvayal and at that time, accused No.29 Babu.K. was seen at the corner of the courtyard and he was holding weapon. Accused No.29 was identified by him during the test identification parade. He identified accused No.29 Babu.K. from the dock. While PW.2 and two others were taken from the house, Shukkoor and PW.1 Sakkariya

were restrained in that house by some persons among the culprits. While PW.2 and two others were taken to the Chulliyottuvayal, Sumesh slapped on his face, which resulted in injury near left eye. Sumesh was also identified during test identification parade and he identified accused No.1 Sumesh from the dock. One Umesh, who was present along with Sumesh also slapped on the face of PW.2. During test identification parade, Umesh was identified by him and at the time of evidence, he identified accused No.6 Umesan correctly from the dock. One Shijin Mohan was also present along with accused Nos.1 and 6 and he was also identified during test identification parade. He identified accused No.15 Shijin Mohan from the dock correctly. One Latheesh was also present in that group and he beat PW.2 by means of an iron rod, which resulted in sustaining injuries to the middle finger of his right hand. Latheesh was identified by him from the office of C.I of Police, valapattanam. At the time of examination, PW.2 failed to identify accused No.8, Latheesh, instead he pointed out accused No.2 Ganesan as Latheesh. After assaulting PW.2, the accused No.1 Sumesh directed to release CWs.3 and 4 Haris and Abdul Salam. He also stated that 'if you need your life, ran away from here'. At that time, PW.2 stated that Sakkariya/PW.1 and Shukkoor are innocent and requested to release them. Sumesh/A1 replied that, you ran away from here and at that time, accused No.19 Syamjith stated that both of them will be sent in the box. Fearing death, PW.2 and others ran towards Valluvankadavu and from there they went to Ariyilkandi

bhagam by crossing the river. After reaching there, CW.3 Haris tried to contact PW.1 Sakkariya and Shukkoor over phone, but they did not attend the call. Later, CW.3 informed the matter to League office at Ariyil over phone and requested to save them. Subsequently, they were taken near the league office in a vehicle and from there PW.2 was taken to the Lourde Hospital, Taliparamba in the police jeep. He was admitted and treated from that hospital. From the hospital, he came to know that PW.1 Sakkariya was stabbed and Shukkoor was murdered. He had pointed out the scene of occurrence, from where he was assaulted by the culprits, to the police on 16.03.2012. A pair of hawai chappal worn by CW.4 Abdul Salam were seen there and he identified MO.9, a pair of chappals, that of Abdul Salam. To a question put by the learned Prosecutor, PW.2 answered that he intimated sustaining of injury while playing cricket to his home in the mobile phone of PW.1, the same was attended by his sister, but was not able to connect his mother. Later, his sister called back to the mobile phone of PW.1 and at that time, his mother was not available in the house, as she went to the house of Abdul Salam. Again after 10 minutes he called in the mobile phone of PW.1 and informed the details to his mother.

57. When PW.1 had shown the scene of occurrence, from where he himself and Shukkoor were attacked, to the police on 16.03.2012 he was present there along with one Abdulla and Aboobacker. It is also the version of PW.2 that one Rajeevan was present at the courtyard of the house of

Muhammed Kunhi with weapon. He identified accused No.24 Rajeevan from the dock. One P.P. Suresan was also present at the courtyard of the house of Muhammed Kunhi with weapon. He identified accused No.28 P.P. Suresan from the dock. According to him, one Nithin was present among the persons, who followed them from Valluvankadavu and also among the persons present at the courtyard of Muhammed Kunhi with weapons. Though firstly PW.2 pointed out one K.V. Sajith/A16 as Nithin, immediately he correctly pointed out accused No.13 N.P. Nithin, by saying that he mistook the serial number in the row. One Prakasan Muthuvani, Manoharan, Purushothaman, Naveen, V.V. Mohanan and Vijesh were also present among the culprits, according to PW.2, Prakasan Muthuvani, Manoharan and V.V. Mohanan were present at the courtyard of the house of Muhammed Kunhi, Purushothaman was present among the persons, who came from southern side, Naveen and Vijesh were present among the persons, who followed them from Valluvankadavu. Out of them, PW.2 identified accused No.22 Prakasan Muthuvani, accused No.9 Manoharan, accused No.26 Purushothaman and accused No.25 V.V. Mohanan. He failed to identify accused No.18 N.P. Naveen and accused No.4 Vijesh, instead he identified accused No.5 Prakasan as Naveen and accused No.3 Anoop as Vijesh.

PW3

58. PW.3 Fathima is the wife of Muhammed Kunhi. According to her, on 20.02.2012 at about 12.45 hours, 5 boys came to their house situates at

Keezhara. They came by running and sat on the veranda. On their request drinking water was given to them and they drunk the same. When her husband Muhammed Kunhi (CW.6) enquired as to from where they are coming, they answered that they came for inviting for a marriage. They are Abdul Shukkoor (the deceased), Sakkariya (PW.1), Ayoob (PW.2), Haris (CW.3) and Abdul Salam (CW.4), who are known to her as she is from Ariyil. It was stated by them that, some persons followed them carrying iron pipe, wooden stick etc. By that time, some persons reached at the courtyard of her house and they were armed with iron pipe and wooden sticks. They beat on the grills and requested to release the children, otherwise, it was stated that, they will destroy the house. At that time, her husband informed that they will not be released prior to the arrival of police. Thereafter, one person entered the veranda by pushing open the grills, he took the photos of the aforesaid 5 children in his mobile phone and according to her, he is one Maina Dinesan, who is known to her earlier. She identified accused No.10 N.P. Dinesan @ Maina Dinesan from the dock. Following him, another man also entered to the veranda and he took down the name and address of children and contacted someone over phone. That person is not known to her and she expressed her inability to identify that person. PW.1 contacted someone over phone and later, he received an incoming call. She is not aware about the details of the conversations. Thereupon, 5-8 persons entered into the veranda and forcibly took Ayoob (PW.2), Haris (CW.3) and Abdul Salam

(CW.4) towards Chulliyottuvayal bhagam by around 01.30 p.m.. Later, those persons came back and requested to release Shukkoor and Sakkaria (PW.1). At that time also, her husband stated that they will be released only after arrival of the police. The culprits threatened that if they are not released the house will be destroyed by causing bomb explosion. Thereupon Shukkoor and Sakkariya were also forcibly taken to the Chulliyottuvayal bhagam by around 02.00 p.m. At that time around 30 persons were assembled at the courtyard. Later, police came to their house and by that time, police got information over phone that PW.1 Sakkariya received stab injuries. Such information has been received around 02.30 p.m. and the accordingly the police left from there. Later, she came to know that Shukkoor was also stabbed from the vayal. At around 06.00-06.30 p.m., she got information regarding death of Shukkoor. There was news in the T.V and other persons also informed the same. On the next day, i.e. on 21.02.2012 at about 10.00 a.m., police party came to her house and seized MO.5 mobile phone of Shukkoor, which was kept on the table at the veranda. She identified MO.5 mobile phone as that of Shukkoor and seized from there. Though it was stated by her that 10-16 persons were shown to her by the police and she identified them, she expressed her inability to identify them before Court. According to her, due to her old age and also due to the changes to those persons, she is unable to identify them. She has identified the signature of her husband Muhammed Kunhi and son Haneefa in the mahazar prepared by

the police regarding the seizure of the mobile phone and accordingly the said mahazar was marked as Ext.P2.

PW4

59. PW.4, Poomangalath Chatti Sidhique is a witness for the inquest, regarding the examination of the body of Abdul Shukkoor from the Medical College Hospital, Pariyaram. According to him, Shukkoor is his mother's younger sister's son, the inquest was on 21.02.2012 and he identified the body of Shukkoor.

PW5

60. PW.5, Muhammed Ashraf is an attester to Ext.P3 inquest report, which was prepared on 21.02.2012 after examining the body of Abdul Shukkoor from the Medical College Hospital, Pariyaram. He identified his signatures therein.

PW6

61. PW.6, Balaram is an attester to Ext.P4 scene mahazar, prepared after visiting the scene of occurrence. According to him, the mahazar was prepared on 20.02.2012 at about 5.15 p.m and MO.10 blood stained soil and grass, MO.11 and MO.12 the pieces of calendar, MO.9 a pair of chappal, MO.13 and MO.14 another pairs of chappal and MO.15, a single chappal were also seized from the scene of occurrence. He himself and one Ajithkumar were present at the time of preparation of mahazar by the police and he identified the signatures of both of them in the mahazar.

PW7

62. PW.7, Asif Ali, has been cited by the prosecution to prove that PW.2 sustained injuries while playing cricket. According to him, on 20.02.2012, at about 09.00 a.m., he along with PW.2 and others played cricket at Ariyil-Kothayi and in that play PW.2 Ayoob attempted to catch a ball and in that attempt, he fell on the ground by touching his palm on the ground. As a result of the same PW.2 sustained injuries, he stopped the play and went to Mission Hospital, Cherukunnu for treatment.

PW8

63. PW.8, Chalil Naseer deposed that on 20.02.2012, he had seen one Sumesh and Ganesh riding on a motor cycle along the Cherukunnuthara Junction towards Keezhara Convent road. Sumesh and Ganesh were known to him being the tempo driver and D.Y.F.I activist respectively. Though it was stated by him that he can identify both of them, he failed to identify Sumesh and Ganesh (they are A1 and A2 respectively) from the dock. According to him, he did not see them for the last 10-12 years and that is why he is unable to identify them before Court.

PW9

64. PW.9, Narayanan is the then Grade S.I of Kannapuram police station. According to him, on 20.02.2012, while he was on law and order duty at Thavam bhagam, at about 02.00 p.m., he got information from Senior CPO Ramachandran that some League activists were restrained by CPI(M)

activists at the house of one Muhammed Kunhi, situates at Keezhara-Valluvankadavu bhagam and accordingly he returned to the police station around 2.15 p.m. and went to the Keezhara bhagam along with police party. They reached the house of Muhammed Kunhi at 02.30 pm. They stopped the police jeep at the road and reached the house of Muhammed Kunhi by walking. Driver Sreekumar (CW.70) was there in the jeep. When he was enquiring with the inmates of the house, Sreekumar telephoned him and informed that one Sakkariya (PW.1) reached near the jeep with stab injuries. Immediately, he along with the police party went near the jeep and had seen PW.1 with bleeding injuries on his left shoulder, right hand muscle portion and below right hand ankle. PW.1 was taken in the jeep and at that time, he informed that Shukkoor also received stab injuries. It was also stated by him that Ayoob (PW.2), Haris (CW.3) and Salam (CW.4) were also present along with them. He along with Rameshan and Sreekumar took PW.1 to the hospital and entrusted ASI Sreedharan (CW.66) and party to enquire about Shukkoor. They reached Mission Hospital, Cherukunnu around 2.45 p.m., PW.1 was taken to the casualty and he was admitted to the hospital after examination by the Doctor. Thereupon, as per the instructions of Circle Inspector of Police, U. Preman (CW.73/PW.39), he recorded Ext.P1 F.I statement of PW.1 with the permission of the doctor at 03.30 p.m and the said fact was informed to the Circle Inspector. Immediately, when they reached the hospital, the jeep was sent back to Keezhara bhagam. Thereupon on

return to the Kannapuram police station, he registered Ext.P5 F.I.R as Crime No. 136/2012 U/Ss. 143, 147, 148, 447, 364, 324, 307, 149 IPC and entrusted the F.I.R to the officer in charge of GD for the onward transmission to the JFCM Court-I, Kannur. One Ramesan was entrusted for bandobust duty for PW.1 at the hospital. While he was registering F.I.R., ASI Sreedharan (CW.66/PW.10) informed him that Shukkoor was found with stab injuries on a varamba of Chulliyottuvayal. As per instructions of the Circle Inspector, he has produced the investigation copy of the F.I.R to the Circle Inspector at the scene of occurrence around 05.10 p.m. At that time, CW.73/PW.39 was preparing scene mahazar. It was also informed by Sreedharan (CW.66/PW.10) that Shukkoor died when produced before the Medical College Hospital, Pariyaram.

PW10

65. PW.10, Sreedharan is the Grade ASI of Kannapuram police station, who accompanied PW.9 Narayanan to the house of Muhammed Kunhi on 20.02.2012, on getting information about restraining of certain IUML activists in that house. According to him, Grade ASI Haridasan, Senior CPO Ramesan and Senior CPO Vijayan also accompanied them in the police jeep, which was driven by CPO Sreekumar. While they were enquiring with the inmates of the house of Muhammed Kunhi, at about 02.30 p.m., Sreekumar(CW.70/PW.11) informed PW.9 over phone that, one Sakkariya came near the police jeep sustaining stab injuries, with bleeding. Immediately

all of then went near the police jeep and PW.9 took Sakkariya (PW.1) inside the jeep. On enquiry with PW.1 it was stated by him that one Shukkoor also sustained stab injuries and besides that three others were also present along with them. PW.9 and PW.11 took PW.1 to the hospital and informed PW.10, Haridasan and Vijayan to enquire about Shukkoor and 3 other persons. Accordingly, they were in search of Shukkoor and others. At about 03.00 p.m., they got information that, Ayoob/PW.2, Haris/CW.3 and Salam/CW.4 reached Ariyil and Shukkoor has not returned. The said information has been passed on to PW.9 over phone. While they continued the search for Shukkoor at the Chulliyottuvayal and nearby places, they have seen Shukkoor lying on a varamba of the paddy field with bleeding stab injuries. Immediately, PW.9 and Circle Inspector of Police Preman (CW.73/PW.39) were informed about the same. By that time, PW.39 reached there and all of them took Shukkoor in the police jeep and as per instruction of PW.39, he himself, Haridasan and Vijayan took Shukkoor to the Medical College Hospital, Pariyaram. They took Shukkoor to the casualty of the hospital and on examination doctor declared Shukkoor as dead. Shukkoor was unconscious while he was taken from the paddy field. The fact of death of Shukkoor has been informed to PW.9 and PW.39 by 05.20 p.m. Subsequently, the body of Shukkoor was shifted to mortuary for postmortem examination. He received the shirt, baniyan and pants of Shukkoor from the mortuary and on return to the police station handed over the same to PW.39

at about 08.30 p.m. PW.39 has seized those dresses and three currency notes of the denomination of ₹100/- each from the shirt pockets, by preparing Ext.P6 seizure mahazar. He identified MO.3 shirt and MO.4 pants as that of Shukkoor. MO.16, the baniyan and MO.17 series the currency notes of ₹300/- (100 x 3) were also identified by him.

PW11

66. PW.11 Sreekumar is the Civil Police Officer of Kannappuram police station, who was in charge of driver of the police jeep on 20.02.2012. According to him also, on getting information about restraining of certain Muslim League activists at the house of Muhammed Kunhi, he along with PW.9 and others went towards the house of Muhammed Kunhi, which situates at Keezhara Valluvankadavu. He stopped the jeep on the road, 150 metres away from the Keezhara Vayanasala Junction. PW.1 and party alighted from the jeep and went towards the house of Muhammed Kunhi. After sometime, one person came near the police jeep and stated that he was stabbed by the CPM activists and requested to go to the hospital. Immediately, he informed the said fact to PW.9 over phone and accordingly PW.9 and party came near the police jeep. The injured person was taken by PW.9 and Ramesan to the Mission Hospital, Cherukunnu in the police jeep driven by him. According to him, the injured person, when came near to him, stated that there were four persons with him, out of them Shukkoor sustained stab injuries and he has no knowledge about the remaining persons. The

name of the injured person is Sakkariya, which has been ascertained from him. PW.9 authorized Sreedharan, Haridasan and Vijayan to enquire about others. After alighting Sakkariya and the police officers at the hospital, he returned to the very same place with police jeep. After sometime, one person with bleeding injuries was taken to the jeep by Circle Inspector Preman (CW.73/PW.39) and other police officers. Accordingly, as per the request of PW.39, he took the said person to the Medical College Hospital, Pariyaram and the police officers named Haridasan ASI, Sreedharan ASI and Vijayan Senior CPO also accompanied in the jeep. When the injured person was produced before hospital, it was reported that he died. According to him, the name of the said person is Abdul Shukkoor. He returned from the hospital to the police station and later went to Chuliyottuvayal for scene guard duty on his motor cycle and reached there at 06.30 p.m. He and one ASI Balan were posted as substitutes for Ajeesh Jayan and Sureshkumar. They continued scene guard duty till the evening of 21.02.2012. On that day, the Scientific Assistant from RFSL Kannur visited the scene of occurrence and collected evidence.

PW12

67. PW.12 E.P Suresan is the then S.I of Police, Pariyaram Medical College police station, who went to Ariyil for law and order duty on 20.02.2012, as per the direction from the Dy.S.P. office, Taliparamba. According to him, at about 03.00 p.m., some league activists came near him

and informed that one Ayoob (PW.2) has sustained injuries due to assault by CPM activists from Valluvankadavu, he escaped from there and reached the league office. They requested to take him to the hospital. Accordingly, he along with the police party took PW.2 to the Lourde Hospital, Taliparamba, the doctor examined him and admitted in that hospital.

PW13

68. PW.13, Ajeesh Jayan is the Civil Police Officer of Kannapuram police station, who also went to the scene of occurrence for scene guard duty on 20.02.2012. According to him, on that day at about 5.15 p.m., the Circle Inspector of Police (CW.73/PW.39) prepared the scene mahazar in the presence of Ajithkumar, Balaram, Sureshkumar and himself. Certain blood stained grass and soil, certain chappals etc., were also seized from the scene of occurrence. He along with Sureshkumar continued scene guard duty till the substitutes ASI Balan and Sreekumar/PW.11 came for scene guard duty. Subsequently, he went along with PW.39 for escort duty on 16.06.2012 while the accused No.3 Anoop and accused No.1 one Sumesh were taken for collection of evidence. Two persons named Isham (CW.26/PW.19) and Anas (CW.27) were also taken from Keezhara road junction. Later as led by the accused No.3 Anoop, PW.39 and others went to a place by alighting from the jeep and after sometime they returned to the jeep. At that time, PW.39 was carrying something in a plastic cover. He sat as escort for accused No.1 inside the jeep. Subsequently, the accused No.1 requested to move towards

Cherukkunnu bhagam and accordingly, the police jeep moved towards that direction. The witnesses named above and Yogesh accompanied in another autorickshaw. Subsequently, the police party led by PW.39 and the witnesses accompanied to a place near Cherukunnu Annapoorneswari temple. At that time, he sat inside the jeep as escort for accused No.3. After sometime, the police party and the witnesses came near the jeep. The witnesses returned from that place and the police party along with accused Nos.1 and 3 went to the office of C.I. of Police, valapattanam. Later, on 23.06.2012, he accompanied PW.39 and others for effecting seizure of the motor cycles used by accused Nos.3 and 2, named Anoop and Ganesan. The motor cycle of Anoop bearing Regn. No. KL-13-V 3601 was seized by PW.39 at about 12.30 hours under Ext.P7 seizure mahazar, which was written by him. He signed as a scribe therein and the police officers named Satheesan and Rose signed as witnesses. Subsequently, the motor cycle bearing Regn. No. KL-13-W 9804 was seized from the quarters of accused No.2 under Ext.P8 seizure mahazar, which was also prepared by him as directed by PW.39. He signed therein as a scribe and the witnesses named above also signed in the said mahazar. It is the version of PW.13 that the wife of accused No.3, Vijisha and the wife of accused No.2, Rajamani were present at the time of preparation of Ext.P7 and P8 mahazars respectively. PW.13 identified accused Nos.1 and 3 Sumesh and Anoop from the dock.

PW14

69. PW.14, Davood is the elder brother of the deceased Shukkoor, who is the sub editor of Chandrika daily at Kannur. According to him, he was on leave on 19.02.2012 and 20.02.2012. On 19.02.2012, there was clash between CPM-League activists at Ariyil Dharmakinar. On 20.02.2012, the accused Nos.32 and 33 and others visited that area and there was some clashes on that day also. He got information about the same from Kuthirappuramkadavu. While he was sitting at the shed of Kuthirappuramkadavu on 20.02.2012, PW.1, PW.2, Haris and Salam came there and on enquiry it was stated by them that PW.2 sustained injuries to his palm while playing cricket and for treatment, he is to be taken to the Mission Hospital, Cherukkunnu by crossing the river. PW.2 had shown the injuries to his palm. By that time, his brother Abdul Shukkoor came from the house and on enquiry it was stated by him that he has to apply for supplementary degree examination and he also accompanied PW.1 and others in the boat towards Keezhara Valluvankadavu bhagam. Subsequently, he returned to his home and he had seen the friends of Shukkoor named K.K. Riyas, T.P. Muhammed Iqbal and others telephoning others and it was stated by Muhammed Iqbal that Shukkoor, Sakkariya, Ayoob, Haris and Salam were confined in a house at Valluvankadavu. He contacted Shukkoor, Sakkariya and Haris over phone and Sakkariya has attended the call. It was informed by Sakkariya that they were confined in a house and requested to inform some persons at Keezhara Valluvankadavu for their release. He went to the house of one Kallingal

Muhammed Ali and informed the same. At that time, one T.P. Rasheed, K. Nisar and Muhammed Ali were present there. One among them called Pavithran over phone and informed the said fact and Pavithran informed that he will try for that. Subsequently, he tried to get the number of one Rajeevan and for that purpose he contacted at the house of Challil Ayisha and at that time, it was stated by her that there is bomb blast taking place near her house. Subsequently, he obtained the number of Rajeevan from others and informed Rajeevan about confinement of five persons at a house at Keezhara Ariyil. Rajeevan expressed his inability to take any action for their release and it was replied by him that 'you people are creating the trouble'. After sometime, Haris, Salam and Ayoob came there at Ariyilkandi and it was informed by them that Shukkoor and Sakkariya were not released from the house. He noticed injury to the left eye of Ayoob. Due to mental stress, he returned to his home. His mother enquired as to what happened to Shukkoor and it was replied by him that Shukkoor will come back. Later, he went to the waiting shed at Kuthirappuramkadavu and while he was sitting there, PW.1 Sakkariya contacted him over phone and informed that he received stab injury, he was taken to the Mission Hospital by the police and while Shukkoor was escaping from the clutches of the persons some persons followed and stabbed him. Though PW.14 tried to contact many persons, he has not succeeded in that attempt. Around 06.00 p.m., he got information that Shukkoor is murdered. It was told by Salam and Haris that Shukkoor and

others were confined in the house of one Muhammed Kunhi. While Shukkoor and others were confined in that house, he contacted Shukkoor over phone twice and Shukkoor requested to save him.

PW15

70. PW.15, K. Radhakrishnan is the Senior Civil Police of Kannapuram police station, who accompanied PW.39 to the scene of occurrence on 21.02.2012, he had seen the Scientific Assistant of Regional FSL, Kannur visiting the scene of occurrence and collecting blood stains and blood stained grasses from the scene of occurrence. Those items were produced before PW.39 and PW.39 has seized the same by preparing Ext.P9 seizure mahazar, to which he signed as an attester. He also identified MO.18 and MO.19, packets containing blood stains and blood stained grasses.

PW16

71. PW.16/CW.41, M.K. Manoharan is the reporter of Makthab, an evening daily at Taliparamba. He deposed regarding the clash between CPM-Muslim League activists on 19.02.2012 at Ariyil and he has reported about the same. Again, on 20.02.2012, he went to Ariyil, on getting information about change of the wall paint of CPM office at Ariyil from red to green. The CPM leaders like P. Jayarajan, the former District Secretary of CPM Kannur (A32), the then MLA of Kalliassery, T.V. Rajesh (A33) and others also reached there. The vehicle in which the accused Nos.32 and 33 came there was attacked and destroyed. The accused Nos.32, 33, one Rajeevan

reporter of Desabhimani and one Balakrishnan, member of CPM area committee sustained injuries in that incident. They were taken to the Taliparamba police station and later to the Co-operative Hospital, Taliparamba. He followed them to the hospital. All of them were taken to the casualty and were examined by the doctor. By that time, police came there and only after lapse of one hour, they were taken to the rooms. The accused Nos.32 and 33 were admitted in room No.315 of that hospital. The press reporters enquired with accused No.32 about that incident. Several CPM leaders and activists, including Shylaja Teacher, C.N Chandran, U. Babu Gopinath, T.K. Govindan Master and C.N. Krishnan visited accused Nos.32 and 33. He left hospital only after 04.00 p.m.

PW17

72. PW.17/CW.38, Muhammed Iqbal was the former councillor of the Taliparamba Municipal Council. According to him, accused No.31 A.V. Babu was also a councillor of that Municipality and he used to contact Babu over phone. It is his version that the mobile number of Babu is 9447647708. He has informed the said number to the police and the police informed him that he has to depose before Court regarding the said number and accordingly he has noted down the said number in a diary.

PW18

73. PW.18/CW.42, K. Santhosh is the subscriber of BSNL mobile connection No. 9447647708. According to him, he himself was using the sim

card in respect of the said number. He has not handed over the same to anyone. Accordingly, permission was granted to the learned Public Prosecutor to ask leading questions to him, as the prosecution has a case that the said sim card was used by accused No.31 A.V. Babu. On further examination he denied to have given statement before the police that he had entrusted the sim card in respect of the aforesaid number to accused No.31 A.V. Babu. It is also deposed to by him that he was using the sim card with number 9447953001, which was in the name of one Unnikrishnan, who is the relative of his wife. He also denied to have given statement to the police that 4-5 persons took mobile connection at the very same time and due to that the sim cards were mutually changed. According to him, accused No.31 is now no more and he was the Area Secretary of CPM at Taliparamba. He was also a councillor of Taliparamba Municipal Council along with accused No.31 and PW.17 Muhammed Iqbal. Though it was suggested to him that, as per the municipal records the mobile number of accused No.31 A.V. Babu is 9447647708, he has denied the same. The suggestion put to him that A.V. Babu (A31) was using the said number with his consent, he has denied the same.

PW19

74. PW.19/CW.26, Isham is an attester to Ext.P10 seizure mahazar, by which Mo.7 knife was seized pursuant to the statement of accused No.3, Anoop. He is also an attester to Ext.P11 mahazar, which was prepared by

inspecting the place pointed out by the accused No.1. It is his version that on 16.06.2012, while he along with one Anas (CW.27) was standing at the Vayanasala Junction at Keezhara, the police jeep came along the road stopped near them. The Circle Inspector of Police, Prem (CW.73/PW.39) informed them that they are going for effecting recovery of items in the Shukkoor murder case and requested them to accompany the police party, to which both of them agreed. They entered the police jeep at about 10.15-10.20 a.m., and at that time, two persons other than the police officers were present inside the jeep. While the jeep moved towards some distance, one among the two persons informed the Circle Inspector that they have reached the place. Accordingly, the Circle Inspector along with two police officers and the witnesses alighted from the jeep. The other man was sitting inside the jeep along with a police officer. That person led the police party and the witnesses along with Valluvankadavu road. He took a knife, which was kept beneath a granite stone under a pipe line and handed over the same to the Circle Inspector, which bears the inscription poly guards on its black handle. PW.19 identified MO.7 knife as the knife seized from there. He himself and Anas subscribed their signatures in the mahazar prepared by the Circle Inspector for seizure of the said knife. He identified his signature and also that of Anas in the said mahazar dated 16.06.2012 and the same was marked through him as Ext.P10. He also identified the accused No.3 Anoop from the dock after taking two minutes. After effecting the seizure the police party

went towards Cherukunnu bhagam and requested them to accompany in an autorickshaw along with a police officer. They accompanied in an autorickshaw, the police jeep and the autorickshaw reached and stopped at Cherukunnu. At about 11.30 a.m., the other man showed a place with bushes to the Circle Inspector and the Circle Inspector has prepared a mahazar from there, to which he himself and Anas subscribed their signatures. The said mahazar was marked through him, subject to admissibility as Ext.P11. He also identified the said person, who pointed out place to the Circle Inspector, as accused No.1 Sumesh from the dock.

PW20

75. PW.20/CW.28, Junaid K.T.P is an attester to Ext.P12 seizure mahazar, by which MO.8 knife was seized by PW.39 pursuant to the statement of accused No.16, Sajith. It is his version that while he along with one Shamsudeen (CW.29) was standing at Cherukunnuthara on 02.06.2012 at about 10.30 a.m. At that time, the Circle Inspector of Police, valapattanam and party came there in a police jeep and stopped the jeep near them. It was informed that the police party came there in connection with investigation of Shukkoor case and requested them to accompany the police. He himself and Shamsudeen entered the jeep and accused No.16, Sajith was there inside the jeep and his name was stated by the Circle Inspector Preman (CW.73/PW.39). He identified accused No.16 from the dock. When the jeep reached near the ration shop, the accused No.16 requested the Circle

Inspector to stop the jeep. When the jeep was stopped accused No.16 alighted from the jeep and the police party and he himself and Shamsudeen also alighted from the jeep. Accused No.16 went near to his house, opened the tool box of his motor bike, took a knife along with its cover and handed over the same to the Circle Inspector. The key of the motor cycle was also handed over to the Circle Inspector. The Circle Inspector seized the knife, its cover and key of the motor cycle by preparing Ext.P12 seizure mahazar and this witness has identified his signature in the said mahazar. MO.8 knife, MO.20 the cover of the knife and MO.21 the key of the motor cycle, with key chain were also identified by him. The motor cycle was also seized, according to him. MOs.20 and 21 were marked through this witness.

PW21

76. PW.21/CW.30, Ihsan K.P., is a friend of the deceased Shukkoor. According to him, he himself and Shukkoor studied together at the Jamiya Azhadiya Arabic College, Pappinissery west for about 6 years. During 2012, he was studying for M.Com at the Sir Syed College, Taliparamba and he was also the President of the M.S.F Pappinissery Panchayat Committee. During that period, Shukkoor was the treasurer of M.S.F. Pattuvam Panchayat – Ariyil Zone. On 20.02.2012, between 01.30 and 02.00 p.m., Shukkoor called him over phone and stated that he along with four persons were confined in a house at Keezhara, the CPM activists were there surrounding the said house and Shukkoor requested him to inform the police. He informed the said

fact to the private Secretary of K.M. Shaji MLA, named Arafath. Arafath, in turn informed the same to one Tahir, the vice President of the Muslim Youth League State Committee and the said fact was informed to him. Though he attempted to contact the Kannapuram police station over phone, he was able to contact the police only at 02.40 p.m. At that time, police informed him that PW.1 Sakkariya was admitted to the hospital. Again he tried to contact Shukkoor over phone, but Shukkoor did not attend the call. Later, by 06.30 p.m., he knew that Shukkoor died due to stab injuries.

77. PW.21 is also an attester to Ext.P13 seizure mahazar by which MO.6 knife was seized pursuant to the statement of accused No.2 Ganesan. According to him, on 06.06.2012, at about 10.30 a.m., while he along with his friend Shahu Jahan (CW.31) was standing near the gate of Convent Hospital, Cherukunnu, the Circle Inspector of Police Valapattanam, Sri. Preman (CW.73/PW.39) and police party came there and stated that they are going for collection of evidence in the Shukkoor murder case. They requested them to accompany as witnesses. Accordingly, he along with Shahujahan entered the police jeep. There were two accused persons inside the jeep, out of them one person is named Ganesan and he was introduced by the Circle Inspector. When the jeep reached at Valluvankadavu – Chera road, the jeep stopped there near a pump house. From a bush area the aforesaid Ganesan took a knife and handed over the same to the Circle Inspector, which was seized by the Circle Inspector by preparing Ext.P13 seizure mahazar, to

which he himself and Shahujahan subscribed their signatures as attesters. Ext.P13 mahazar was marked through him and he identified MO.6 knife as the knife seized under the said mahazar. He has also identified the accused No.2 Ganesan from the dock.

PW22

78. PW.22/CW.44, Vijayan. C. is the Senior Clerk of Co-operative Hospital Taliparamba, who has produced the case sheets and copies of wound certificates in respect of accused Nos.32 and 33, Jayarajan and Rajesh before the Circle Inspector of Police, Valapattanam. Those documents were seized by Circle Inspector by preparing Ext.P14 seizure mahazar dated 12.06.2012. Since the original case sheets were required for the hospital, he has taken back the same after furnishing its copies. Ext.P15 and P16, the copies of the case sheets in respect of accused Nos.32 and 33 were also marked through him. According to him, both of them were admitted in the room No.315 of that hospital.

PW23

79. PW.23/CW.45, P. Padmanabhan is the then Village Officer of Kannappuram village, who has visited the scene of occurrence and prepared Ext.P17 site plan at the request of the police. The scene of occurrence and other places were marked in the said plan. He has also issued Ext.P18

possession certificate in respect of the scene of occurrence, which according to him, is in the name of one Gangadharan and five others.

PW24

80. PW.24/CW.46, P.K. Preman is the then Secretary of Kannappuram Grama Panchayat, who has issued Ext.P19 ownership certificate in respect of the house of Muhammed Knunhi/CW.6 bearing No.II/102 of that Panchayat. Ext.P19 was marked through him subject to admissibility.

PW25

81. PW.25/CW.48, Dr. S. Gopalakrishna Pillai is the Professor of Forensic Medicine and Police Surgeon at the Academy of Medical Sciences, Pariyaram, Kannur (Pariyaram Medical College), who has conducted autopsy of the body of Shukkoor from that hospital on 21.02.2012 between 09.45 a.m. and 10.45 a.m. According to him, the ante-mortem injuries noted on the body of Shukkoor are as follows:-

(i) Wedge shaped incised penetrating wound, 3x1.4cm, horizontally placed on the left side of front of chest, 6.5 cm above the nipple. The outer end of the wound was sharply cut and the inner end showed splitting. Dried blood streaks were seen extending from the injury towards the top of shoulder. The wound entered the chest cavity through the third intercostal space, entered in to the pericardial sac, transfixed the left ventricle of heart (entry wound, 1.7 cm long on the front wall and exit wound, 1.3 cm on the back of wall), came out

through the pericardium and terminated by transfixing the diaphragm and left lob of liver close to its left border (0.5 x 0.2cm each in the liver). The wound was directed backwards, downwards and inwards for a total minimum depth of 8 cms. Left chest cavity contained one litre of fluid blood. Lung was collapsed.

(ii) Spindle shaped incised stab wound 2 x 0.8 cm horizontally placed on the upper abdomen, its inner end being 2 cm to the right of midline and 7 cm above the umbilicus. The wound was directed backwards, upwards and inwards for a depth of 4 cm to terminate in the muscle plane, without entering the abdominal cavity.

According to him, the injury Nos. 1 and 2 had slightly contused margins to the entry wounds. The other findings, according to him, are as follows: Stomach was two-thirds full with white coloured vegetable food particles (? appam) with no unusual smell. Both lungs were pale. All other internal organs were pale, otherwise normal. The blood group of the deceased was determined to be ‘B’ positive. His opinion as to the cause of death was that, the deceased died of stab injury of the chest, involving the heart. The postmortem certificate prepared by him and dated 22.02.2012 was marked through him as Ext.P20. He identified his signature, designation seal and the office seal of the hospital in Ext.P20. According to him, Injury No.1 mentioned above is the fatal injury. Such an injury itself is sufficient to cause death in the ordinary course of nature. The presence of dried blood streaks extending from the

injury No.1 towards the top of shoulder indicates that he was not in a standing position, when was stabbed and that he was in a lying down posture, with the upper part of the body at a lower level, compared to the rest of the body. According to him, two weapons were shown to him during investigation by the Investigating Officer. He identified MOs.7 and 8 knives as the weapons shown to him by the police, out of MOs. 6 to 8 shown to him. According to him, MO.8 weapon can cause injury No.1 mentioned in Ext.P20 and MO.7 weapon can cause injury No.2 mentioned in Ext.P20. Ext.P21, the Death intimation given from the very same hospital to the SHO Pariyaram, signed by the then Casualty Medical Officer (CMO) was also marked through him. As per the same Abdul Shukkoor was brought to the hospital at 5.16 p.m on 20.02.2012 as brought dead by the Kannapuram Police. The alleged cause as per the same is an assault on 20.02.2012 at 1.20 pm at Ariyil.

PW26

82. PW.26/CW.49, Dr. E.K. Satheesh Kumar is the Surgeon at St.Martin De Porres Hospital, Cherukunnu, who has examined PW.1 Sakkariya from that hospital on 20.02.2012 at about 02.45 p.m. who came to the hospital with the alleged history of assault, i.e, stab injury by unknown person at 2.00 pm at Keezhara on the same day, i.e, 20.02.2012. On examination of his body, PW.26 noted the following external injuries:-

(i) Laceration on the left scapular area, 4x2 cm;

(ii) Laceration on the right mid-arm, 2x1 cm and

(iii) Swelling and abrasion on the right forearm.

According to him, PW.1 was treated as out patient, he was not willing for admission and accordingly referred to Lourde Hospital, Taliparamba on his request. He further deposed that, the injuries noted are simple in nature and could be caused as alleged. Ext.P22, the wound certificate issued by him after examining aforesaid Sakkariya (PW1) was marked through him as Ext.P22. According to him, during investigation the Investigating Officer interrogated him thrice and recorded his statement. Two weapons i.e, knives, were also shown to him by the Investigating Officer, one weapon each on two occasion. He identified MO.6 & MO.7 knives as the weapons shown to him by the police, out of MOs. 6 to 8 handed over to him. According to him, injury No.1 in Ext.P22 can be caused by using a weapon like MO.6 knife and Injury No.2 can be caused by using a weapon like MO.7 knife. The third injury can be caused by means of any blunt object.

PW27

83. PW.27/CW.53, Ramachandran is the then Additional S.I of Police, Taliparamba police station, who recorded the statement of one K. Rajan from the Taliparamba Co-operative Hospital, on 19.02.2012 at about 08.30 a.m. and on return to the police station registered F.I.R as Crime No. 221/2012 of that station. Ext.P23, the certified copy of F.I.R and Ext.P24, the certified copy of the F.I Statement in the said crime were marked through him. According to

him, the allegation is that Rajan, a CPM activist was attacked by IUML activists on 19.02.2012 at 05.45 a.m. from Pattuvam – Muthalappara.

PW28

84. PW.28/CW.54, N.C. Dasan was the Grade A.S.I of Police, Taliparamba police station, who has registered F.I.R in Crime No. 228/2012 of Taliparamba police station on the basis of F.I statement of one K. Sarith, which was recorded by one Jose.V. Varghese, A.S.I of Police of the very same police station from the Co-operative Hospital, Taliparamba on 20.02.2012 and produced before the police station at about 12.00 hours. Ext.P25, the certified copy of F.I.R and Ext.P26, the certified copy of the F.I Statement in the said crime were marked through him. According to him, the allegation is that one Sarith, a CPM activist was attacked by IUML activists on 19.02.2012 at about 18.35 hours from Pattuvam Amsom Ariyil Desam.

PW29

85. PW.29/CW.55, Raveendran is the then Additional S.I. of Police, Taliparamba, who on getting information about admission of accused Nos.32 and 33, Jayarajan and Rajesh in the Co-operative Hospital, Taliparamba, due to sustaining of injuries in an attack by League activists from Ariyil, went to the said hospital along with one Ramachandran, A.S.I of Police. According to him, the aforesaid Ramachandran recorded the statement of Jayarajan in his presence from room No. 315 and thereafter, he recorded the statements of one Balakrishnan and Shijith from room No.316 of the very same hospital and

later, on return to the police station registered F.I.Rs. Ext.P27, the certified copy of the F.I.R in Crime No. 229/2012, Ext.P28, the certified copy of the F.I Statement of accused No.32 Jayarajan, Ext.P29, the certified copy of the F.I.R in Crime No. 230/2012, Ext.P30, the certified copy of the F.I Statement of Balakrishnan, Ext. P31, the certified copy of the F.I.R in Crime No. 231/2012 and Ext.P32, the certified copy of the F.I Statement of Shijith were marked through him. He further deposed that on the same day at about 10.00 p.m. he recorded the statement of one Jubair from the Lourde Hospital, Taliparamba and on return to the police station, registered F.I.R as Crime No.232/2012 of that station. Exts.P33 and P34, the certified copies of the F.I.R and F.I S in the said crime were also marked through him. Ext.P35, the report to delete Umesh @ Umesan and K. Babu, who were accused Nos.1 and 2 and in that crime, from the array of accused in Crime No. 232/2012 was marked through him during re-examination. Ext.D5 the certified copy of the arrest memo in respect of the accused, including Umesh and Babu (who are A6 and A29 herein) in Crime No.232/2012 and Ext.D6 the certified copy of the F.I.R in Crime No. 271/2012 (C.C. No. 1283/2012 of JFCM Taliparamba) were also marked through him during his cross examination.

PW30

86. PW.30/CW.34, Abootty is an attester to Ext.P36 scene mahazar, which was prepared by inspecting room No.315 of Co-operative Hospital, Taliparamba. According to him, on 06.06.2012, he went to the hospital to visit

one of his relative. At the time of preparation of the mahazar, accused No.30 U.V. Venu was also present along with the police. Ext.P36 was marked, by discarding relevant confession statement of accused No.30 extracted therein.

PW31

87. PW.31/CW.79, K. Vasudevan is the Nodal Officer of Bharati Airtel, Kerala Circle. He has produced the subscriber details and call details in respect of mobile phone Nos. 9895788630, 9895504290 and 9995028267 before the police and those documents were seized by the police. Ext.P37, the letter containing the subscriber details, Ext.P38, the seizure mahazar dated 18.08.2012, Ext.P39, the call details record in respect of mobile phone No. 9995028267 and Ext.40, the seizure mahazar regarding seizure of Ext.P39 were marked through him. According to him, as per Ext.P39, there are outgoing call from the aforesaid number to 9656690383 on 20.02.2012 at 13:12:12 hours for 33 seconds, another outgoing call to 9895285665 on 20.02.2012 at 13:18:19 hours for 49 seconds, another outgoing call to 9744569234 on 20.02.2012 at 13:28:07 hours for 38 seconds and another outgoing call to 9744569234 on the same day at 13:38:25 hours for 25 seconds. As per Ext.P37, the subscribers of the aforesaid 9895788630, 9895504290 and 9995028267 numbers are Rajeevan, Suma and Ganesan.

PW32

88. PW.32/CW.51, K.C. Mohanan Nambiar is the then Regional Transport Officer of Kannur, who has produced Exts.P41, P42 and P43,

registration particulars in respect of the motor cycles bearing regn. Nos. KL-13-U 2973, KL-13-W 9804 and KL-13-V 3601. According to him the registered owners of the said vehicles are accused No.16 Sajith, accused No.2 Baby Ganesan and accused No.3 Anoop.

PW33

89. PW.33/additional witness No.1 is the then S.I of Police, Taliparamba police station, who has submitted report for deletion of accused Nos.1 and 2 named Umesh and K. Babu in Crime No.232/2012 of that station from the array of accused, as they were not involved in that case. The certified copy of the said report was already marked as Ext.P35. According to him, on the basis of the statement of the said accused persons in Crime No. 136/2012 of Kannappuram police station (the present case) and also on the basis of the mobile phone tower location collected with the aid of Cyber Cell those persons were deleted from the array of accused by way of the said report.

PW34

90. PW.34/additional witness No.2, Dr. Joseph Benaven is the Medical Director of Lourde Hospital, Taliparamba, who has been examined to prove Ext.P44, wound certificate issued by Dr. Mohammed Kunhi (CW.50), who is no more now, after examining PW.2, Ayoob. According to him, as per Ext.P44 wound certificate, on 20.02.2012 at 3.20 pm Dr. Muhammad Kunhi had

examined one Ayoob (PW2) from the hospital and he noticed the following injuries on the body of PW2.

(i) Contusion and pain below left eye and right middle finger and

(ii) Abrasion on both palms.

The alleged cause was an assault by CPM workers at Keezhara on the same day at 2.30 pm. He was treated as in-patient and discharged on 29.02.2012. He identified the writings and signature of Dr. Muhammad Kunhi, who is now no more and also the seal of the hospital in the Ext.P44, wound certificate. He further deposed that, Dr. Muhammad Kunhi was dealing with the medico-legal cases during that period. Ext.P45, the treatment certificate and Discharge Summary in respect of PW1, Sakkariya was also marked through him. As per the same, PW.1 had a sutured lacerated wound on the upper back, left side. He was discharged on 29.02.2012. He identified the signature of above mentioned Dr. Muhammad Kunhi in Ext.P45 as well. According to him, as per Ext.P45, PW.1 was initially treated at the St. Martin De Porres Hospital, Cherukunnu on the same day at 2.45 pm as a Medico-legal case.

PW35

91. PW.35/CW.75, Sri. Ramesh Raj is the then Alternate Nodal Officer of BSNL, Ernakulam office, who has produced the call details records in respect of the mobile phone Nos. 9895285665, 9400582078, 9400381004, 9656674189, 9847478825 and 9447647708 before the Inspector of Police,

Valapattanam (PW.39). According to him, the 9895285665 number belong to Sumesh K.V. (he is A1 herein). Ext.P46, the call details records in respect of the said number for 20.02.2012, Ext.P47, the certificate U/s.65-B of the Evidence Act and Ext.P48, the seizure mahazar regarding the seizure of the aforesaid documents were marked through him. According to him, as per Ext.P46 on 20.02.2012 at 13:27:51 hours there was an outgoing call to the number 9656690383, which is having duration of 19 seconds and thereafter, one incoming call came to the said number only at 15:43:14 hours. He further deposed that, the 9400582078 number belong to C.N. Mohanan (he is A11 herein). Ext.P49, the call details records in respect of the said number for 20.02.2012, Ext.P50, the certificate U/s.65-B of the Evidence Act, Ext.P51 the copy of the customer application form, Ext.P52, the copy of the election ID card, Exts.P53 and P54 the seizure mahazars regarding the seizure of the aforesaid documents were marked through him. According to him, as per Ext.P49 on 20.02.2012 at 13:53:07 hours there was an outgoing call to the number 9846692074 which is having duration of 82 seconds, the tower location is shown as Pazhayangadi, at 13:55:43 there was an incoming call from 9447647708, having duration of one second, again at 13:56:18, there was another incoming call from the very same number having duration of 50 seconds and at 14:07:59 hours there was an outgoing call to the very same number having duration of 30 seconds. It is also his version that, the number 9400381004 belong to Bijumon. V (he is A12 herein). Ext.P55, the call details

records in respect of the said number for 20.02.2012, Ext.P56 the certificate U/.65-B of the Evidence Act and Ext.P57, the seizure mahazar regarding the seizure of the aforesaid documents were marked through him. According to him, as per Ext.P55 on 20.02.2012 at 13:11:10 hours there was an incoming call from the number 9947720953 which is having duration of 21 seconds, at 13:27:21 hours there was another incoming call from the very same number, having duration of 17 seconds, again at 13:29:13 hours, there was another incoming call from the very same number, having duration of 20 seconds and at 14:13:26 hours there was an outgoing call to the very same number having duration of 27 seconds. He further deposed that, the 9447647708 number belong to Santhosh.K (he is PW.8 herein). Ext.P58, the call details records in respect of the said number for 20.02.2012, Ext.P59 the certificate U/.65-B of the Evidence Act, Ext.P60 the copy of the customer application form, Ext.P61, the copy of the election ID card and Ext.P62 and Ext.P63 the seizure mahazars regarding the seizure of the aforesaid documents were also marked through him. According to him, as per Ext.P58 on 20.02.2012 at 12:53:39 hours there was an incoming call from the number 9847414382, which is having duration of 33 seconds, again at 12:56:28 there was another outgoing call to the very same number, having duration of 25 seconds, again at 12:58:18, there was an outgoing call to the number 9744569234 having duration of 25 seconds, again at 13:00:01 hours, there was an outgoing call to the number 940038078 having duration of 11 seconds, there was an

incoming call from the number 9744569234 at 13:02:19 hours which is having duration of 14 seconds, at 13:05:37 hours there was an outgoing call to the number 940038078 having duration of 16 seconds, again at 13:10:21 hours there was an outgoing call to the number 9744569234 having duration of 48 seconds and there was an incoming call from the number 9847414382 at 13:19:32 hours, which is having duration of 48 seconds. It is also his version that, the number, 9656674189 belong to Babu.K. (he is A29 herein). Ext.P64, the call details records in respect of the said number for 20.02.2012, Ext.P65 the certificate U/.65-B of the Evidence Act and Ext.P66, the seizure mahazar regarding the seizure of the aforesaid documents were marked through him. According to him, as per Ext.P64 on 20.02.2012 at 13:33:08 hours there was an incoming call from the number 9846692074, which is having duration of 28 seconds, again at 13:35:59 there was another incoming call from the very same number, having duration of 14 seconds, again at 13:36:32 hours, there was another incoming call from the very same number, having duration of 18 seconds, again at 13:37:58 hours there was another incoming call from the very same number, having duration of 13 seconds, at 13:39:18, 13:43:54, 13:49:10, 13:49:39 and 14:14:42 hours there were outgoing calls to the very same number having duration of 21, 15, 12, 7 and 11 seconds. Thereafter, at 14:39:32 hours and 14:42:23 hours, there were two outgoing calls to the very same number, having duration of 11 and 13 seconds respectively. He further deposed that, the number, 9847478825

belong to Sudhakaran.K. (he is A17 herein). Ext.P67, the call details records in respect of the said number for 20.02.2012, Ext.P68 the certificate U/.65-B of the Evidence Act and Ext.P69, the seizure mahazar regarding the seizure of the aforesaid documents were marked through him.

PW36

92. PW.36/Additional witness, Augustine Joseph is the Alternate Nodal Officer of Vodafone–Idea Limited, Kerala Circle, who has been cited to prove the call data records and other documents produced by the then Nodal Officers of Vodafone and Idea, named Shahin Komath(CW.77) and Rajkumar (CW.81) before the investigating officer. According to him, he worked along with them in Vodafone and Idea. He deposed that Ext.P70, the call details records in respect of the number 9846692074 for 20.02.2012 and Ext.P71 the seizure mahazar regarding the seizure of the aforesaid documents were marked through him. Ext.P72, the certificate U/s. 65-B of the Evidence Act and Ext.P73, the seizure mahazar regarding the seizure of the certificate were also marked through him. According to him, those call data records and certificate bear the signature of CW.77, Shahin Komath. He further deposed that on 20.02.2012, there was an incoming call at 13:53:07 hours from the mobile number 9400582078, having duration of 82 seconds, there was another incoming call from the number 9656674189 on the same day at 14:39:15, having duration of 12 seconds and again there was an incoming call from the number 9400582078 at 14:42:06 hours, which is having duration

of 13 seconds. Though the certificate issued by CW.77 showing the subscriber details in respect of the numbers 9846692074, 9745495995 and 9539581183 was sought to be marked through him, the same was not marked on the basis of the objection raised by the counsel appearing for the accused that issuing such a signed letter showing the subscriber details is hit by Section 162 of Cr.P.C.

93. PW.36 further deposed that the aforesaid Rajkumar/CW.81 has issued Ext.P74 call data records in respect of the mobile number 9947720953, Ext.P75, the certificate U/s.65-B of the Evidence Act, Ext.P76, the copies of the Customer Application Form and ID proof before the investigating officer. The said number was in the name of a customer named Syamjith. G.S (he is A19 herein). As per Ext.P74, there was an outgoing call on 20.02.2012 at 13:11:00 hours to the mobile number 9400381004 which is having duration of 21 seconds. Again there is another outgoing call to the very same number at 13:27:00 hours, which is having duration of 17 seconds and another outgoing call to the very same number at 13:29:00 hours which is having duration of 19 seconds. Thereafter, one incoming call was received from the very same number at 14:13:00 hours, which is having duration of 27 seconds. Exts.P77 to P80, the call data records in respect of the mobile number 9744569234 in the name of Dinesan.P (he is accused No.10 herein), the certificate U/s.65-B of the Evidence Act, the print out of the Customer Application Form and ID proof and the seizure mahazar regarding seizure of

the said documents were also marked through him. According to him, as per Ext.P77, on 20.02.2012 at 12:51:00 hours, there was an outgoing call from the said number to the number 9947193926, which is having duration of 44 seconds. At 12:58:00 hours, there was an incoming call from the number 9447647708, which is having duration of 25 seconds, at 13:02:00 hours, there was an outgoing call to the very same number, which is having duration of 13 seconds. Again at 13:10:00 hours, there was an incoming call from the very same number, which is having duration of 48 seconds. Again at 13:28:00 hours, there was an incoming call from the number 9995028267, which is having duration of 38 seconds. Again at 13:38:00 hours, there was an incoming call from the very same number, which is having duration of 25 seconds. Thereafter, at 14:17:00 hours, there was an incoming call from the number 9947193926, which is having duration of 8 seconds. The last call on that day was at 14:55:00 hours. Exts.P81 to P84, the call data records in respect of the mobile number 9947193926 in the name of Vijesh.K (he is accused No.4 herein), the certificate U/s.65-B of the Evidence Act, the print out of the Customer Application Form and ID proof were also marked through him. According to him, as per Ext.P81, on 20.02.2012 at 12:51:00 hours, there was an incoming call from the number 9744569234, which is having duration of 44 seconds. Again at 12:56:00 hours, there was another incoming call from the number 944647708, which is having duration of 25 seconds. Again at 13:02:00 hours, there was an incoming call from 9744569234, which

is having duration of 22 seconds and at 13:06:00 hours, there was another incoming call from the number 9447647708, which is having duration of 21 seconds. Exts.P85 to P87, the call data records in respect of the mobile number 9656690383 in the name of K.V. Anoop (he is accused No.3 herein), the certificate U/s.65-B of the Evidence Act, the print out of the Customer Application Form and ID proof were also marked through him. According to him, as per Ext.P85, on 20.02.2012 at 12:48:00 hours, there was an outgoing call to the number 9995028267 which is having duration of 153 seconds. Again at 13:12:00 hours, there was an incoming call from the very same number, which is having duration of 34 seconds. Again at 13:27:00 hours, there was another incoming call from 9895285665, which is having duration of 19 seconds. Again there was another incoming call from the number 9895026965 at 13:51:00 hours, which is having duration of 8 seconds and again there was an incoming call at 13:52:00 hours from the number 9895285665, which is having duration of 49 seconds. Exts.P88, the seizure mahazar regarding seizure of Exts.P81 to P87 was also marked through him. Exts.P89 to P91, the call data records in respect of the mobile number 9744501196 in respect of Abdul Salam.P (he is CW.4 herein), the certificate U/s.65-B of the Evidence Act, the print out of the Customer Application Form and ID proof were also marked through him. According to him, as per Ext.P89, on 20.02.2012 at 13:20:00 hours, there was an outgoing call to the number 9656674189, which is having duration of 50 seconds. Again at

13:29:00 hours, there was an incoming call from the very same number, which is having duration of 84 seconds. Ext.P92, the seizure mahazar regarding seizure of Exts.P89 to P91 was also marked through him. He has identified the signatures of Rajkumar/CW.81 in the call data records referred to above.

PW37

94. PW.37/CW.57, Sri. Ajeesh Thekkalavan is the Scientific Assistant (Biology) of RFSL, Kannur, who was in charge of Assistant Director of that Laboratory during 2012. According to him, as per the direction from the Assistant Director, Regional Forensic Science Laboratory (RFSL), Kannur, he visited scene of occurrence in Crime No.136/2012 of Kannapuram Police Station in the presence of the Investigating Officer on 20.02.2012 afternoon and 21.02.2012 forenoon and collected two samples, i.e, blood stain in cotton gauze from the blood pool and blood stained leaves collected from the scene on 21.02.2012. The collected materials were packed, labeled, sealed and handed over to the Investigating Officer, U. Preman, Inspector of Police, Valapattanam (CW73/PW.39). Those items were seized by CW73/PW.39 by preparing a seizure mahazar. He has issued a collection receipt from the scene of occurrence and submitted to CW73/PW.39. Subsequently, on 19.03.2012 he had given a detailed report regarding his visit, inspection and collection of samples from the scene of occurrence to CW73/PW.39. The said report was marked through him as Ext.P93. Ext.P93 report was

submitted by Assistant Director, along with Ext.P94, covering letter dated 20.03.2012. The scene of occurrence, according to him, was an agricultural land at Keezhara known as 'Keezhara Chulliyottu Vayal' and on the western side of the Keezhara-Valluvankadavu Road. Later, on 16.04.2012, he has received 15 sealed packets, including two items already handed over by him from the scene of occurrence to CW73/PW.39, through the JFCM Court-I, Kannur. The seals were intact and tallied with the specimen seal impression provided. The items were specifically mentioned as item Nos.1 to 15 in the description portion of his report. All the 15 items were examined using standard protocols and submitted a detailed report, through proper channel to the JFCM-I, Kannur, with a covering letter of Assistant Director. Ext.P95, the report dated 30.06.2012 and Ext.P96, the covering letter issued by Assistant Director, dated 03.07.2012 were also marked through him. The result of examination, according to him is as follows :-

(i) Items Nos.8, 9, 10 & 14 contain human blood belonging to the group 'B'.

(ii) Items 12, 13 and 15 contain human blood belonging to the group 'O'.

(iii) Item No.1 contain human blood and

(iv) Items 2 to 7 & 11 contain blood which is insufficient for determining the origin and group.

Later, on 26.07.2012, he received one sealed packet, through the JFCM Court-I, Kannur. The seals were intact and tallied with the specimen seal impression provided. The packet consisted of 3 unsealed packets and they were numbered as Items 1, 2 & 3 in his report, they are knives, the description and details are shown in his report. The items were subjected to examination using standard protocol and he has submitted a detailed report, dated 25.08.2012 to the JFCM-I, Kannur, with a covering letter of Assistant Director, which is marked through him as Ext.P97. The covering letter issued by Assistant Director, dated 10.09.2012 was also marked through him as Ext.P98. The result of examination as per Ext.P98 is as follows :-

(i) Item No.1 contains blood which is found to be insufficient for determining the origin & Group and

(ii) Blood is not detected on item No.2 & 3.

PW38

95. PW.38/CW.83, Sri. Anil. T.P is the then Judicial First Class Magistrate-II, Kannur, who has conducted test identification parade in respect of the suspects in this case and forwarded Exts.P99 to P107 reports and accompanying papers to the first committal Court. He also recorded the statement of PW.1, Sakkariya U/s. 164 of Cr.P.C during the course of investigation. He deposed in detail regarding the manner in which he conducted the test identification parade of the suspects. Ext.P99 report is in

respect of the test identification parade of the accused No. 27 herein. During the test identification parade, PW.1, PW.2 and CW.3 N.K. Haris identified the suspect, whereas CW.4 Abdul Salam failed to identify the suspect. Ext.P100 is the report in respect of the test identification parade in respect of suspects named Sudhakaran (A17 herein), Pavithran (A7 herein), Umesan (A6 herein) Vijesh (A4 herein), Babu (A29 herein), M.P. Denesan (A10 herein), Bijumon (A12 herein) and Manoharan (A9 herein). The test identification parade in respect of A17 and A7 was conducted on 04.04.2012, that of A6, A4 and A29 was conducted on 07.04.2012 and that of A10, A12 and A19 was conducted on 09.04.2012. In the test identification parade, accused No.17 Sudhakaran was identified by PW.1 Sakkariya and CW.3 Haris. On the other hand, PW.2 Ayoob and CW.4 Abdul Salam failed to identify the suspect. The accused No.7 Pavithran was identified by all the four witnesses, i.e., PW.1, PW.2, CW.3 and CW.4. The accused No.6 Umesan, the accused No.4 Vijesh, accused No.29 Babu, accused No.10 M.P. Dinesan, accused No.12 Bijumon and accused No.9 Manoharan were identified by all the four witnesses referred to above. Ext.P101 report is in respect of the test identification parade of the accused No.25, V.V. Mohanan, which was conducted on 15.05.2012. During the test identification parade, PW.1, PW.2, CW.3 N.K. Haris and CW.4 Abdul Salam identified the suspect, whereas CW.9 Ummerul Farooq failed to identify the suspect. Ext.P102 report is in respect of the test identification parade of the accused No.14, E.P. Radhakrishnan, which was

conducted on 22.05.2012. During the test identification parade, PW.1, PW.2, CW.3 N.K. Haris and CW.4 Abdul Salam identified the suspect. Ext.P103 report is in respect of the test identification parade of the accused No.28, Sureshan.P.P, which was conducted on 30.05.2012. During the test identification parade PW.1 alone identified the suspect, whereas PW.2, CW.3 N.K. Haris and CW.4 Abdul Salam failed to identify him. Ext.P104 is the report in respect of the test identification parade of suspects named Latheesh (A8 herein), P. Ganesan (A2 herein), Purushothaman @ Purushu (A26 herein), Prakasan.K. (A22 herein) and Shaji. K.V.(A21 herein). The test identification parade in respect of A8 and A2 was conducted on 02.06.2012 and that of A26, A22 and A21 was conducted on 06.06.2012. In the test identification parade, accused No.8, accused No.2, accused No.22 and accused No.21 were not identified by any of the witnesses, i.e., PW.1, PW.2, CW.3 and CW.4. On the other hand, PW.1, PW.2 and CW.4 identified the accused No.26 Purushothaman @ Purushu, whereas CW.3 Haris failed to identify the suspect. Ext.P105 is the report in respect of the test identification parade of suspects named Shijin (A15 herein), N.P. Nithin (A13 herein) and C.N. Mohanan (A11 herein). The test identification parade in respect of A15 and A13 was conducted on 11.06.2012 and that of A11 was conducted on 13.06.2012. In the test identification parade all the four witnesses identified the accused Nos.15 and 11, whereas all of them failed to identify the accused No.13. Ext.P106 is the report in respect of the test identification parade of

suspects named K.V. Sumesh (A1 herein) and E. Anoop (A3 herein). The test identification parade was conducted on 13.06.2012. In the test identification parade all the four witnesses, i.e., PW.1, PW.2, CW.3 and CW.4 identified both the suspects. CW.4 has identified the accused No.1 only in the last round and he failed to identify in the first and second round. Ext.P107 is the report in respect of the test identification parade of suspect named Sareesh.A (A20 herein). The test identification parade was conducted on 13.07.2012. In the test identification parade PW.1, PW.2 and CW.4 identified the suspect. CW.4 has identified the accused No.20 only in the second and third round and he failed to identify in the first round. On the other hand CW.3 Haris failed to identify the suspect in all the three round. PW.38 has recorded the statement of PW.1 on 16.08.2012 and marking of the said statement was already disallowed, as omnibus marking is not permissible.

PW39

96. PW.39/CW.73, Sri. U. Preman is the then Inspector of Police, Valapattanam, who went to the scene of occurrence on getting information about the same, proceeded with investigation of the case and on completion of the investigation laid final report before the first committal Court. According to him, on 20.02.2012 at about 14.40 hours he got information about the incident over phone from PW.9. Accordingly, he along with the police party went to Keezhara in the police jeep. On his way, he reported the matter to his

superior officers i.e., Dy.S.P and S.P. Kannur over phone. He also gave direction to the Sub Inspectors of Mayyil and Valapattanam to be vigilant in their law and order patrol duty. He also directed PW.9 to register F.I.R and to enquire about the culprits. He along with the police party reached the house of CW.6 Muhammed Kunhi around 15:30 hours. He enquired about the incident with Muhammed Kunhi and later went to Valluvankadavu bhagam. By that time, at about 16:30 hours, PW.10 informed him over phone that one person is lying on the varamba of Chulliyottuvayal with injuries. Accordingly, he along with police party went there. He had seen one person lying on the varamba on his back(supine position), with stab injuries on the chest and abdomen. For giving medical aid he was taken near to the police jeep and later PW.10 was authorized to take him to the Medical College Hospital, Pariyaram. PW.13 and CW.63 were authorized to guard the scene of occurrence. At about 17:10 hours, he received the copy of the F.I.R in Crime No. 136/2012 of Kannapuram police station (F.I.R is Ext.P5) through PW.9, who has registered the F.I.R. PW.9 informed him that steps were taken for onward transmission of F.I.R to the Court as express F.I.R. He took over investigation of the case and prepared Ext.P4 scene mahazar in the presence of the witnesses. MO.10 blood stained soil and grass, MO.15 and MO.14 chappals, MO.11 and MO.12, the pieces of calendar, MO.9 and MO.13 chappals were also seized by him under the very same mahazar. As the place of occurrence is to be inspected by the Forensic Officials, he authorized

CW.64 Balan ASI and PW.11 Sreekumar to guard the scene of occurrence. While preparing the mahazar, PW.10 informed him over phone that the person taken to the hospital has died and the name of that person is informed as Shukkoor. Later, he submitted Ext.108 report on 20.02.2012 to add Section 302 IPC to the charge. Later, on the same day, at about 19:05 hours, he visited the Mission Hospital, Cherukunnu and seized MO.1 and MO.2 pants and shirt of PW.1 under Ext.P109 mahazar. For want of time, he has not recorded the statement of PW.1 at that time. On the same day at 20:30 hours he seized MO.3, MO.4, MO.16 and MO.17, shirt, pant, baniyan and currency notes belong to Shukkoor by preparing Ext.P6 seizure mahazar, as those items were produced by PW.10 from the Kannapuram police station. Since those items are necessary for further investigation, he kept the same in his custody and later shown to the witnesses, who have identified the same. On 21.02.2012 at about 6.30 a.m., he went to the Medical College Hospital, Pariyaram for conducting inquest of the body of Abdul Shukkoor. After taking the photographs of the body through one Balakrishnan, he prepared Ext.P3 Inquest report of the body of Shukkoor from 7.30 to 9.30 hours from that hospital. After the inquest the body was handed over for postmortem examination. Later, he visited the house of CW.6 Muhammed Kunhi around 10.45 a.m. and recorded his statement. MO.5 mobile phone of Shukkoor was seized from there under Ext.P2 seizure mahazar. He kept the mobile phone in his custody for the purpose of investigation by sending Ext.P110 report to

the Court. He also prepared Ext.P111, additional scene mahazar at 12:15 hours after inspecting the house and surroundings of CW.6 Muhammed Kunhi. Later at 13:00 hours, he seized the blood stained sample collected by PW.37 (Mos.18 and 19) from the scene of occurrence under Ext.P9 mahazar, as the same were handed over to him by PW.37. On 23.02.2012, he visited the Medical College Hospital, Pariyaram and recorded the statement of PW.25, Dr. Gopalakrishna Pillai, who conducted autopsy of the body of Shukkoor and obtained copy of the postmortem certificate. He came to know that the original of the postmortem certificate/Ext.P20 was forwarded to the Court. Later, he went to the Mission Hospital, Cherukunnu and collected Ext.P22 wound certificate of PW.1 and recorded the statement of PW.26, Dr. E.K. Satheesh, who has produced the same. He also submitted Ext.P112 report to keep the chappals seized from the scene of occurrence in his custody for the purpose of investigation. The remaining items, except the mobile phone were produced before Court along with Exts.P113 to P116 property lists. Later, the chappals and mobile phone were also produced before Court on 28.02.2012 along with Ext.P117 property list. On getting information about 12 suspects, he submitted Ext.P118 report before Court on 28.02.2012, mentioning their names. He also submitted Ext.P119 report to add Section 109 IPC to the charge on 29.02.2012. He submitted Ext.P120 report before Court on 29.02.2012 mentioning the name and address of accused No.27 P.K. Ajith Kumar. The said accused was arrested from

Kasaragod on 29.02.2012 at about 19:30 hours by the Sub Inspector of Police, Vidyanagar Police Station Kasaragod and produced before him. Accordingly, the accused No.27 was produced before Court on 01.03.2012 along with Ext.P121 remand report and Exts.P122 arrest memo/inspection memo. On 11.03.2012, he submitted Ext.P123 report mentioning the name and address of accused No.24 P. Rajeevan. The said accused was arrested on the same day at 21:00 hours by preparing Exts.P125 and P126 arrest memo and inspection memo and he was produced before Court on 12.03.2012 along with Ext.P124 remand report. On 16.03.2012, at about 14:30 hours, he visited the place of occurrence, from where PW.1 was attacked, in the presence of PW.1 and prepared Ext.P127 observation mahazar. On 26.03.2012, he submitted Ext.P128 report mentioning the name and address of accused Nos.1 to 19, arrayed during the course of investigation. On getting information of surrender of Sudhakaran and 8 other accused before Court on 29.03.2012 and also about their remand to judicial custody, he has submitted report before the learned Chief Judicial Magistrate to conduct test identification parade in respect of the said accused. He also submitted Ext.P129 report to formally arrest the said accused and Ext.P130 report to issue production warrant for producing the said accused before Court for the purpose of getting police custody. He also submitted Ext.P131 report and Ext.P132 affidavit to get police custody of the accused. He submitted Ext.P133 report to take the photo of accused No.27 from the jail

after the test identification parade. He obtained police custody of aforesaid Sudhakaran and 8 others from the Court on 10.04.2012, interrogated and recorded their statement and produced back them before Court on 13.04.2012 along with Ext.P134 report. He also obtained Ext.P44 wound certificate of PW.2 Ayoob from the Lourde Hospital, Taliparamba on 19.04.2012. On 28.04.2012, he submitted Ext.P135 report mentioning the name and address of the accused named Latheesh and others. He also submitted Ext.P136 correction report on 13.05.2012 as there is no mention of accused No.29 in that report. On 28.04.2012, he submitted Ext.P137 report mentioning the correct name of V.V. Mohanan (A25). He was arrested on the same day after preparing Exts.P139 and P140 arrest memo and inspection memo and produced before Court along with Ext.P138 remand report. On 13.05.2012, he submitted Ext.P141 report mentioning the name and address of accused No.14. E.P. Radhakrishnan. He was arrested on the same day at 15:00 hours by preparing Exts.P143 and P144, arrest memo and inspection memo and produced before Court along with Ext.P142 remand report. On 19.05.2012, he submitted Ext.P145 report mentioning the name and address of accused No.28, Sureshan.P.P. He was arrested on the previous day at 19:00 hours by preparing Exts.P147 and P148, arrest memo and inspection memo and produced before Court along with Ext.P146 remand report. On 22.05.2012, he submitted Ext.P149 report to issue production warrant for producing accused No.14, E.P. Radhakrishnan for the purpose of getting his

police custody. The report and affidavit for the said purpose are Exts.P150 and P151. On 27.05.2012, he obtained custody of accused No. 14 and after continuing investigation in his presence, produced back the accused before Court on the same day along with Ext.P152 report. He obtained Ext.P19 ownership certificate from the Kannapuram Grama Panchayat Secretary (PW.24) and Exts.P17 and 18 site plan and possession certificate from the Kannapuram Village Officer (PW.23). On 25.05.2012, he took custody of accused No.30 U.V. Venu from Taliparamba and submitted Ext.P153 report before Court by adding him as an accused in this case. On the same day, he submitted Ext.P154 report to interrogate Sudhakaran and others from the Sub Jail and also submitted Ext.P155 report mentioning the names and address of Purushothaman and others. On the same day, he arrested accused Nos.26, 22, 21 and 30, M.V. Purushothaman, K. Prakasan, Shaji. K.V. and U.V Venu. They were produced before Court along with Ext.P156 remand report. Exts.P157 to P164 are the arrest and inspection memos in respect of the said accused. Ext.P165 is the memo prepared while taking accused No.30 into custody. On 26.05.2012 at 11:00 hours, he took custody of accused Nos.2 and 8 Ganeshan and Latheesh, interrogated and recorded their statements. On 27.05.2012, he submitted Ext.P166 report to add the second accused Ganeshan. The accused Nos.8 and 2 were produced before Court along with Ext.P167 remand report and Exts.P168 to P173 are the arrest memos, inspection memos and custody memos in respect of them. On

29.05.2012 at 19:00 hours, he arrested accused Nos.15,13 and 11, Shijin.K. Nithin and C.N. Mohanan and submitted Ext.P174 report to add them as accused. He produced them before Court along with Ext.P175 remand report and Exts.P176 to P181 are the arrest and inspection memos in respect of them. He submitted report before CJM for conducting test identification parade in respect of the arrestees. He submitted Ext.P182 report on 26.05.2012 to add Section 120-B of IPC in respect of the accused No.30. On 01.06.2012, he visited the house of accused No.3 Anoop at 11.00 a.m. on getting information about his involvement in this case and took his custody. Later, the accused No.1 Sumesh was taken into custody from his house at 11:30 a.m. On interrogation, the first accused stated before him that, the knife has been entrusted to Sajith and if he is taken, he would point out Sajith and his house. Accordingly on the basis of the said statement, he reached the house of Sajith (A16) and took custody of accused No.16 at 14:00 hours. All the three accused were interrogated from the office and their arrest was recorded on 01.06.2012 at 20:45 hours. On interrogation of accused No.16, it was stated by him that he has kept the knife in the motor cycle, if he is taken to that place, he would take and produce the knife. On the basis of the said statement of accused No.16 and as led by him, on 02.06.2012 at 10:15 hours he along with the police party went to Cherukunnuthara, the witnesses names Shamsudheen/CW.29 and Junaid/PW.20 were taken along with them and subsequently, reached the house No.II/583 of Kannapuram Grama

Panchayat. From there the accused No.16 took a knife and its cover from the tool box, by opening the tool box by using the key which was kept beneath the seat. He handed over the knife and its cover to PW.39 and accordingly, the same along with motor cycle and key were seized under Ext.P12 seizure mahazar in the presence of the witnesses. The relevant portion of the statement of accused No.16, which is extracted in Ext.P12 and led to the discovery of the knife is also marked through him as Ext.P12(a). PW.39 identified MO.8 knife, MO.20 its cover and MO.21 the key with key chain of the motor cycle as the items seized under the mahazar. He submitted Ext.P183 report to incorporate the names of accused Nos.1, 3 and 16. Since the knife is required for further investigation, he submitted Ext.P184 report to the Court to keep the knife in his custody. Later, the accused Nos.1, 3 and 16 were produced before Court along with Ext.P185 remand report and Exts.P186 to P194 are the custody memos and arrest memos and inspection memos in respect of them. The relevant extract of the confession statement of accused No.1, as deposed earlier by this witness is also marked as Ext.P195, subject to its admissibility. On 02.06.2012, he submitted Ext.P196 report for issuing production warrant to produce accused Nos.8, 30 and 2 before Court for getting police custody. While they were produced before Court on 04.06.2012, he submitted Ext.P197 report and Ext.P198 affidavit for getting their custody. Their custody was obtained for a period from 04.06.2012 to 08.06.2012. On investigation, the second accused Ganeshan

stated that, he has placed the knife at a place and if he is taken to that place, he would point out that place and also will take and hand over the knife. On the basis of the said statement of accused No.2, and as led by the said accused, on 06.06.2012 at about 10.30 a.m., he along with the police party went towards Cherukunnu bhagam, PW.21 Ihsan and CW.31 Shahujahan also accompanied them near the Convent Hospital at Cherukunnu and went towards Cherabhagam via Valluvankadavu. They reached near a pump house at 11.00 a.m. and from the compound of the pump house, the accused No.2 took a knife and handed over to this witness and the same was seized at 11:10 hours by preparing Ext.P13 seizure mahazar. He identified MO.6 knife, as the knife seized under the mahazar. Ext.P13(a) the relevant portion of the statement of the second accused, which led to the discovery of the weapon was also marked through him. He submitted Ext.P199 report before Court on 08.06.2012 to keep the knife in his custody for the purpose of investigation. On 04.06.2012, he obtained police custody of accused No.30 U.V. Venu, recorded his statement on 06.06.2012 and pursuant to the said statement, visited Co-operative Hospital, Taliparamba on the same day at 13:25 hours and prepared Ext.P36 observation mahazar. Accused Nos.2, 8 and 30 were produced back before Court on 08.06.2012 along with Ext.P200 report. On 06.06.2012, he submitted Ext.P201 report to issue production warrant for production of accused Nos.26, 22 and 21, M.V. Purushothaman, Prakasan. K. and K.V. Shaji. When those accused were produced before

Court on production warrant on 07.06.2012, he submitted Ext.P202 report to get their police custody, along with Ext.P203 affidavit. After getting their custody he proceeded with further investigation and produced back the accused along with Ext.P204 report on 08.06.2012. On 08.06.2012, he produced the properties seized under Ext.P12 seizure mahazar and retained in his custody as per Ext.P184 report, along with Ext.P205 property list and Ext.P206 report. On 10.06.2012, he issued Ext.P207 notice to accused No.32, P.Jayarajan for appearance before him on 12.06.2012. He seized the case sheets relating to the treatment of accused Nos.32 and 33 from the Co-operative Hospital, Taliparamba on 12.06.2012 under Ext.P14 seizure mahazar and the originals of the case sheets were returned on getting Ext.P15 and Ext.P16 true copies. On 13.06.2012, he submitted Ext.P208 report to issue production warrant for production of accused Nos.1 and 3, Sumesh and Anoop before Court. When they were produced before Court on 14.06.2012, he submitted Ext.P209 report, along with Ext.P210 affidavit for getting their custody. As per orders of the Court he obtained their custody for a period from 14.06.2012 to 16.06.2012. On 15.06.2012, he produced the knife seized under Ext.P13 mahazar, as per the statement of accused No.2 Ganeshan, along with Ext.P211 property list and Ext.P212 report. On 14.06.2012, he interrogated accused No.3 Anoop and recorded his statement. It was stated by him in his statement that, if he is taken, he will take and hand over the knife. On the basis of the said statement, on

16.06.2012 at about 10.00 a.m., PW.39 and police party went for effecting recovery of the knife, when they reached at Vayanasala Junction, Keezhara, PW.19 Isham and CW.27 Anas were taken along with them in the police jeep. Thereafter, MO.7 knife was seized under Ext.P10 seizure mahazar, as the knife was taken by the accused No.3 beneath a pipe and produced before him. Ext.P10(a) the relevant portion of the statement of the accused was also marked through him. Again they continued in the police jeep and as pointed out by the accused No.1 Sumesh he has prepared Ext.P11 observation mahazar, in respect of the place where the knife was earlier concealed by the accused No.1. He returned to his office along with the accused and knife and submitted Ext.P213 report before Court to keep the knife in his custody for further investigation. The accused Nos.1 and 3 were produced back before Court on 16.06.2012 along with Ext.P214 report. Later, on 21.06.2012, he submitted Ext.P215 report, seeking permission of the Court to interrogate accused Nos.2 and 3 from the jail. He also submitted Ext.P216 report on 21.06.2012 for taking photo and finger print of accused No.15 Shijin Mohan from the jail. On 23.06.2012, He effected seizure of the motor cycle bearing Regn. No. KL-13-V-3601, allegedly used by the accused No.3 Anoop for reaching the scene of occurrence, under Ext.P7 seizure mahazar in the presence of the witnesses and wife of Anoop, Vijisha. He also seized the motor cycle bearing Regn. No. KL-13-W-9804 allegedly used by the accused No.2 Ganeshan for reaching the scene of occurrence, under Ext.P8 seizure

mahazar in the presence of the witnesses and wife of Ganeshan, Rajamani. He also obtained Exts.P41 to P43, R.C. particulars in respect of the motor cycles from the RTO. Kannur/PW.32. On 03.07.2012, he produced MO.7 knife before Court along with Ext.P217 property list. On 04.07.2012, at about 10:15 hours he took custody of accused Nos.31 and 20, A.V. Babu and Sareesh, they were taken to his office and interrogated. Their arrest was recorded at 18:30 hours and he submitted Ext.P218 report to the Court mentioning the name and address of the said accused. He produced the accused Nos.20 and 31 before Court on 04.07.2012 itself along with Ext.P219 remand report and Exts.P220 to P223 custody memos and arrest memos/inspection memos. On 05.07.2012, he submitted Ext.P224 report mentioning the name and address of accused No.5 Prakasan.K. He was not able to be arrested during the course of investigation. He submitted report for conducting test identification parade in respect of accused No.20 Sareesh. On 13.07.2012, he filed Ext.P225 report for issuing production warrant for the production of accused Nos.20 and 31 referred to above. When they were produced before Court on 16.07.2012, he submitted Ext.P226 report along with Ext.P227 affidavit for getting their police custody. He obtained custody of accused Nos.20 and 31 till 18.07.2012 and after conducting further investigation, he produced back them before Court on 18.07.2012 along with Ext.P228 report. On 03.04.2012, he has submitted forwarding note/copy of the same is Ext.P229 before Court to send the material objects for chemical

examination. On 16.07.2012 also, he submitted another forwarding note. The accused No.32 appeared before him in pursuance to the notice and he submitted Ext.P230 report on 01.08.2012, mentioning the names and address of accused Nos.32 and 33, Jayarajan and Rajesh and also to incorporate Section 118 of IPC. On 01.08.2012 itself at 11:25 hours he arrested accused No.32 and produced him before Court along with Ext.P231 remand report and Exts.P232 and P233 arrest memo and inspection memo. On 03.08.2012, he has submitted report before the CJM Court for recording the statement of PW.1 U/s. 164 of Cr.P.C. The call data records from BSNL, Vodafone, Airtel and Idea companies were collected in respect of the mobile phone numbers of the accused and witnesses. On 17.08.2012, he submitted a report to add Section 341 IPC to the charge. On 23.08.2012, he submitted Ext.P234 report for adding Sections 450, 201, 294(b) and 506(1) of IPC. He also submitted Ext.P235 report on 23.08.2012, for deleting the names of the accused persons named Baneesh, Sajeevan, Ramesan, Shaju, Biju and Mothanga Dinesan, as they were not involved in the incident. He also submitted Ext.P236 report rearranging the rank of the accused. All the witnesses cited were interrogated by him during the course of the investigation, he was not able to arrest the accused Nos.5, 18, 19 and 23, he came to know that the accused No.33 Rajesh surrendered before Court and released on bail. MOs.6 and 8 knives were shown to PW.25 and MO.6 and MO.7 to PW.26 and also to PW.1. On completion of investigation he laid final report before Court

against the accused Nos.1 to 33 for the offence punishable U/Ss. 143, 147, 148, 447, 450, 294(b), 506(1), 364, 341, 323, 324, 307, 302, 109, 201, 118 and 120-B r/w. 149 IPC. Exts.P238 and P239, the wound certificates in respect of accused Nos.1 and 3 Sumesh and Anoop, Ext.C2, the order in Crl.M.P No. 2121/2012 dated 08.06.2012 of the first committal Court, Ext.D7, the copy of the statement of accused No.1, Ext.D7(a), the legible copy of Ext.D7, Ext.D8, copy of the statement of accused No.3, Ext.D9, the copy of the statement of one Sajith, Ext.D10, the copy of the discharge petition filed on behalf of Dy.S.P. P. Sukumaran in C.C. No. 1132/2012 of JFCM Court-II, Kannur, Ext.D11, the copy of the order of the learned Magistrate in that application dated 05.08.2019, Ext.D12, the copy of the court charge in the said case, Ext.D13, the copy of the Government order dated 20.07.2012, appointing Sri. C.K. Sreedharan Advocate as a Special Public Prosecutor for Crime No.136/2012 of Kannapuram police station, that is a present case and Ext.D14, the copy of the order of the Hon'ble High Court of Kerala in Crl.M.C. No.2173/2013 dated 05.08.2014 were marked during cross examination of PW.39.

PW40

97. PW.40/CW.21 in CBI charge, Sri.A.N. Sallal is the Inspector of Police, CBI/SCB, Thiruvananthapuram, who conducted further investigation of the case. According to him, on 20.04.2016, the then Superintendent of Police Sri.Jose Mohan, IPS has registered Ext.P237 F.I.R as Crime

No.RC/9(S)/2016/CBI/SCB/TVPM. He was authorized to conduct further investigation of the case. Accordingly, he recorded the statements of Athikka/CW.25, Sakkariya/PW.1, Abdul Salam/CW.4, Ayoob/PW.2, Haneefa/CW.8, Muhammed Kunhi/CW.6, Fathima/PW.3 and Davood/PW.14. Since he was transferred from that branch, he entrusted the case file to another Inspector of Police named Shylesh Kumar.

PW41

98. PW.41/CW.23 in the CBI Charge is the then Additional Superintendent of Police, Special Crime Branch of CBI, Thiruvananthapuram, who conducted further investigation of the case from May 2017 onwards. He obtained the case file from PW.40. On discussion with PW.40 and on perusal of the file, he understood that the CBI was authorized by the Hon'ble High Court of Kerala to investigate the aspects of criminal conspiracy in respect of accused Nos.32 and 33. The State Police have charged Section 118, 364 and 302 of IPC alone against them, whereas Section 120-B IPC was charged against the accused Nos.28 to 31. Challenging the same, CW.25/Athikka, the mother of the deceased Shukkoor has preferred Writ Petition before the Hon'ble High Court of Kerala. He has interrogated and recorded the statements of P.P. Abu/CW.22, Divakaran/CW.40, Manoharan/CW.41-PW.16, Ayoob/PW.2, Justine/CW.5 and Pramod/CW.16 in the CBI charge. On verification of the CDRs collected by the police, he came to know that CW.4 contacted accused No.29/Babu over phone on the date of the incident and

also that Babu called back CW.4. On completion of further investigation he laid supplementary final report before Court against the accused Nos.32 and 33 for the offence punishable U/Ss.120-B r/w 364, 307 and 302 IPC.

DW1

99. DW.1, Premaja is the wife of accused No.27. She has been examined on the side of accused No.27 to prove that on 20.02.2012, she along with accused No.27 went to Co-operative Hospital, Taliparamba to see DW.2 Bindu, who was admitted in that hospital for delivery. According to her, on 20.02.2012 at about 11.00 a.m., she along with accused No.27 went to Taliparamba from their home, which situates at Morazha-Panneri by bus and reached Taliparamba at 12:30 hours. They went to Co-operative Hospital, Taliparamba in an autorickshaw and reached there at 01.00 p.m. Her sister-in-law Bindu/DW.2 was admitted in the Gynecology ward in the second floor. DW.1 and accused No.27 were there in the hospital till 2.30 p.m., they returned to their home by bus after taking food from Taliparamba bus stand and reached home by 4.30 p.m. Her husband/A27 is a drama artist and also acted in advertisement and short films. The posters and flex boards of the drama, in which he acted were exhibited in their locality, which depicted the photo of accused No.27 and other actors. As such the accused No.27 is well known to the inhabitants of that locality. Her husband's phone number is 9846843769 and the said phone was with accused No.27 while they went to the hospital. There was incoming calls from her house to that phone on

20.02.2012, inquiring about the information of her sister-in-law. Her sister-in-law delivered a male baby on 22.02.2012.

DW2

100. DW.2, Bindu is the sister-in-law of DW.1. According to her, on 19.02.2012, she was admitted to the Co-operative Hospital Taliparamba for delivery and she delivered a male baby on 22.02.2012. DW.1 and her husband/accused No.27 came to the hospital to visit her on 20.02.2012 at 01.00 p.m., and they were in the hospital for about 1-1½ hours. Ext.D15, the discharge card and Ext.D16, the baby card were marked through her, to show her admission in the hospital and delivery of the baby on 22.02.2012.

Submission on behalf of the accused

101. The gist of the submission on behalf of the accused Nos. 1 to 19 and 29 can be summarised as follows :- It is submitted by the learned counsel appearing for the accused that the available evidence on the side of the prosecution is insufficient to prove the case against the accused beyond reasonable doubt. The motive alleged is not proved by the prosecution and absolutely there is no satisfactory evidence to prove the criminal conspiracy allegedly hatched by accused Nos.29 to 33. The oral testimonies of PW.1, PW.2 and PW.3 are not reliable, there are material contradictions, omissions, improvements and improbabilities in their evidence. The material omissions and contradictions were proved through the concerned investigating officers. Moreover, material eye witnesses were not examined on the side of the

prosecution and the prosecution has given up them without assigning sufficient reasons. Further, the names of none of the accused were mentioned in Ext.P1 F.I statement given by PW.1 and there is inordinate delay in reaching the F.I.R before the Magistrate. There was inordinate delay in searching out Shukkoor as well. The medical evidence available before Court are also not in tune with the evidence tendered by PWs.1 and 2, regarding the injuries sustained by them. The allegation before the doctor also do not tally with the prosecution allegations. The identification of the accused during test identification parade is also not useful to corroborate the identification of the accused before Court. The prime accused were not identified during test identification parade and as such their identification before Court is not reliable. The recovery of the weapons at the instance of accused Nos.2, 3 and 16 is also not inspiring the confidence of the Court and the witnesses to the discovery are planted witnesses to help the prosecution. They are not from the locality from where the weapons were allegedly seized, but from Pappinissery area, which is far away from the place of discovery. Further, the accused No.1 has preferred complaint before the first committal Court, while he was produced before the Magistrate, regarding the ill-treatment by Sri.P. Sukumaran, the then Dy.S.P of Kannur and a case is pending before the JFCM Court-II, Kannur against the said Dy.S.P for the alleged ill-treatment towards accused No.1. The call details record collected and produced by the prosecution is also not useful to the prosecution, as in

many of the said records the the copy of the Customer Application Form is not produced to prove the identity of the subscriber. The investigation conducted by the State Police and also by the Central Bureau of Investigation is not proper and there are serious flaws in the said investigation.

102. The learned counsel appearing for accused No.27 further argued that the accused No.27 is falsely implicated in this case. His name or identifying features were not disclosed by the witnesses to the investigating officer during investigation. The allegation against him that, he criminally intimidated the witnesses and inhabitants in the house of CW.6 is not believable. He was falsely arrested from Kasaragod while he was on duty. His identity is well known to the witnesses as he is a popular drama artist in that locality and as such the identification of accused No.27 during test identification parade assumes no importance. Moreover, during test identification parade, the non suspects having similarity of accused No.27 were not paraded. It is significant that, the accused No.27 is having cat's eye and it is very easy for the witnesses to identify him during test identification parade and also during trial. Though the accused No.27 was added in the array of accused as per Ext.P118 report dated 28.02.2012, the said report reached before Court only on 08.03.2012. Absolutely there was no specific allegation against him in the remand report/Ext.P121. Submission of Ext.P118 report is also not mentioned in Ext.P121. The evidence of PW.1 and PW.2 are not reliable and it is also relevant that PW.3 has not identified

accused No.27. The accused No.27 was not there at the scene of occurrence as alleged by the prosecution and he along with his wife went to Co-operative Hospital, Taliparamba to visit his wife's sister-in-law. In this regard the evidence of DW.1, his wife and DW.2, his wife's sister-in-law assumes importance.

103. It is argued on behalf of accused Nos.A21 to A25 that, the accused No.21 is not identified by PW.1 and PW.2 during investigation. The accused No.22 was not identified during test identification parade and as such his identification before Court by PW.1 and PW.2 is not reliable. As far as accused No.23 is concerned, he was not arrested during investigation and as such not paraded in the test identification parade. He was identified by PW.1 alone from the dock and such identification is not reliable. The identification of accused Nos.24 and 25 by PWs.1 and 2 before Court is also not reliable. Absolutely, there is no specific overt acts alleged against them.

104. It is argued on behalf of accused Nos.26, 28 and 30 that the identification of accused Nos.26 and 28 by PW.1 and PW.2 before Court is not reliable. As far as accused No.30 is concerned, none of the witnesses identified him before Court.

Submission by the Prosecution and the Counsel, who has aided the Prosecution

105. It is submitted by the learned Prosecutor that absolutely there is no reason to disbelieve the prosecution case and also the evidence tendered

by the witnesses. The omissions and contradictions relied on by the defence are not material contradictions so as to affect the root of the prosecution case. It is true that the names of none of the culprits were mentioned in the Ext.P1 F.I. statement by PW.1, but the identity of the culprits is revealed in investigation. The material objects, particularly the weapons used by the accused Nos.1 to 3 were seized pursuant to the statement of accused Nos.2, 3 and 16. It is the case of the prosecution that the accused No.1 has entrusted the weapon used by him to accused No.16 and accordingly the said weapon was seized pursuant to the statement of accused No.16. The medical evidence available before Court corroborate with the oral testimonies of the witnesses and absolutely there is no reason to discard the medical evidence. The oral testimonies of the police officers, who took PW.1, PW.2 and Shukkoor to the hospital is inspiring the confidence of the Court and there are no discrepancies in their evidence as well. The second accused was identified by PW.1 before Court, though he was not identified during test identification parade. Reason has been stated by PW.1 for not identifying the accused No.2 during test identification parade. It is the version of PW.1 that due to fear he has not identified the second accused during test identification parade.

106. As stated earlier, the learned counsel, Sri. K. Padmanabhan, who has assisted the prosecution as per the instructions of CW.25, the mother of the deceased has submitted memorandum of arguments. According to him

also, the evidence of PW.1, PW.2 and PW.3 regarding the incident is reliable. Absolutely, there is no reason to disbelieve their versions. Further, the discovery of the weapons by PW.39, the investigating officer pursuant to the statement of the concerned accused is only to be accepted as reliable. Further, many of the accused were identified by PW.1 and PW.2 during test identification parade and the identification of the accused by PW.1 and PW.2 before Court is only to be accepted. According to him also, reason has been stated by PW.1 for not identifying the accused No.2 during test identification parade. Absolutely, there is no serious flaws in the investigation conducted by the State Police and also by the CBI. So, according to him also, the available evidence before Court are sufficient to prove the guilt of the accused beyond the reasonable doubt.

Precedents relied on by either side

107. The learned counsel appearing for the accused has placed reliance on the following decisions:-

1) Kumar v. State, represented by Inspector of Police (2018 KHC 6413 Supreme Court)
2) Laxmibai (Dead) thr. Lrs. and Another v. Bhagwantbuva (Dead) thr. Lrs. And others (2013 KHC 4086 Supreme Court)
3) Deo Prasad v. State of Uttar Pradesh (2026 KHC OnLine 6525 Supreme Court)

4) Vadivelu Thevar v. State of Madras (1957 KHC 404 Supreme Court)

5) Manikandan v. State of Kerala (2026 KHC OnLine 1981)

6) Rai Sandeep @ Deepu and Another v. State of NCT of Delhi (2012 KHC 4419 Supreme Court)

7) Abhilash v. State of Kerala (2026 KHC OnLine 1561)

8) Nirmala Bai Devidas Chavhan v. State of Maharashtra (2026 KHC OnLine 7398 Supreme Court)

9) Faisal U.K. v. State of Kerala (2026 KHC OnLine 1578)

10) Chandan Singh v. State of Haryana (1971 KHC 765 Supreme Court)

11) Vishwajeet Kerba Masalkar v. State of Maharashtra (2024 KHC 6568 Supreme Court)

12) Sunil Kundu and Others v. State of Jharkhand and Others (2013 KHC 4284 Supreme Court)

13) Nimai Ghosh v. State of Bihar (Now Jharkhand) (2025 KHC OnLine 6939 Supreme Court)

14) Manden Babinesh v. State of Kerala (2025 KHC OnLine 1322)

15) Vinodan v. State of Kerala and Another (2020 KHC 5237)

16) Govind Mandavi v. State of Chattisgarh (2025 KHC OnLine 6992 Supreme Court)

17) Sanjay Kumar v. State of Bihar (2026 KHC OnLine 6546 Supreme Court)

18) Asokan v. State of Kerala (2017(2) KHC 669)

19) Kannaiya v. State of Madhya Pradesh (2025 KHC OnLine 6880 Supreme Court)

20) Zainul v. State of Bihar (2025 KHC OnLine 6843 Supreme Court)

21) Sawal Das v. State of Bihar (1974 KHC 644 Supreme Court)

22) State of U.P. and Another v. Jaggo and Others (1971 KHC 521) Supreme Court

23) Joginder Singh v. State of Haryana (2013 KHC 4842) (Supreme Court)

24) Mehtab v. State of Uttarakhand (2026 KHC OnLine 6424 Supreme Court)

25) Mottammal Shaji @ Kakka Shaji and Others v. State of Kerala (2017 KHC 155)

26) Shahid Khan v. State of Rajasthan (2016 KHC 6196) Supreme Court

27) State of Bombay v. Kathi Kalu Oghad (1961 KHC 343 Supreme Court

28) Fr. Benedict v. State of Kerala (1967 KHC 174)

29) Renuka Prasad v. State, Represented by Assistant Superintendent of Police (2025 KHC OnLine 6458 Supreme Court)

30) Kailash Gour and Others v. State of Assam (2011 KHC 5111 Supreme Court)

31) Rajesh @ Sunil v. State of Kerala (2024 KHC OnLine 747)

32) Rollymol v. State of Kerala (2024 KHC OnLine 7324)

33) Naveen v. State of Kerala (2023 KHC OnLine 9168)

34) Subhash Chand v. State of Rajasthan (2001 KHC 942 Supreme Court)

35) Ganesh Bhavan Patel v. State of Maharashtra (1978 KHC 637 Supreme Court)

36) Ram Kumar Pande v. State of M.P. (1975 KHC 741 Supreme Court)

37) Sujit Biswas. v. State of Assam (2013 KHC 4435 Supreme Court)

38) Pooranmal v. State of Rajasthan (2026 KHC OnLine 6167 Supreme Court)

39) Sadek Ali @ Md. Sadek Ali v. State of Assam (2026 KHC OnLine 6319 Supreme Court)

40) Budhsen and Another v. State of U.P. (1970 KHC 473 Supreme Court)

41) Mohanlal Gangaram Gehani v. State of Maharashtra (1982 KHC 430 Supreme Court)

42) State of Himachal Pradesh v. Lekh Raj and Another (2000 KHC 880 Supreme Court)

108. The learned counsel appearing for CW.25, Athikka, who has assisted the prosecution, has placed reliance on the following decisions:-

1) Kumaran v. State of Kerala (2021 ICO 1024)
2) Satheesh Babu v. State of Kerala, Anr (2023 ICO 2144)
3) Pargan Singh v. State of Punjab & Anr (2014 ICO 1310) Supreme Court of India
4) K. Krishnan v. State of Kerala, Ors (2023 ICO 898)
5) Uperndra Khare v. State of Madhya Pradesh (2026 ICO 1529) Supreme Court of India
6) State through the Inspector of Police v. Laly alias Manikandan (2022 ICO 2097) Supreme Court of India
7) Mekala Sivaiah v. State of Andhra Pradesh (2022 ICO 1253) Supreme Court of India
8) Sathyavathy v. State of Kerala (2026 ICO 2799)
9) Ghanshyam Kumeti v. State of Chhattisgarh (2026 ICO 2071)
10) Chathu @ Alakkadan Chathu v. State of Kerala (2026 ICO 152)
11) Baban Shankar Daphal v. The State of Maharashtra (2025 ICO 744) Supreme Court of India
12) K C Ramachandran v. State of Kerala (2024 ICO 190)
13) Varghese v. State of Kerala (2024 ICO 1313)

14) Manjit Singh v. State of Punjab (2019 ICO 1910) Supreme Court of India
15) Anil @ Ani, Ors v. State of Kerala (2025 ICO 1534)
16) Rajan v. State of Haryana (2025 ICO 4193) Supreme Court of India
17) Chandanapurath Rajeevan & Anr v. State of Kerala (2024 ICO 912)
18) Pillu v. State of Madhya Pradesh (2022 ICO 1876) Supreme Court of India
19) Manoj @ Loonamanoj v. State of Kerala (2026 ICO 2812)
20) Haribhau alias Bhausaheb Dinkar Kharuse v. State of Maharashtra (2025 ICO 2497) Supreme Court of India
21) Tanaji Shamrao Kale v. State of Maharashtra (2025 ICO 1397) Supreme Court of India
22) Dablu, Anr v. State of Madhya Pradesh (2026 ICO 655) Supreme Court of India
23) Ghanshyam Mandal v. State of Bihar (Now Jharkhand) (2026 ICO 474) Supreme Court of India
24) P Gopalakrishnan @ Dileep v. State of Kerala, Ors (2022 ICO 458)
25) Ramji Singh, Ors v. State of Uttar Pradesh (2019 ICO 3098) Supreme Court of India

26) Mitesh @ T V Vaghela v. State of Gujarat (2026 ICO 1365) Supreme Court of India
27) Francis @ Sekofy v. State of Kerala (2024 ICO 1026)
28) Dharmendra Kumar alias Dharma v. State of Madhya Pradesh (2024 ICO 1189) Supreme Court of India
29) Binu @ Kari Binu v. State of Kerala (2024 ICO 488)
30) Mohd Naushad v. State (Govt of NCT of Delhi) (2023 ICO 1152) Supreme Court of India
31) Saswathy v. State of Kerala (2024 ICO 2868)
32) Pradeep. K. v. State of Kerala (2026 ICO 2801)
33) Adalat Yadav & Etc v. State of Bihar (2026 ICO 1210) Supreme Court of India
34) Sajeer @ Habeeb, Ors v. State of Kerala (2024 ICO 2438)
35) Firoz Khan Akbarkhan v. State of Maharashtra (2025 ICO 1160) Supreme Court of India
36) Arun @ Ambili, Ors v. State of Kerala (2025 ICO 3800)
37) Anandu & Ors v. State of Kerala (2025 ICO 1472)
38) Raja v. State by Inspector of Police (2019 ICO 3232) Supreme Court of India
39) Vishwanatha v. State of Karnataka by the Secretary Home Department (2024 ICO 1170) Supreme Court of India

40) Balu Sudam Khalde And Another v. The State of Maharashtra (AIR (SC) 1736) (2023)

Consideration of Points for determination

109. Now the points can be considered.

Point No.vi:-

110. Point No.vi:- Firstly, this point relating to the alleged criminal conspiracy hatched by the accused Nos.28 to 33 can be considered. It is the case of the prosecution that the accused Nos.28 to 33 hatched criminal conspiracy from room No.315 of Co-operative Hospital, Taliparamba, wherein the accused Nos.32 and 33 were admitted for treatment for the injuries sustained to them in the incident of pelting of stones towards their jeep, which resulted in registration of Crime No. 229/2012 of Taliparamba police station. The prosecution has cited CW.22, P.P. Abu, CW.23, Mohammed Swabir, CW.40, Divakaran and CW.41, Manoharan to prove the said allegation. In the supplementary final report, the CBI has cited CWs. 15 to 18, Vasudevan, Pramod, Rajesh and Mukundan for the very same purpose. Out of them, CW.41 alone was examined on the side of the prosecution as PW.16. CW.40, Divakaran was given up by the prosecution. Even after repeated warrant the presence of CWs.22 and 23, P.P. Abu and Mohammed Swabir could not be secured before Court. They were reported abroad. Subsequently, as per order in Crl.M.P 02/2026 dated 10.02.2026, the prosecution has been given one more opportunity to produce CW.23

Mohammed Swabir, as the prosecution has agreed to produce him before Court. However, on 11.12.2026, when the case was posted for production of CW.23 referred to above, the prosecution was not able to produce him before Court. Out of the witnesses cited by the CBI to prove the conspiracy, CW.15 Vasudevan is reported no more, CW.16, the then PSO of the accused No.32 was given up by the prosecution and Cws.17 and 18, Rajesh and Mukundan were also given up by the prosecution. The prosecution has also produced call details records in respect of accused Nos.29, 30 and 31 and the same were marked as Exts.P64, P70 and P58. However, it is to be taken note that Ext.P58 is not in respect of accused No.31, but in respect of PW.18, K. Santhosh. The prosecution has produced Ext.P58, on the allegation that the sim card of PW.18 was used by the accused No.31. In order to prove the said fact, Pws.17 and 18 Mohammed Iqbal and Santhosh were examined by the prosecution. Though the wife of the accused No.31, named Sajitha was cited by the prosecution as CW.43, she was also given up by the prosecution.

111. PW.16, M.K. Manoharan, the reporter of Makthab, an evening daily at Taliparamba deposed regarding the clash between CPM-Muslim League activists on 19.02.2012 at Ariyil and he has reported about the same. Again, on 20.02.2012, he went to Ariyil, on getting information about change of the wall paint of CPM office at Ariyil from red to green. The CPM leaders like P. Jayarajan, the former District Secretary of CPM Kannur (A32), the then MLA of Kalliassery, T.V. Rajesh (A33) and others also reached there. The vehicle in

which the accused Nos.32 and 33 came there was attacked and destroyed. The accused Nos.32 and 33, one Rajeevan, reporter of Desabhimani and one Balakrishnan, member of CPM area committee sustained injuries in that incident. They were taken to the Taliparamba police station and later to the Co-operative Hospital, Taliparamba. He followed them to the hospital. All of them were taken to the casualty and examined by the doctor. By that time, police came there and only after lapse of one hour, they were taken to the rooms. The accused Nos.32 and 33 were admitted in room No.315 of that hospital. The press reporters enquired accused No.32 about that incident. Several CPM leaders and activists, including Shylaja Teacher, C.N Chandran, U. Babu Gopinath, T.K. Govindan Master and C.N. Krishnan visited accused Nos.32 and 33. He left hospital only after 04.00 p.m. It is his version during cross examination that there were several persons assembled at the hospital due to the assault towards accused Nos.32 and 33 and there was several police officers on duty there. The leaders of LDF assembled there in the room, in which accused Nos.32 and 33 were admitted and there was declaration for conducting harthal on the next day. The same was informed to the press reporters, who were waiting outside the veranda of the hospital. It is also admitted by him that the police has registered a case on the basis of the complaint of accused No.32. A gunman was there along with the accused No.32 at that time. PW.16 has not deposed anything about the presence of accused Nos.28 to 31 at the hospital at any point of time. There is no

evidence through him to show that there was any conspiracy by the accused Nos.28 to 33 from the hospital. The version of PW.16 is not disputed by the prosecution and as such, in view of the dictum laid down by the Hon'ble Apex Court in the decision in Laxmibai (Dead) thr. Lrs. and Another v. Bhagwantbuva (Dead) thr. Lrs. And others (2013 KHC 4086 Supreme Court) his evidence is only to the accepted, is the submission made on behalf of the accused. As stated earlier, the prosecution has cited P.P. Abu and Mohammed Swabir to prove the alleged conspiracy, but they were not able to be examined on the side of the prosecution. Further, the PSO of accused No.32, one Pramod and other witnesses named Rajesh and Mukundan were also given up by the prosecution. So, absolutely there is no direct oral evidence to prove the alleged criminal conspiracy hatched by accused Nos.28 to 33 from the hospital.

112. The prosecution is relying on the call details records of accused Nos.29, 30 and 31. According to the prosecution, the mobile numbers of accused No.29 is 9656674189, that of accused No.30 is 9846692074 and that of accused No.31 is 9447647708. The call details records in respect of the aforesaid numbers are Exts.P64, P58 and P70. PW.35, the Nodal Officer of BSNL testified that the mobile number 9656674189 is in respect of Babu.K., who is accused No.29 and according to him, Ext.P64 is the call details records relating to the said number for the date 20.02.2012. It is his version that as per Ext.P64, on 20.02.2012 at 13:33:08 hours there was an

incoming call from the number 9846692074 (which according to the prosecution, is the number of accused No.30), which is having duration of 28 seconds, again at 13:35:59 there was another incoming call from the very same number, having duration of 14 seconds, again at 13:36:32 hours, there was another incoming call from the very same number, having duration of 18 seconds, again at 13:37:58 hours there was another incoming call from the very same number, having duration of 13 seconds and at 13:39:18, 13:43:54, 13:49:10, 13:49:39 and 14:14:42 hours there were outgoing calls to the very same number having duration of 21, 15, 12, 7 and 11 seconds. Thereafter, at 14:39:32 hours and 14:42:23 hours, there were two outgoing calls to the very same number, having duration of 11 and 13 seconds respectively. Ext.P70, the call details records in respect of the mobile number 9846692074 and the oral testimony of PW.36 also shows the details of the aforesaid calls between accused Nos.29 and 30. So the prosecution alleges that the accused No.30 and 29 had conversation over phone on the date of the incident, which is the result of criminal conspiracy. But, as stated earlier, absolutely there is no direct evidence to prove the alleged conspiracy and therefore, we cannot say that the call between accused No.29 and 30 was the result of criminal conspiracy to execute the plan.

113. As stated earlier, the prosecution has a case that the mobile number of accused No.31 is 9447647708 and the call details record in respect of the said number is Ext.P58. It can be seen from Exts.P59, P60,

P61, the certificate, copy of the customer application form and ID card that the said connection was issued from BSNL in the name of PW.18, K. Santhosh. PW.35 the Nodal Officer also deposed regarding the same. PW.18 Santhosh deposed before Court that the said number belongs to him and he has not entrusted the sim card in favour of others. Though he was further examined with permission, he denied having given statement before the police that the said number was used by accused No.31, A.V. Babu. The further suggestion that the sim cards of the mobile numbers were mutually changed is also denied by him. Though certain questions were asked to PW.18 with regard to his previous statements recorded during investigation, those statements were not proved through the investigating officer/PW.39. No questions were asked by the prosecutor to PW.39 in that regard. So, the evidence of PW.18 and other documents referred to above show that the mobile number 9447647708 belong to PW.18, Santhosh. The prosecution has made an attempt to prove that the said number belong to accused No.31, by examining PW.17, the then councillor of Taliparamba Municipality. According to him, accused No.31, Babu was also a councillor and both of them used to have conversation over phone during 2005-2010 and the number of Babu is 9447647708. He has noted the said number in a diary as the police has requested to remember the said number. During cross examination PW.17 deposed that he is not aware as to whether the said diary is now in his possession. In view of the cogent documentary evidence and

oral testimony of PW.35, the oral testimony of PW.17 that the aforesaid number belong to accused No.31 is not liable to be accepted. Further, CW.43, the wife of accused No.31 Babu is cited by the prosecution to prove the phone number of Babu and CW.43 Sajitha has been given up by the prosecution without assigning any reason. It is true that the oral testimony of PW.35 and Ext.P58 shows that there was calls from the said number to the mobile numbers of accused Nos.4, 10 and 11, that is 9947193926, 9744569234 and 9400582078 on the date of the incident. Since the said number belong to PW.18, one cannot hold that the conversation from that number to the phone numbers of accused Nos.4, 10 and 11 was effected by accused No.31. Exts.P81, P77 and P49 are the call details records in respect of the phone numbers of accused No.4, 10 and 11, referred to above and the same also shows the details of the calls. So, no reliance can be placed on the calls recorded in Exts.P58 call details records to find that the said calls were made by accused No.31.

114. Though the prosecution alleges that the accused No.10 has taken the photographs of the witnesses and Shukkoor from the house of CW.6 Muhammed Kunhi and accused No.11 has collected the names and address of the said persons and both accused Nos.10 and 11 forwarded the details to the other end over phone, no attempt has been made by the investigating officer to effect seizure of the mobile phones of accused Nos.10 and 11 to collect scientific evidence regarding the datas sent through the phone.

Absolutely, no explanation has been put forward by the prosecution in that regard. Further, the prosecution has not collected the call details records in respect of the mobile numbers of accused No.32 and 33, who according to the prosecution are parties to the conspiracy. Reckoning the above aspects I am of the considered view that the available evidence before Court are insufficient to prove the prosecution case that the accused Nos.28 to 33 hatched criminal conspiracy from room No.315 of Co-operative Hospital, Taliparamba in order to assault and commit murder of Abdul Shukkoor and to attempt murder of PW.1 by abducting both of them from the house of CW.6, Muhammed Kunhi. Point answered accordingly against the prosecution.

Point Nos. i to v and vii to xxiii

115. Point Nos. i to v and vii to xxiii:- For the sake of convenience and to avoid repetition of facts and evidence, these points can be considered together. As stated earlier, the case of the prosecution is that, on 20.02.2012, at about 12.15 hours, while CWs. 1, 3 and 4, named P. Sakkariya/PW.1, N.K. Haris and Abdul Salam.P, along with one Abdul Shukkoor (the deceased) were walking after crossing the Valluvankadavu for the purpose of taking CW.2/PW.2, Ayoob P.V, to the St. Martin D' Poris Hospital, Cherukunnu, as he sustained injuries while playing cricket on the same day at about 9.00 am, the accused Nos. 4, 10, 13, 15 and 18 followed them, misunderstanding that they were involved in assaulting the accused Nos. 32 and 33, Sri. P.Jayarajan and Sri. T.V. Rajesh, who were the then Secretary of

CPM, Kannur District Committee and MLA respectively, on the same day at 11.45 am. The accused Nos. 7 to 9, 21, 22, 23 and 26 along with some other persons came in front of the aforesaid witnesses and deceased, seeing them the witnesses and the deceased due to fear of attack by the aforesaid persons, took shelter in the house of one Muhammed Kunhi (CW6). Thereafter, the accused Nos. 6, 11, 12, 14, 17, 19, 20, 24, 25, 27, 28 and 29 along with above mentioned accused and 10-16 unidentified persons formed themselves into an unlawful assembly, armed with deadly weapons like iron rod, iron pipe etc., and wrongfully restrained PW.1, PW2, CW.3 and CW.4 referred to above and Abdul Shukkoor (the deceased) in the house of CW.6 referred to above from 12.30 noon till 2.00 p.m and criminally intimidated them. The accused No. 10 took photos of PW.1, PW.2, CW.3, CW.4 and Abdul Shukkoor in his mobile phone, the accused No. 11 take down the name and address of the aforesaid persons, the accused No. 10 informed the details to accused No. 31, who was there in room No. 315 of Co-operative Hospital, Taliparamba, where the accused Nos. 32 and 33 were admitted for treatment, the accused Nos.30, 28, 31 and 29 were also present in the said hospital, the accused Nos. 28 to 33 hatched a criminal conspiracy inside the aforesaid room and also from outside the room of the said hospital between 1.00 p.m to 1.20 p.m, in furtherance of the said criminal conspiracy, the accused No. 30 stated to handle the Muslim League workers who were confined in the house of CW.6 and authorized accused No. 29, the

Branch Secretary of CPM at Ariyil for that purpose. Thereupon, accused No. 29 went to the house of CW.6 along with accused No. 17 and gave direction to the accused Nos. 10 and 11 to execute the plan and thereafter the accused No.10 contacted the second accused over phone, thereupon the second accused along with first accused came to the scene of occurrence on the motor cycle bearing Regn. No.KL-13-W 9804 owned by the second accused, the third accused came there on his motor cycle bearing Regn. No. KL-13-V 3601 and the 5th accused also reached there. The accused Nos. 1 to 3 and 5, armed with deadly weapons, hide themselves near a vegetable garden panthal, by that time, PW.2, CW.3 and CW.4 referred to earlier were brought from the house of CW.6 forcibly by accused Nos. 4, 6, 7, 8, 9, 10, 12, 13 and 15 to the paddy field named Chulliyottuvayal, which situates 300 metres north west from the house of CW.6 and at about 2.15 pm, the accused Nos. 1 and 6 slapped on the face of PW.2, the accused No.8 attempted to inflict injury to the aforesaid witnesses by means of an iron rod and the accused No.9 by means of an iron pipe and fearing attack the aforesaid witnesses ran away from the paddy field. Thereupon, the accused persons again went to the house of CW.6 and forcibly took PW.1 and Abdul Shukkoor to the aforesaid paddy field and from the ridge on the middle side of the paddy field at about 2.30 p.m, the accused Nos. 1 to 3 armed with daggers along with accused Nos 4,7 and 10 formed themselves into an unlawful assembly, the accused No.10 shouted to do away with PW.1 and Abdul Shukkoor and

thereafter, the accused Nos. 4 and 7 caught hold on both hands of PW.1 towards rear side, the first accused slapped on the face of PW.1, the second accused inflicted injury on the back of left shoulder of PW.1 by means of a dagger and the third accused inflicted injury on the right hand muscle and forearm of PW.1 by means of a dagger and thereby attempted to murder PW.1. Seeing the said incident and on fear of death, Abdul Shukkoor attempted to ran away from there, at that time the accused Nos. 1 to 5 attempted to restrain Abdul Shukkoor, he escaped from the clutches of the accused and while he was running away from there, the second accused, from the ridge of the paddy field, inflicted injury on the abdomen of Abdul Shukkoor by means of a dagger and the first accused inflicted injury near the left chest of Abdul Shukkoor by means of another dagger.

116. I have already found that the hatching of criminal conspiracy by the accused Nos.28 to 33 to commit the offences alleged is not proved by the prosecution, as per finding on point No.(vi).

117. The available evidence to prove the incident is that of PW.1, PW.2 and PW.3. PW.8 deposed regarding the riding of accused Nos.1 and 2 on motor cycle. The evidence of PW.9, PW.10, PW.11 and PW.12 is there to show that PW.9 and PW.11 took PW.1 to the hospital from a place near to the scene of occurrence, Shukkoor was also taken from there to the hospital after sometime by PW.10 and PW.11 and also that PW.12 took PW.2 to the

hospital. The evidence of PW.39 is also there to prove the finding out of Shukkoor at the varamba of a paddy field and taking of him to the hospital.

118. The medical evidence, to prove the sustaining of injuries to PW.1 and PW.2 are the oral testimonies of PW.26 and PW.34 and Exts.P22, P45 and P44. The medical evidence to prove the death of Shukkoor are the oral testimonies of PW.25 and Exts.P20 and P21. The oral testimonies of PW.4, PW.5 and PW.39 and Ext.P3 inquest report are also there to prove the death of Shukkoor.

119. PW.1, PW.2 and PW.3 deposed almost in tune with the prosecution case. The evidence tendered by them in chief examination has already been stated. PW.1 has identified accused Nos. 29, 7, 9, 10, 1, 8, 2, 3, 14, 13, 18, 23, 6, 5, 22, 27, 25, 24, 26, 28, 15 and 12 from the dock during his examination. Though he attempted to identify accused Nos.4 and 11, he failed to identify them, instead he pointed out accused Nos.16 and 21 as accused Nos.4 and 11. As far as identification of accused No.15 is concerned, PW.1 failed to identify him from the dock in the forenoon session, whereas he identified accused No.15 in the afternoon session. PW.1 has identified MOs.1 to 8 during his examination. PW.2 identified accused Nos.27, 19, 7, 10, 29, 1, 6, 15, 24, 28, 13, 22, 9, 26 and 25 from the dock during his examination. MO.9 was marked through him. PW.3 has only identified accused No.10 from the dock. No attempt has been made to identify the remaining accused persons through her. It is her version that due to lapse of

time she is not able to identify the culprits, who were shown to her by the police during investigation. PW.8 also failed to identify the accused Nos.1 and 2 from the dock. According to him also, for the last 10-12 years he had not seen them and as such unable to identify them. The acceptability of the evidence of the aforesaid witnesses can be considered at a later stage.

120. The evidence of PW.9 and PW.11 show that PW.1 Sakkariya came near the police jeep and he was taken to the Mission Hospital Cherkunnu in the police jeep. The evidence of PW.10 also reveal that he was present there while PW.1 was taken to the hospital. The testimonies of PW.10, PW.11 and PW.39 reveal that Shukkoor was also taken to the hospital from the paddy field, as he was lying there with bleeding injuries. The evidence of PW.12 reveal that PW.2 Ayoob was taken to the Lourde Hospital, Taliparamba, as he reached near the league office at Ariyil after the incident.

Medical evidence

121. The evidence of PW.26 reveal that PW.1 was brought to the St.Martin De Porres Hospital, Cherukunnu on 20.02.2012 at about 02.45 p.m, with the alleged history of assault, i.e, stab injury by unknown person at 2.00 pm at Keezhara on the same day, i.e, 20.02.2012. On examination of his body, PW.26 noted Laceration on the left scapular area, 4x2 cm, Laceration on the right mid-arm, 2x1 cm and Swelling and abrasion on the right forearm. According to him, PW.1 was treated as out patient, he was not willing for admission and accordingly referred to Lourde Hospital, Taliparamba on his

request. He further deposed that, the injuries noted are simple in nature and could be caused as alleged. Ext.P22, the wound certificate issued by him was marked through him, which also shows the very same details regarding the injuries and other aspects deposed to by PW.26. He identified MO.6 & MO.7 knives as the weapons shown to him by the police. He further deposed that, injury No.1 in Ext.P22 can be caused by using a weapon like MO.6 knife and Injury No.2 can be caused by using a weapon like MO.7 knife. The third injury can be caused by means of any blunt object.

122. The oral testimony of PW.34 and Ext.P45, the treatment certificate shows that PW.1 was subsequently admitted at the Lourde Hospital, Taliparamba on 20.02.2012 at about 09.00 pm., and he had a sutured lacerated wound on the upper back, left side and he was discharged on 29.02.2012.

123. The oral testimony of PW.34 further shows that PW.2 Ayoob was admitted to that hospital on 20.02.2012 at 03.20 p.m., and Dr. Muhammed Kunhi had examined PW.2 and issued Ext.P44 wound certificate, noting that PW.2 had sustained contusion and pain below left eye and right middle finger and abrasion on both palms. The alleged cause was an assault by CPM workers at Keezhara on the same day at 2.30 pm. He was treated as in-patient and discharged on 29.02.2012.

124. The oral testimony of PW.25 and Ext.P20, the postmortem certificate prove that PW.25 had conducted autopsy of the body of Shukkoor

from Pariyaram Medical College Hospital on 21.02.2012 between 09.45 a.m. and 10.45 a.m. and he had noted the following ante-mortem injuries:-

(i) Wedge shaped incised penetrating wound, 3x1.4cm, horizontally placed on the left side of front of chest, 6.5 cm above the nipple. The outer end of the wound was sharply cut and the inner end showed splitting. Dried blood streaks were seen extending from the injury towards the top of shoulder. The wound entered the chest cavity through the third intercostal space, entered in to the pericardial sac, transfixed the left ventricle of heart (entry wound, 1.7 cm long on the front wall and exit wound, 1.3 cm on the back of wall), came out through the pericardium and terminated by transfixing the diaphragm and left lob of liver close to its left border (0.5 x 0.2cm each in the liver). The wound was directed backwards, downwards and inwards for a total minimum depth of 8 cms. Left chest cavity contained one litre of fluid blood. Lung was collapsed.

(ii) Spindle shaped incised stab wound 2 x 0.8 cm horizontally placed on the upper abdomen, its inner end being 2 cm to the right of midline and 7 cm above the umbilicus. The wound was directed backwards, upwards and inwards for a depth of 4 cm to terminate in the muscle plane, without entering the abdominal cavity.

According to him, the injury Nos. 1 and 2 had slightly contused margins to the entry wounds. His opinion as to the cause of death was that, the deceased

died of stab injury of the chest, involving the heart. According to him, Injury No.1 mentioned above is the fatal injury. Such an injury itself is sufficient to cause death in the ordinary course of nature. The presence of dried blood streaks extending from the injury No.1 towards the top of shoulder indicates that he was not in a standing position, when was stabbed and that he was in a lying down posture, with the upper part of the body at a lower level, compared to the rest of the body. He identified MOs.7 and 8 knives as the weapons shown to him by the police, out of MOs. 6 to 8 shown to him. According to him, MO.8 weapon can cause injury No.1 mentioned in Ext.P20 and MO.7 weapon can cause injury No.2 mentioned in Ext.P20. Ext.P21, the Death intimation given from the very same hospital to the SHO Pariyaram, signed by the then Casualty Medical Officer (CMO) was also marked through him. As per the same Abdul Shukkoor was brought to the hospital at 5.16 p.m on 20.02.2012 as brought dead by the Kannapuram Police. The alleged cause as per the same is an assault on 20.02.2012 at 1.20 pm at Ariyil. During re-examination it is deposed by PW.25 that, injury No.2 is possible by using MO.6 knife and the said answer has been given to a leading question put by the prosecutor.

Inquest

125. Ext.P3, the inquest report and the oral testimonies of PW.4, PW.5 and PW.39 is also there to prove the death of Shukkoor and preparation of the inquest report from the Medical College Hospital, Pariyaram.

F.I.Statement

126. Ext.P1 F.I statement was given by PW.1 before PW.9 from the St. Martin De Porres Hospital, Cherukunnu on 20.02.2012 at about 03.30 p.m. and Ext.P5 F.I.R was registered on the same day at 4.30 p.m. In Ext.P1 F.I statement the names of any of the culprits were furnished by PW.1. The testimonies of PW.1 and PW.9 also reveal the factum of giving and recording of Ext.P1 F.I Statement and subsequent registration of the F.I.R.

Scene Mahazars

127. Ext.P4 scene mahazar was prepared by PW.39 on 20.02.2012 at about 05.15 p.m. and the material objects like chappals, pieces of calendar etc. were seized from the scene of occurrence in the presence of PW.6 and another witness. PW.6 and PW.39 testified regarding the preparation of the said mahazar. Subsequently, on 21.02.2012 at 12:5 hours, PW.39 has visited the house of CW.6 Muhammed Kunhi and prepared Ext.P111 supplementary scene mahazar in the presence of witness named Kelu. On 16.03.2012 at 02.30 p.m., PW.39 had visited the place of occurrence from where PW.1 was assaulted, which is 45 meters away from the varamba mentioned in Ext.P4 scene mahazar, and prepared Ext.P127 observation mahazar. Again, on 06.06.2012 at 01.20 p.m., PW.39 visited Room No.315 of the Co-operative Hospital, Taliparamba and prepared Ext.P36 observation mahazar in the presence of accused No.30, U.V. Venu and also in the presence of witnesses including PW.30.

Discovery of the weapons, motor cycles etc.

128. The recovery of the weapons, motor cycles etc., were also effected by PW.39 under various mahazars. On 20.02.2012 at about 07.45 p.m., he effected seizure of the dresses of PW.1, i.e., MOs.1 and 2 under Ext.P109 mahazar as the same were produced by PW.1 from the Mission Hospital, Cherukunnu. On 20.02.2012 itself at about 08.30 p.m., he effected seizure of the dresses of Shukkoor and currency notes found in the pocket of shirt (Mos.3, 4, 16 and 17) under Ext.P6 seizure mahazar in the presence of PW.10. On 21.02.2012 at about 11.00 a.m., he seized MO.5 mobile phone, that of Shukkoor from the house of CW.6 Muhammed Kunhi under Ext.P2 seizure mahazar. On 21.02.2012 at about 01.00 p.m., he seized MOs.18 and 19 blood stains, collected by PW.37 from the scene of occurrence, under Ext.P9 seizure mahazar. On 02.06.2012 at about 10.50 a.m., he effected seizure of MO.8 knife, MO.20 its cover, MO.21 the key chain with key and the motor cycle bearing Regn. No. KL-13-U-2973 under Ext.P12 seizure mahazar, pursuant to Ext.P12 (a) disclosure statement of accused No.16, Sajith. K.V in the presence of PW.20 and another witness. On 06.06.2012 at about 11.10 a.m., he effected seizure of MO.6 knife under Ext.P13 seizure mahazar, pursuant to Ext.P13 (a) disclosure statement of accused No.2, Ganeshan in the presence of PW.21 and another witness. On 12.06.2012 at about 05.15 p.m., he effected seizure of Exts.P15 and P16, the copies of the case sheets relating to accused Nos.32 and 33 from the Co-operative

Hospital, Taliparamba under Ext.P14 seizure mahazar, as the same were produced by PW.22. On 16.06.2012 at about 10.30 a.m., he effected seizure of MO.7 knife under Ext.P10 seizure mahazar, pursuant to Ext.P10 (a) disclosure statement of accused No.3, Anoop, in the presence of PW.19 and another witness. Again on the same day at 11.45 a.m., he prepared Ext.P11 observation mahazar, by visiting the place where accused No.1 allegedly kept the knife. On 23.06.2012 at 12.00 noon and 12.30 p.m., he effected seizure of the motor cycles bearing Regn. Nos. KL-13-V-3601 and KL-13-W-9804 under Ext.P7 and P8 seizure mahazars in the presence of PW.13 and other witnesses.

129. The scientific evidence available in this case is that of PW.37 and Exts. P93, P95 and P97 reports. The evidence regarding the test identification parade conducted during investigation is the testimony of PW.38 and Exts.P99 to P107 reports and accompanying papers.

130. The investigating officers in this case are PW.39 on the side of State Police and PW.40 and PW.41 on the side of CBI.

131. As discussed in paragraphs 120 to 122, the medical evidence available before Court prove the case of the prosecution that PWs.1 and 2 sustained bodily injuries in the alleged incidents as indicated in Exts.P22 and P44 wound certificates and also that Abdul Shukkoor died due to the stab injuries sustained to him in the incident, as indicated in Ext.P20 postmortem certificate.

Analyis of evidence of occurrence witnesses

132. The next aspect to be considered is whether the prosecution has succeeded in proving its case that the accused persons formed themselves into an unlawful assembly, committed rioting and rioting armed with deadly weapons, committed criminal trespass to the courtyard of the house of CW.6 Muhammed Kunhi, criminally intimidated the witnesses, abducted Pws.1 and 2 and Cws.3 and 4 from the house of CW.6 to the nearby paddy field, wrongfully restrained witnesses and voluntarily caused hurt to PWs.1 and 2, attempted murder of PW.1 and committed murder of Abdul Shukkoor. It is also to be considered whether the accused persons committed house trespass to the house of PW.6, abetted commission of the aforesaid offences and also that the accused No.16 caused disappearance of evidence, with the intention of screening the accused No.1 from the legal punishment for the alleged murder of Abdul Shukkoor.

133. As discussed earlier, the available evidence to prove the incident is that of PW.1, PW.2 and PW.3. The evidence tendered by the said. witnesses has already been discussed. PWs.1 to 3 were cross examined at length by the learned counsel appearing for the accused. It is the contention of the accused that the oral testimonies of PWs.1 to 3 are insufficient to prove the prosecution case and further, the evidence tendered by PW.1 and PW.2 are exaggerated version of the incident, which is not in corroboration with their earlier statements. So, this Court has to consider the acceptability of the

evidence of PWs.1 to 3 and ascertain, whether their evidence is inspiring the confidence of this Court.

134. PW.1 is an injured in the incident and he has deposed with regard to the incident. It is his version that while he along with others were on the way to the Mission Hospital, Cherukunnu, 5-6 persons followed them and when they moved further 10-12 persons came in front of them and they were armed with wooden stick and iron pipe. PW.1 and others entered the house of CW.6 and at that time, all of the culprits entered the courtyard of the house and beat on the grills on the veranda. According to him, he sustained injury to his right hand finger due to the said beating. Someone shouted to release PW.1 and others from that house, and by that time, 30 persons assembled at the courtyard of the said house and they were armed with wooden sticks and iron pipes. One person has took down the address of PW.1 and others and another took their photographs on a mobile. When CW.4 contacted accused No.29 over phone and requested for his help, accused No.29 replied that 'you have to suffer the consequence of your acts'. Subsequently, PW.2 and Cws.3 and 4 were forcibly taken to the Chuliyottuvayal by the culprits and after sometime, they returned and possibly took himself and Abdul Shukkoor to the paddy field. From the paddy field two persons caught hold on his hands and according to him, they are one Pavithran and Vijesh. PW.1 identified accused No.7 Pavithran from the dock, but failed to identify accused No.4 Vijesh, instead he identified accused No.16 Sajith as Vijesh. One persons shouted

to do away with PW.1 and Shukkoor and another person beat him by means of an iron pipe aiming his leg and he evaded from that attack. According to him, the said act was done by the accused No.9, Manoharan and he identified accused No.9 from the dock. The person, who shouted to do away with PW.1 and Shukkoor and also took the photograph of PW.1 and others from the house of CW.6 is accused No.10, Dinesan and he identified accused No.10 from the dock. His further version is that the accused No.1 Sumesh slapped on his cheek touching his ear and due to that he suffered severe pain. The accused No.1 was also identified by him from the dock. It is his further version that, the accused No.8 Latheesh also beat him by means of an iron rod and from that blow also he has evaded. The accused No.2 stabbed on the back of PW.1 near left shoulder by means of a dagger and he identified the accused No.2 also from the dock. The third accused stabbed him on the right hand muscle portion and forearm, which resulted in sustaining deep injuries to him. The third accused was also identified by him from the dock. When Shukkoor attempted to escape from the scene of occurrence by pushing aside the culprits, the culprits caught hold Shukkoor and started to beat him by means of sticks and stabbed him by means of knife. It is his version that the accused Nos.1 and 2 stabbed Shukkoor. The accused No.2 stabbed on the abdomen of Shukkoor and accused No.1 stabbed on the chest of Shukkoor by sitting on the body of Shukkoor. Shukkoor cried aloud by calling of his mother and fearing further attack,

PW.1 ran away from the spot. He was taken to the Mission Hospital, Cherukunnu by the police in the police jeep and treated at the casualty. Ext.P1 F.I statement given by him before PW.9 was marked through him. On the same day, he got discharged from that hospital and admitted to the Lourde Hospital, Taliparamba. It is the further version of PW.1 that one C.N. Mohanan is the person, who take down the name and address of PW.1 and others from the house of Muhammed Kunhi, but he failed to identify a accused No.11 C.N. Mohanan from the dock, instead he has pointed accused No.21 Shaji as accused No.11. The presence of accused No.14 E.P Radhakrishnan among the culprits is also deposed by him and he identified accused No.14 from the dock. Though it is deposed to by him that one Shijin was also present among the culprits, he failed to identify accused No.15 Shijin, instead he pointed out accused No.18 Naveen as accused No.15. It is further deposed to by him that accused No.13 Nithin, accused No.18 Naveen, accused No.23 Ajayakumar, accused No.6 Umesan, accused No.5 K. Prakasan, accused No.22 Prakasan Muthuvani, accused No.27 Ajithkumar, accused No.25 V.V. Mohanan, accused No.24 Rajeevan, accused No.26 Purushothaman and accused No.28 Suresan were also present among the culprits, who followed PW.1 and others, assembled at the courtyard of house of Muhammed Kunhi and took away PW.1 and others to the paddy field. The aforesaid accused were identified by PW.1 from the dock. According to him, accused No.12 Bijumon was also present among the

culprits and he was also identified by him from the dock. PW.1 has identified MOs.1 and 2 shirt and pants worn by him at the time of the incident, MOs.3 and 4, the shirt and pants worn by Shukkoor at the time of the incident, MO.5 the mobile phone of Shukkoor and MOs.6 to 8 knives as the weapons used by A2, A3 and A1. It is his further version that, accused No.10 and others were identified by him during test identification parade and the accused Nos.2, 5 and 8 were identified by him from the police station. According to him, accused Nos.6, 24 and 29 alone were known to him prior to the incident. He identified the remaining culprits from the scene of occurrence.

135. The version of PW.1 in Ext.P1 F.I statement is that, they entered the house of Haneefa (who is the son of Muhammed Kunhi) around 01.00 p.m. and while PW.1 and others were drinking water around 20 persons assembled at the courtyard of that house on 20.02.2012. The culprits asked to whether PW.1 and others assaulted MLA and by asking the same they used some filthy languages and also intimidated PW.1 and others. Later, PW.2, CW.3 and CW.4 were taken to the paddy field and after sometime PW.1 and Shukkoor were taken to the paddy field by 10 persons after intimidating the witnesses. From the paddy field two persons wrongfully restrained by catching hold his hands, another man beat him on his right knee, another man shouted to do away with PW.1 and by that time one persons stabbed on the shoulder of PW.1 and another man stabbed on the right hand muscle portion. Another man hit on his head by means of iron rod.

Due to that, he fell on the ground and at that time, the culprits followed Shukkoor and started to inflict injury to him. Shukkoor fell on the ground and PW.1 heard the cry of Shukkoor. PW.1 escaped from the scene and reached near the police jeep and the police took PW.1 to hospital in the police jeep. PW.1 has no case in Ext.P1 F.I statement that the culprits followed him and others before they reached the house of CW.6. He has also no case in Ext.P1 F.I statement that he evaded from the blow by means of iron pipe and iron rod and as such he did not sustain injuries on his right knee and head. The version of PW.1 before the doctor when he was examined from the St. Martin De Porres Hospital, Cherukunnu is that he was assaulted by an unknown person. He has no case before the doctor that the assault and attack were by a group of persons.

136. PW.1 was cross examined at length by the learned counsel appearing for the accused. During cross examination it is deposed to by him that during investigation he did not state names of any of the accused before the investigating officer prior to the test identification parade. It is also admitted by him that the accused Nos.6, 24 and 29 were known to him prior to the incident and he has not furnished their name before the police while recording the F.I. Statement. During re-examination, it is clarified by him that due to fear of attack, he has not furnished their name in Ext.P1 or in the subsequent statements recorded by the investigating officer. PW.1 has a case during cross examination that many facts stated by him while recording

Ext.P1 F.I statement was not recorded by PW.9 and he has recorded the same in a separate paper, but such a statement is not seen given by him during investigation. He has not stated about the said fact before the Magistrate while recording the statement U/s.164 of Cr.P.C. When several facts deposed by PW.1 during chief examination is put to him as omissions, it is deposed by him that he has said the same to the investigating officer, but he has no valid explanations for such omissions in his previous statements, particularly in respect of the attack towards Shukkoor. The facts stated in Ext.P1 F.I statement was also brought to the notice of PW.1 during cross examination, but he has denied certain facts. The version in chief examination that he has evaded from the blow by means of iron rod and iron pipe and as such he did not sustain injuries, are not finding a place in his previous statements and when the said fact was brought to his notice he has no valid explanation for such omission. It is suggested to him that no corresponding injuries were noted in the wound certificate and that is the reason for his changed version, but that is also denied by him. It is also the version of PW.1 that Shukkoor cried calling out the name of his mother, but such a version is not finding in his Ext.P1 F.I statement and he has no valid explanation for the same. It is also the version of PW.1 that while giving Ext.P1 F.I Statement he has stated before the police that, one person stabbed Shukkoor and another person stabbed on the chest of Shukkoor by sitting on his body. But, as stated earlier, the said version is also not seen recorded in

Ext.P1 and PW.1 has no valid explanation for such omission. It is also admitted by him that, while he identified the suspects during test identification parade, he has not explained the specific overt acts done by the identified suspects. He also denied having given information to the doctor that one unknown person has inflicted stab injury to him. He asserted that he stated before the doctor that, the assailant stabbed him by means of a knife, but the same is also not seen recorded in the wound certificate. It is also his version that later he went to the police station, as requested by the Circle Inspector, on various occasions for the purpose of identification of the accused from the office of the Circle Inspector. He further stated that the 2nd accused was there in the police station and he identified him from there, though he was unable to identify him during test identification parade. An explanation has been offered by PW.1 for the non-identification of the 2nd accused during test identification parade, that due to fear of death he did not point out the 2nd accused during test identification parade. Subsequently after gaining moral strength, he identified the 2nd accused from the police station. It is relevant to mention that no such explanation has been given by PW.1 in this regard till his cross examination and the said fact has been admitted by him. No such explanation has been given by him during chief examination and it is his version that due to interference on the side of the defence he could not depose the said fact in chief examination, but the same is also not born out from the chief examination part of the deposition of PW.1. The fact that CWs.2 to 4 also

failed in identifying the 2nd accused during test identification parade is not known to him. It is also admitted by him that he was unable to identify the accused No.8 Latheesh as well during test identification parade. The accused Nos.6, 24 and 29 were known to him earlier and they were also paraded for test identification and it is stated by him that the said fact was informed to the Magistrate. Later, accused No.8 Latheesh was also identified by him from the office of the Circle Inspector. PW.1 further denied the suggestion put to him that he failed to identify the accused Nos.13 Nithin during test identification parade and according to him, if the said fact is recorded by the Magistrate, it will be correct. He is not remembering as to whether there was test identification parade for identification of accused Nos.21 and 22 and it is suggested to him that he failed to identify the said accused during test identification parade, but he has denied the same. When the relevant statement recorded by the Magistrate was put to him, he has admitted the non-identification of accused Nos.21 Shaji. K.V. He denied having given statement before the Investigating Officer that he described accused Nos.17 as conductor Sudhakaran. He also admitted that he identified accused No.14 Radhakrishnan before the investigating officer by saying his name. He also identified accused No.26 before investigating officer by saying his name, Purushothaman. The accused Nos.1 and 3 Sumesh and Anoop were also identified before the investigating officer by saying their name and also that they were identified during test identification

parade. It is suggested to him that the names of the accused persons, except accused Nos.6, 24 and 29 were furnished to him from the police station and also from the office of the Circle Inspector and their photographs were also with him and only on the basis of the same he has identified the accused before Court, but he has denied the same. It is also suggested to PW.1 that the suspects were shown to him by the police before the test identification parade and only thereafter, he identified them during test identification parade, but the same is also denied by him. According to him, he is not aware about the names of the culprits when he was interrogated by the Circle Inspector on 23.02.2012. It is the suggestion put to him that the names of the culprits were furnished before the Circle Inspector, as a result of discussion with CWs.2 to 4 from the hospital and the same is also denied by him. It is also the version of PW.1 that he was in trauma and as such unable to state everything relating to the incident before the Circle Inspector and no such explanation has been given by him earlier before the investigating officer or before the Magistrate while recording his statement U/s. 164 of Cr.P.C. It is further deposed by him that, in order to cross the river from Ariyil to Valluvankadavu there is a distance of one kilometer. According to him, Haneefa, son of Muhammed Kunhi is not his friend and he has not stated before the investigating officer that Haneefa is his friend. He is not remembering as to whether the fact that 5-6 persons followed them while moving to the hospital and also that on the previous day there was clash

between CPM-League activists at Ariyil and there was allegation by the CPM activists that Shukkoor and others attacked the house of CPM activists and that is the reason for following the said persons, is mentioned in Ext.P1 F.I. statement. He has no explanation for such omission in the F.I statement. He denied having given statement before the CBI that, only 4-5 persons followed them from the paddy field. He also denied having given statement before the CBI that after sometime some other persons also followed them. According to him, those persons came in front of him and others. He further stated that the persons, who came from opposite side were armed with wooden stick, iron pipe etc. and when it is asked to him that such a statement is not recorded by the investigating officer, it is explained by him that it may be an omission on the part of the investigating officer. According to him, he did not state before CW.6 or other inhabitants in his house that those persons were armed with weapons and that is why PW.1 and others entered the house of CW.6. He pleaded ignorance as to the statement in Ext.P1 F.I. statement that while they were drinking water from the house of CW.6, around 20 persons reached the courtyard of that house. It was also suggested to him that no test identification parade was conducted in respect of accused No.24 Rajeevan and as such he had no occasion to identify him during the parade and it is affirmed by PW.1 that he has identified accused No.24 during the parade. He also deposed that when they were sitting at the waiting shed, the police came there and seeing them PW.2 Ayoob ran from there and he

sustained injuries to his palm due to falling on the ground. PW.2 further stated before him that he sustained injury earlier while playing cricket. The said version has not been given by him either in Ext.P1 F.I statement or in the statements given before the Inspector of Police Valapattanam. It is the version of PW.1 that he was along with PW.2 Ayoob till he was taken from the house of CW.6. It is also admitted by him that on the date of the incident there was no conversation over phone between himself and PW.2 till PW.2 was taken from the house of CW.6. It is also his version that he did not see Davood, the brother of the deceased from the river side before entering the boat. When the statement recorded by the CBI Officer in that regard was brought to the notice of PW.1, he pleaded ignorance. It is suggested to him that as per the CDR available, it is evident that he had contacted PW.2 Ayoob over phone and later, Ayoob called back him, but PW.1 pleaded ignorance about the same. He came to know about the death of Shukkoor in the night on the date of the incident and he is not remembering the exact time. It is also deposed to by him that, he informed the Sub Inspector, who took him to the hospital that Shukkoor also received stab injuries. According to him, the Sub Inspector stated that PW.1 can be taken to the hospital and later Shukkoor can be attended. He pleaded ignorance about the fact that the body of Shukkoor was found out by the police only at 4.30 p.m on the date of the incident. He requested the Sub Inspector to take Shukkoor also along with him and the said fact was stated in the F.I. statement and also in his

subsequent statements, but he has no explanation for omission of the said fact in his state. According to him, the said fact was informed to the CBI Officer as well. The police officers and the CBI officer has take down the details in separate papers and agreed to include the same in his statement. It is his further version that he stated before the Magistrate while recording his statement U/s.164 of Cr.P.C and he has identified Ganesh, Suresh and Anoop during the test identification parade, but it is explained by him that he has not identified Ganesh during test identification parade and the version in his statement U/s. 164 Cr.P.C in that regard is incorrect. He pleaded ignorance as to whether he stated before the Magistrate while recording his statement U/s.164 of Cr.P.C that he identified Latheesh/A8, Prakasan Muthuvani/A22 and Shaji. K.V/A21. According to him, no one came to the scene of occurrence while he was assaulted by the accused. He denied having given statement in Ext.P1 F.I statement that seeing the incident some persons came to the scene of occurrence and seeing them the culprits ran away from there. According to him, till the culprits ran away from there, he was there in the scene of occurrence and no explanation has been given by him for not giving such version in Ext.P1 F.I statement or his statement recorded by the Magistrate U/s.164 of Cr.P.C. The fact that Abdul Salam/CW.4 called one Babu/A29 from the house of CW.6 was stated before the Magistrate while recording his statement, but he has no explanation for omitting the same in his statement. It is also admitted by him that one of the culprits beat on the

grills of the house of CW.6 while PW.1 and others were taking water from the house. Again it is deposed to by him that culprits beat on the grills after taking PW.2, CW.3 and CW.4 from the house and while demanding release of PW.1 and Shukkoor from the house. It is his version that he sustained injury to his hand due to beating on the grills, as he was holding his hand with the grills and he has no explanation for giving such statement before the investigating officers or before the Magistrate. According to him, the injury to his right hand finger has been shown to the doctors and it is suggested to him that he did not sustain any such injuries to his hand, but he has denied the same. He has stated the involvement of Shijin, Nithin, Naveen, Ajayakumar, K.Prakasan, another Prakasan, Ajithkumar, V.V. Mohanan, Rajeevan, Purushothaman and Suresan before the Magistrate as stated by him in chief examination, but he has no explanation for omission of the said facts in his statement U/s.164 of Cr.P.C. The fact that one person took the photographs of PW.1 and others and another man take down the names and address is mentioned in Ext.P1 F.I statement and also stated before the CBI Officer. When his attention was brought to Ext.P1 F.I statement regarding the said omission, he denied the suggestion that there was no such incident. PW.1 denied his statement given before the police that, he had seen the culprits felling down Shukkoor on the varamba. It was also suggested to him that he gave statement before the Magistrate after getting the instruction regarding the identity of the culprits and also showing their photographs, but he has

denied the same. He denied the statement given before the CBI Officer that, PW.1 and Shukkoor were there at the house of CW.6 till 2.30 p.m. It is suggested to him that the exaggerated versions given by him in chief examination, regarding the incident, is false and there was no such statement before the police while recording Ext.P1 F.I statement or subsequent statements and also while giving statement before the Magistrate, but he has denied the same. According to him, around 10-15 minutes has taken for attacking himself and Shukkoor. It is also suggested to him that the accused Nos.7, 10, 4, 15, 14, 18, 9, 23, 25 and 26 are residents of Valluvankadavu bhagam and all are engaged in fishing activities at the river, but he has denied the same. According to him, he did not saw them prior to the incident. The version in chief examination that due to fear of attack he got discharge from the Mission Hospital was stated before the Magistrate and the CBI Officer while recording the statement. He has no explanation for omission in the said statements regarding the said fact. It is also suggested to him that he identified the material objects before Court after ascertaining its details from the mahazar and property list, but he has denied the same. It is also his version that he had given the description of iron rod, iron pipe etc., before the Circle Inspector, but he has no explanation for the omission in his statement in that regard. Those weapons were not shown to him during investigation. It was also suggested to him that the Sub Inspector was not present along with him at 3.30 p.m., the alleged time of recording F.I Statement and the same

has been denied by him. It was also suggested to him that he himself and PW.2 had no serious injuries for admitting in the hospital for a longer period, but he has denied the same. He also denied to have given statement before the CBI Officer that he had seen the person, who has stabbed him near the Payyannur Railway Station after the test identification parade. He also denied having statement before the CBI Officer that the culprits followed Shukkoor and caught hold him and by that time, he ran away from there. It was suggested to him that the accused Nos.5, 18 and 23 were identified by him for the first time before Court, but he has denied the same and stated that he had identified them during test identification parade and also from the police station. It is relevant to mention that the accused Nos.5, 18 and 23 were not arrested during investigation and were reported absconding as per the final report. The suggestion put to him is that he has given evidence before Court as requested by the IUML leaders, but he has denied the same. It is also the suggestion put to him that he was properly instructed by the Advocates appearing on behalf of Shukkoor's mother and also by the CBI Officers and the evidence tendered by him is the result of such instruction, but he has denied the same as well. According to him, the accused No.27 Ajithkumar is not known to him prior to the incident and he is not aware about the avocation of accused No.27. He has not furnished the details to identify accused No.27 in the F.I statement or subsequent statements till the arrest of accused No.27. He has not stated the details of the overt acts committed by accused No.27

while he was identified during the test identification parade. It is stated by him that he has stated the involvement of Ajithkumar before police, Magistrate and also before the CBI Officer, as deposed to in chief examination. It was also suggested to him that he photos of accused No.27 was shown to him prior to the test identification parade and the same is also denied by him.

137. It is the version of PW.2 that, on 20.02.2012, while playing cricket between 9.30 and 10.00 a.m., he sustained injuries and for treatment he was being taken by his friends, PW.1/Sakkariya, Abdul Shukkoor (the deceased) and CWs.3 and 4. They reached Valluvankadavu by crossing the river about 12.30 hours, while they were moving along the Chulliyottuvayal 5-6 persons were seen following them. They walked quickly along the paddy field. On the previous day, there was clashes between League-CPM activists at Ariyil and the houses of CPM activists were destroyed. There was a propaganda by CPM activists that Shukkoor was also involved in those incident. When they moved further, some persons were seen coming from southern side and they were armed with weapons. Hence, due to fear, they entered the house of CW.6 Muhammed Kunhi. They demanded for water and drunk water from there. By that time, those persons, who followed and also came from southern side reached at the courtyard of Muhammed Kunhi. It was stated to the inmates of the house of Muhammed Kunhi that those persons are following them and requested to inform them that they came for inviting for the marriage of one Nisar. One person among the culprits beat on the grills

on the front side of the house of Muhammed Kunhi and requested to release PW.2 and others and they threatened the inmates of the house. According to him, the person, who beat on the grills is one Ajithkumar and he identified accused No.27 Ajithkumar during test identification parade and he identified accused No.27 from the dock as well. According to him, he ascertained the name of Ajithkumar after the test identification parade. Another man also beat on the grills of the house of Muhammed Kunhi and threatened by saying that you are the persons attacked the vehicle of our MLA and District Secretary P. Jayarajan. He also stated that the power of the party will be shown to them. It is also stated by him that you have not studied a lesson, though one among you were finished 5-6 months back. According to him, the said person is accused No.19. He identified accused No.19 from the dock saying that he is not aware about his name. It is also the version of PW.2 that, one Pavithran requested to release PW.2 and others from the house of Muhammed Kunhi. Though it was stated to them that the release can be after arrival of the police, they uttered that they will destroy the house by bomb blasting and also finish the inmates of the house. According to him, such a statement was uttered by the aforesaid Pavithran and he identified Pavithran during test identification parade. He identified accused No.7 Pavithran from the dock. Later, the inmates of the house opened the grills and by that time, one person entered inside the house and took down the name and address of PW.2 and others. Then, he called another man over phone and stated that, ‘hello

Venuvettan, this is Mohanan, five League activists, who have attacked the vehicle of MLA and District Secretary. P. Jayarajan are detained in a house at Ariyil and I shall say their name and fathers name'. Thereupon, he has furnished the names and details to the person at the other end and replied that o.k., we will do that. Thereupon, one person took the photographs of PW.2 and 4 others in the mobile phone. According to him, the person, who telephoned from the house is one Mohanan and he failed to identify accused No.11 Mohanan from the dock, instead he pointed accused No.27 Shaji. K.V as Mohanan. The person, who took photograph in the mobile phone is one Maina Dinesan, who has been identified during test identification parade and his name was ascertained after the parade. He identified accused No.10 N.P. Dinesan from the dock. Later, the person, who took down the name and address stated that the person, who can identify you is coming and thereafter you will be released. They also threatened PW.2 and others with threat to their life. After sometime, PW.2, CW.3 Haris, and CW.4 Abdul Salam were forcibly taken from the house to Chulliyottuvayal and at that time, accused No.29 Babu.K. was seen at the corner of the courtyard and he was holding weapon. Accused No.29 was identified by him during the test identification parade. He identified accused No.29 Babu.K. from the dock. While PW.2 and two others were taken from the house, Shukkoor and PW.1 Sakkariya were restrained in that house by some persons among the culprits. While PW.2 and two others were taken to the Chulliyottuvayal, Sumesh slapped on

his face, which resulted in injury near left eye. Sumesh was also identified during test identification parade and he identified accused No.1 Sumesh from the dock. One Umesh, who was present along with Sumesh also slapped on the face of PW.2. During test identification parade, Umesh was identified by him and at the time of evidence, he identified accused No.6 Umesan correctly from the dock. One Shijin Mohan was also present along with accused Nos.1 and 6 and he was also identified during test identification parade. He identified accused No.15 Shijin Mohan from the dock correctly. One Latheesh was also present in that group and he beat PW.2 by means of an iron rod, which resulted in sustaining injuries to the middle finger of his right hand. Latheesh was identified by him from the office of C.I of Police, Valapattanam. At the time of examination, PW.2 failed to identify accused No.8, Latheesh, instead he pointed out accused No.2 Ganesan as Latheesh. After assaulting PW.2, the accused No.1 Sumesh directed to release CWs.3 and 4 Haris and Abdul Salam. He also stated that if you need your life, ran away from here. At that time, PW.2 stated that Sakkariya/PW.1 and Shukkoor are innocent and requested to release them. Sumesh/A1 replied that, you ran away from here and at that time, accused No.19 Syamjith stated that both of them will be sent in the box. Fearing death, PW.2 and others ran towards Valluvankadavu and from there they went to Ariyilkandi bhagam by crossing the river. After reaching there, CW.3 Haris tried to contact PW.1 Sakkariya and Shukkoor over phone, but they did not attend the call. Later,

CW.3 informed the matter to League office at Ariyil over phone and requested to save them. Subsequently, they were taken near the league office in a vehicle and from there PW.2 was taken to the Lourde Hospital, Taliparamba in the police jeep. He was admitted and treated from that hospital. From the hospital, he came to know that PW.1 Sakkariya was stabbed and Shukkoor was murdered. He had pointed out the scene of occurrence, from where he was assaulted by the culprits, to the police on 16.03.2012. A pair of hawai chappal worn by CW.4, Abdul Salam were seen there and he identified MO.9, a pair of chappals, that of Abdul Salam. To a question put by the learned Prosecutor, PW.2 answered that he intimated sustaining of injury while playing cricket to his home in the mobile phone of PW.1, the same was attended by his sister, but was not able to connect his mother. Later, his sister called back to the mobile phone of PW.1 and at that time, his mother was not available in the house, as she went to the house of Abdul Salam. Again after 10 minutes he called in the mobile phone of PW.1 and informed the details to his mother.

138. When PW.1 had shown the scene of occurrence, from where he himself and Shukkoor were attacked, to the police on 16.03.2012 he was present there along with one Abdulla and Aboobacker. It is also the version of PW.2 that one Rajeevan was present at the courtyard of the house of Muhammed Kunhi with weapon. He identified accused No.24 Rajeevan from the dock. One P.P. Suresan was also present at the courtyard of the house of

Muhammed Kunhi with weapon. He identified accused No.28 P.P. Suresan from the dock. According to him, one Nithin was present among the persons, who followed them from Valluvankadavu and also among the persons present at the courtyard of Muhammed Kunhi with weapons. Though firstly PW.2 pointed out one K.V. Sajith/A16 as Nithin, immediately he correctly pointed out accused No.13 N.P. Nithin, by saying that he mistook the serial number in the row. One Prakasan Muthuvani, Manoharan, Purushothaman, Naveen, V.V. Mohanan and Vijesh were also present among the culprits, according to PW.2, Prakasan Muthuvani, Manoharan and V.V. Mohanan were present at the courtyard of the house of Muhammed Kunhi, Purushothaman was present among the persons, who came from southern side, Naveen and Vijesh were present among the persons, who followed them from Valluvankadavu. Out of them, PW.2 identified accused No.22 Prakasan Muthuvani, accused No.9 Manoharan, accused No.26 Purushothaman and accused No.25 V.V. Mohanan. He failed to identify accused No.18 N.P. Naveen and accused No.4 Vijesh, instead he identified accused No.5 Prakasan as Naveen and accused No.3 Anoop as Vijesh. PW.2 was also cross examined at length by the learned senior counsel. During cross examination it is admitted by him that he was unable to identify accused No.13 Nithin during test identification parade, but later identified him from the office of Circle Inspector, Valapattanam. It is suggested to him that he is having only hearsay knowledge about the involvement of accused No.13 and in that regard his

attention was invited to his previous statement recorded on 17.07.2012, which shows that he came to know later that Nithin was also present among the culprits, who followed them from Valluvankadavu. It is deposed to by PW.2 that he has not given statement, indicating that he came to know the involvement of accused No.13 later. Accused No.28, P.P. Sureshan was also not identified by him during test identification parade. Later, Sureshan was also identified from the C.I Office. He came to know about the name of Sureshan and others. It is also stated by him that the he did not state before the police that he came to know about the involvement of P.P Sureshan only later. It is his version that he reached near the League office about 2.45 p.m., and from there he was taken to the Lourde Hospital, Taliparamba. When he was examined by the doctor, he stated the time of incident as 1.45 p.m. It is suggested to him that the time of the incident is reported before the doctor as 2.30 p.m., but he has denied the same. It is also stated by him that use of weapon by the assailants was also informed to the doctor. It is his version that he informed the time of arrival at the house of Muhammed Kunhi before the police and CBI. When his attention was brought to his statement recorded by the CBI on 25.06.2018, which shows that they reached Valluvankadavu around 12:50 hours, he has denied the same. He identified accused No.24 Rajeevan from the office of Circle Inspector and at that time PW.1, CW.3 and CW.4 were present along with him. At that time, he stated about the involvement of accused No.24 in the incident. It is his version that

accused No.24 was armed with a wooden stick, but such a version is not seen given before the investigating officer or in chief examination. It is deposed to by him that Rajeevan is known to him earlier from the age of 10-18 years. The name of Rajeevan was not stated before investigating officer on 12.03.2012 due to fear. According to him, he is following the Adwaitha philosophy of Sree Sankaracharya. He is a bachelor and has no affinity with the league, though the Muslim league leaders are known to him. It is denied by him that he had discussion about the incident with league leaders. He has not stated before the police that he is an IUML activist and when his attention was brought to his previous statement, it is deposed to by him that the same is wrongly recorded. He was arrayed as an accused in an arson case by which the AKG Centre at Mulloor was set at blaze in 2007-2008. He denied the statement in that regard recorded by the CBI. According to him, the said case was pending before the Court of Session, Talassery and he was acquitted in that case. He is not aware of the name of the lawyer, who has defended the said case. It is suggested to him that the lawyer is one Latheef, the District Secretary of IUML, Kannur, but he pleaded ignorance about the same. It is also stated by him that he has not practiced ‘kukkudo’ and has not given statement before CBI that he practiced ‘kukkudo’ and karate. He had seen PW.1 later from the Lourde Hospital after 07.00 p.m. on the date of the incident. It is also his version that the leaders of IUML reached the hospital and they have discussion with them. He came to know about sustaining of

injury by PW.1 and Shukkoor around 06.00 p.m. He did not enquire with PW.1 about the same when he met PW.1 at 07.00 p.m. He enquired with PW.1 about the incident only on the 3rd day of the incident. At that time, PW.1 has not stated the names of any of the assailants. Later also they have no discussion about the culprits involved in the incident. Later he informed the name of accused No.6 Umesan before the Circle Inspector on 12.03.2012. When his attention was brought to the statement recorded on 12.03.2012 and 16.03.2012, it is stated by him that the investigating officer might have omitted to record the same. It is also his version that while he had seen accused No.24 from the office of Circle Inspector, he has stated that accused No.24 is known to him earlier and when it is stated to him that the same is not recorded by the investigating officer, it is stated by him that it can be an omission. He has not stated before the CBI Officer that the Kannur Dy.S.P has recorded his statement, but it is admitted by him that he was called for by the Dy.S.P. It is deposed by him that he has stated the details of the incident, as deposed in chief examination, before the investigating officers and when his attention was brought to the relevant statements recorded during investigation, he has denied the same. He also denied to have given statement before the CBI that while they were moving towards Keezhara bus stop, a two wheeler came along the road and the riders stare at them. It is his version that around 18 persons assembled at the courtyard of CW.6 Muhammed Kunhi at the first instance. He denied having given statement

before the CBI that around 20 persons assembled at the courtyard of the house of CW.6. He also denied having given statement before the CBI that seeing some persons following them along the paddy field, they entered the house of Muhammed Kunhi. It is also his version that he stated before the CBI that the persons were armed with weapons and when his attention was brought to the omission in giving such statement, it is stated by him that the officer might have omitted to record the same. It is admitted by him that he gave statement before the CBI that they informed the inhabitants of the house of CW.6 to convey the culprits that they came there for inviting the marriage of one Nisar. It is deposed to him by that he did not see any ladies or children among the culprits and he denied to have given statement before the CBI that one lady among the mob, who carry an iron rod, shouted not to release PW.2 and others. When his attention was brought to such a statement, it is testified by him that it might have wrongly recorded by the officer. It is denied by him that he has given statement before the C.I of Police on the next day of the incident i.e., on 21.02.2012. It is the version that the statement was given by him for the first time before the Circle Inspector only on 23.02.2012. When his attention was brought to the word ‘yesterday’ in the statement allegedly recorded on 23.02.2012, he has denied to have given such a version. Before the Circle Inspector also he has stated about arming of weapons by the culprits. When his attention is brought to his statement, which shows nothing of that sort, he pleaded ignorance. It is also his version that he has disclosed

the details to ascertain the identity of the culprits before the Circle Inspector. He also admitted that the accused Nos.6, 24 and 29 were known to him earlier. He failed to disclose the name of Rajeevan/A24, when he was questioned by the Circle Inspector for the first time due to fear. It is admitted by him that the accused No.19 Syamjith is the taller one among the accused persons present in the dock. It is admitted by him that accused No.19 was not shown to him either by the police or CBI and no test identification parade was conducted in respect of him. It is categorically deposed that he did not mention the name of accused No.19 before the police and what is stated by him is that, a tall and good looking person. He never mentioned the name of accused No.19 Syamjith before the CBI Officer as well. For the first time he is knowing about the name when stated by accused No.19 after his identification from the dock. It is also his version that he did not state before the investigating officer about the involvement of Syamjith and overt acts committed by him. If the name of Syamjith is recorded in his statement, that is only a falsity. It is suggested to PW.2 that he has given direction to identify the tallest man as accused No.19 Syamjith and only on the basis of the same, he identified accused No.19, but he has denied the same. It is his version that he stated before the Circle Inspector that the culprits stated that PW.2 and others have attacked T.V. Rajesh and P. Jayarajan and caused fracture to the leg of a CPM activist and to that statement they replied in the negative, as testified in chief examination. When it is stated to him that no such statement was

given by him before the police, it is deposed that the investigating officer might have omitted to record the same. He is not heard about the name of a carpenter Sajeevan, Ramesan and Baneesh. He has not stated the names of said persons before the Circle Inspector. When the relevant portion of the statement recorded during investigation was brought to his notice, regarding the involvement of Sajeevan, Ramesan and Baneesh, he has denied the same. It is suggested to him that those persons are not arrayed as accused in the present case, he is suppressing their names as culprits, but he has denied the same. According to him, accused No.8 Latheesh beat him by means of an iron rod and the same was stated before the police after the test identification parade. It is denied by him that Latheesh slapped him on his face and denied to have given statement before the police in that regard. It is admitted by him that accused No.8 Latheesh and accused No.2 Ganeshan were not identified by him during the test identification parade. It is stated by him that when he was interrogated by the investigating officer on 11.04.2012, he has stated about the presence of accused No.29/Babu with weapon and he stated to the other culprits to inflict injury to PW.2 and others. The suggestion put to him is that he testified about the presence of Babu at the courtyard alone and no other overt acts were attributed towards him, while recording the statement. It is answered by him that it might have omitted by the Circle Inspector. Very same version was given before the CBI as well and if the same is also not recorded, it can only be an omission on the part of the

investigating officer. He pleaded ignorance about setting ablaze of the tea shop of Gopalan, father of accused No.6 Umesan. He is not aware as to whether one Baneesh is the cousin of accused No.6 Umesan. Since accused No.6 Umesan is a prime witness in many cases booked against League leaders, he has been falsely implicated in this case is the suggestion put to him, but he has denied the same. It is suggested to him that accused No.6 Umesan and accused No.29/Babu were not present at the scene of occurrence, but he has denied the same. He is not aware about a bomb blast on the same day near the mosque at Ariyil and also that the accused Nos.6 and 29 were accused in that case. He denied the suggestion put to him that the Circle Inspector Preman has requested him to identify accused No.6 Umesan by showing his photograph and at that time he informed his inability to identify him as Umesan was not present there at the scene of occurrence. It is also suggested that only at the instance of the Circle Inspector he has mentioned the name of Umesan in the statements. When the statement recorded by the CBI Officer in that regard was brought to the notice of PW.2, he denied to have given such statement. According to him, the same might have wrongly recorded by the investigating officer. He has no need to identify Umesan by seeing his photograph as Umesan is known to him even prior to the incident. It is his version that when he sustained injury to his palm while the police followed him, he went to his home and pour dettol for cleaning the wound. Later, when he sustained injury while playing cricket he did not went

to his home. It is his version that he sustained injury while playing cricket at about 10.30-11.00 a.m., whereas his version in chief examination is that he sustained injuries while playing cricket at 9.30-10.00 a.m. When the attention of PW.2 was brought regarding the said statement in chief examination, he has offered no explanation. It is admitted by him that he gave statement before the Circle Inspector that he sustained injuries to his hand while playing cricket around 8.00-9.00 hours. He denied having given statement before the CBI that he sustained injuries to his hand at 10.30 a.m., while running away on seeing the police. It is suggested to him that the alleged attack towards the car of Jayarajan and Rajesh was on 20.02.2012 at 11.45 a.m. and knowing about the same, PW.2 is changing the time of reaching Kuthirappuram Kadavu, but he has denied the same. He also denied to have given statement before the CBI that when they alighted at the river bed, Shukkoor or Haris stated that two persons were staring at them. According to him, Syamjith reached the house of Muhammed Kunhi before taking their photograph and taking down the name and address. It is categorically stated by him that he has not stated the name of Syamjith before the CBI Officer. If the name of the Syamjith is recorded in his statement as stated by him, the same was not furnished by him. He denied all the statements given to the CBI Officer regarding the mentioning of names of Syamjith and Vijesh. He further deposed that, he has stated before the CBI Officers that the accused persons were armed with weapons and if the same is not seen recorded, that

can be an omission on the part of the officers. It is also his version that beating on the grills by the culprits and criminal intimidation by them was also stated before the CBI, if the same is not recorded that also may be an omission on their part. It is also stated by him that the name of the person who beat on the grills has been stated before the Circle Inspector and he pointed out the said person to the Circle Inspector. Certain other omissions regarding certain facts deposed to in chief examination was also brought to the notice of the witness and according to him, he has stated those versions before the investigating officer, if the same is not seen recorded, that can be an omission by the officers. It is a suggestion put to this witness that he is giving improved versions about the incident as per the instructions of the Advocate appointed by CW.25 Athikka, who is assisting the prosecution, but he has denied the same.

139. PW.3, the wife of Muhammed Kunhi deposed that, on 20.02.2012 at about 12.45 hours, 5 boys came to their house situates at Keezhara. They came by running and sat on the veranda. On their request drinking water was given to them and they drunk the same. When her husband Muhammed Kunhi (CW.6) enquired as to from where they are coming, they answered that they came for inviting for a marriage. They are Abdul Shukkoor (the deceased), Sakkariya (PW.1), Ayoob (PW.2), Haris (CW.3) and Abdul Salam (CW.4), who are known to her as she is from Ariyil. It was stated by them that, some persons followed them carrying iron pipe, wooden stick etc. By

that time, some persons reached at the courtyard of her house and they were armed with iron pipe and wooden sticks. They beat on the grills and requested to release the children, otherwise, it was stated that, they will destroy the house. At that time, her husband informed that they will not be released prior to the arrival of police. Thereafter, one person entered the veranda by pushing open the grills, he took the mobile phones of the aforesaid 5 children in his mobile phone and according to her, he is one Maina Dinesan, who is known to her earlier. She identified accused No.10 N.P. Dinesan @ Maina Dinesan from the dock. Following him, another man also entered to the veranda and he took down the name and address of children and contacted someone over phone. That person is not known to her and she expressed her inability to identify that person. PW.1 contacted someone over phone and later, he received an incoming call. She is not aware about the details of the conversations. Thereupon, 5-8 persons entered into the veranda and forcibly took Ayoob (PW.2), Haris (CW.3) and Abdul Salam (CW.4) towards Chulliyottuvayal bhagam by around 01.30 p.m.. Later, those persons came back and requested to release Shukkoor and Sakkaria (PW.1). At that time also, her husband stated that they will be released only after arrival of the police. The culprits threatened that if they are not released the house will be destroyed by causing bomb explosion. Thereupon Shukkoor and Sakkariya were also forcibly taken to the Chulliyottuvayal bhagam by around 02.00 p.m. At that time around 30

persons were assembled at the courtyard. Later, police came to their house and by that time, police got information over phone that PW.1 Sakkariya received stab injuries. Such information has been received around 02.30 p.m. and the accordingly the police left from there. Later, she came to know that Shukkoor was also stabbed from the vayal. At around 06.00-06.30 p.m., she got information regarding death of Shukkoor. There was news in the T.V and other persons also informed the same. On the next day, i.e. on 21.02.2012 at about 10.00 a.m., police party came to her house and seized MO.5 mobile phone of Shukkoor, which was kept on the table at the veranda. She identified MO.5 mobile phone as that of Shukkoor and seized from there. Though it was stated by her that 10-16 persons were shown to her by the police and she identified them, she expressed her inability to identify them before Court. According to her, due to her old age and also due to the changes to those persons, she is unable to identify them. She has identified the signature of her husband Muhammed Kunhi and son Haneefa in Ext.P2 mahazar prepared by the police regarding the seizure of the mobile phone. She was also cross examined at length by the learned counsel appearing for the accused. As stated earlier, she has identified the accused No.10 alone and with regard to the same, it is asked to PW.3 that she was on inimical terms with accused No.10 for rejecting her claim for pension. Certain omissions in her evidence is also brought to her notice, but it is stated by her that she has stated such versions before the investigating officers and if the

same is not seen recorded, it can only be an omission on their part. It is also admitted by her that on the date of the incident there was a festival celebrated by the Valluvan Community of that area. It is her version that the names of PW.1, PW.2, Haris, Abdul Salam and Shukkoor were known to her earlier as deposed to by her in chief examination and the same was informed to the police and CBI. If the same is not seen recorded, it is a fault on their part.

140. According to the prosecution, the oral testimonies of PW.1 and PW.2 prove the initial transactions in respect of the incident regarding following of persons upto the house of Muhammed Kunhi, the testimony of PW.3 further prove the incident tookplace from the house of Muhammed Kunhi and the testimonies of PW.1 and PW.2 also corroborate the said version. The infliction of injuries to PW.2 is proved through the evidence of PW.2 and infliction of injuries to PW.1 and Shukkoor is proved through the evidence of PW.1.

141. It is contended on behalf of the accused that the oral testimony of PW.1 is insufficient to prove the incident relating to the attack of PW.1 and Shukkoor, in respect of the same the prosecution is alleging commission of the offences punishable U/Ss. 307 and 302 IPC. Reliance has been placed by the learned counsel on the decision of the Hon'ble Apex Court in Vadivelu Thevar v. State of Madras (1957 KHC 404) wherein the Hon'ble Apex Court has classified the oral testimonies of witnesses into three; namely wholly reliable, wholly unreliable and neither wholly reliable nor wholly unreliable. In

the first case, the Court can rely on the testimonies of such witnesses, in the second category, the Court can discard their evidence and in the third category of cases, the Court has to be circumspect and has to look for corroboration in material particulars by reliable testimony, direct or circumstantial. According to the learned counsel, the very same principle has been followed by the Hon'ble High Court of Kerala in the decision in Manikandan v. State of Kerala (2026 KHC OnLine 1981). The learned counsel has also placed reliance on the decision in Rai Sandeep @ Deepu and Another v. State of NCT of Delhi (2012 (8) SCC 21. As per the said decision, a sterling witness should be of a very high quality and caliber whose version should, therefore, be unassailable. Here according to the learned counsel appearing for the accused, PW.1 cannot be classified as sterling witnesses due to the discrepancies in his evidence. It is true that PW.1 is an injured witness, but his testimony is not liable to be taken as a gospel truth submitted by the learned counsel appearing for the accused and reliance has been placed by the counsel appearing for the accused on the decision of the Hon'ble Apex Court in Nirmala Bai Devidas Chavhan v. State of Maharashtra (2026 KHC OnLine 7398). It is the version of PW.1 while giving Ext.P1 F.I statement before the police that he was inflicted serious stab injuries, but the medical evidence available before Court, ie., is oral testimonies of PW1, PW.26 and PW.34 and also Exts.P22 and P45 shows that PW.1 had sustained only minor injuries. It is the version of PW.1 before the investigating

officer that seeing people coming to the spot, he ran away from there and that being so, there was no possibility for him to see the attack towards Shukkoor, who was lying there at the scene of occurrence. Moreover, Abdul Shukkoor was searched out only after lapse of two hours and as such the version of PW.1 that Shukkoor was inflicted with injuries at 2.30 p.m. is not believable. It is not the ordinary human conduct to leave a friend at the scene of occurrence, who is alleged to have sustained serious stab injuries and the conduct of PW.1 leaving from the scene of occurrence without attending to Abdul Shukkoor is also not a believable story. The said aspect has been considered by the Hon'ble High Court of Kerala in the decision in Faisal U.K. v. State of Kerala (2026 KHC OnLine 1578) and for that reason also the oral testimony of PW.1 is not wholly reliable, submitted by the counsel. The very same view has been discussed by the Hon'ble Apex Court in Nimai Ghosh v. State of Bihar (2025 KHC OnLine 6939) and the Hon'ble Apex Court held that if a friend or relative is accompanying the deceased at the time of incident, action taken by the witness is a relevant factor to save him. Moreover, in addition, at the time of incident and immediately after commission of the offence, what steps were taken by the eye witness to save the life of the deceased. The version of PW.1 that he intimated the said fact of sustaining serious injuries to Abdul Shukkoor to the police officers, who took him to the hospital is not a believable story. If such an information was given by PW.1 to the police officers, they could have took Shukkoor as well to

the hospital then and there itself. As stated earlier, there was a delay of two hours to search out Shukkoor, as evident from the testimonies of the witnesses. So, according to the counsel appearing for the accused, the version of PW.1 that he had seen the accused Nos.1 and 2 inflicting injuries to Shukkoor is not at all reliable and believable. The quality of the testimony of PW.1 is not as much sufficient to qualify him as a wholly reliable witness, as held by the Hon'ble Apex Court in the decision in Vadivelu Thevar v. State of Madras referred to above and followed by the Hon'ble High Court of Kerala in Manikandan's case referred to above. Moreover, PW.1 has no consistent case with regard to the sustaining of the injuries and allegation regarding sustaining of the injuries. Further, PW.1 has a case before the doctor at the time of his examination that he was attacked by an unknown person, as evident from Ext.P22 wound certificate. Moreover, the version of PW.1 is that he sustained three number of injuries, but in Ext.P22 wound certificate only two number of injuries were noted by PW.26, that also suggests that the testimony of PW.1 is not believable. The statement given by PW.1 before the doctor that an unknown person attacked him is to be treated as a former statement, in view of the decision of the Hon'ble High Court of Kerala in Vinodan v. State of Kerala and Another (2020 KHC 5237). Further Ext.P45, the treatment certificate in respect of PW.1 shows that he had only one sutured lacerated wound on the upper back left side and no other injuries were noted therein. That also probabilise the case of the defence that the

evidence of PW.1 is not reliable, submitted by the counsel. Further, the prosecution has not produced the case sheets in respect of the treatment of PW.1 or PW.2, kept by the Lourde Hospital, Taliparamba. Though the prosecution has a case that the dress worn by PW.1 was seized by PW.39 under Ext.P109 mahazar on 20.02.2012. the mahazar reached before Court only on 23.02.2012. Further PW.39 has not recorded the statement of PW.1 on 20.02.2012, while effecting seizure of the dresses. Moreover, in Ext.P1, PW.1 has a case that, he sustained injury in the incident at 01.00 p.m. While giving Ext.P1 statement, he has no knowledge or information about the Shukkoor, but he was having knowledge about the admission of Ayoob at the hospital. Moreover, in Ext.P1 F.I statement PW.1 has a case that he was assaulted by blunt object on his knee and head, but no corresponding injuries were noted by the doctor in Ext.P22 wound certificate. While giving evidence before Court PW.1 has given evidence that the blow with blunt object did not hit him and as a result, he did not sustain injuries to his head and knee and such improved version is not believable. The mismatch between F.I Statement and ocular testimony in perspective of medical evidence on record is discussed by the Hon'ble Apex Court in Sanjay Kumar v. State of Bihar (2026 KHC OnLine 6546). As per the said decision, the Court has to consider whether the prosecution version as a whole inspires confidence and whether the ocular account, read with medical evidence, proves the charge beyond reasonable doubt.

142. Further, there was a call between PW.1 and PW.2, during the alleged time of the incident. When PW.1 was asked about such calls, he has no explanation. Whereas, at a later stage, when PW.2 was examined he has offered an explanation saying that he called his mother by using the phone of PW.1. Such an explanation has not been given by PW.1 during his examination. The version of PW.1 before Court that he has not furnished the names of accused Nos.6, 24 and 29, who were known to him earlier due to fear is also not acceptable. The details of the attack towards Shukkoor, that the first accused sat on the chest of Shukkoor and stabbed him is not finding a place in Ext.P1. Further the statement of PW.1 before PW.40, while recording his statement U/s.164 of Cr.P.C is to the effect that he did not receive the stab injury, as he has evaded from that. It is also the version of PW.1 that he did not furnish the names of accused Nos.6, 24 and 29 before the completion of the test identification parade. If he had knowledge about the presence of those accused, at the scene of occurrence, he could have furnished their names even at the first time his statement was recorded by the investigating officer. Further, accused Nos.6 and 29 were apprehended for crime No.232/2012 of Taliparamba police station for the alleged incident tookplace on 20.02.2012 itself at 2.15 p.m. at Ariyil. Further, the prosecution is having a case that PW.2 sustained injuries to his palm while playing cricket and whereas the previous statement of PW.1 recorded by the CBI was confronted to him, it was admitted by him that PW.2 sustained injuries to his

palm due to fall while the police chase him. The true genesis and the origin of the case is deliberately suppressed by the prosecution and in this regard the learned counsel appearing for the accused has place reliance on the decision of the Hon'ble High Court of Kerala in Ashokan v. State of Kerala (2017 (2) KHC 669) and also the decision of the Hon'ble Apex Court in Kannaiya v. State of M.P (AIR 2025 SCC 5381). Yet another aspect argued by the learned counsel is that PW.1 has identified Mos.6 to 8 knives from the box after deposing the minute description of the same, whereas he was unable to identify the accused No.2, who is alleged to have possessed MO.6 knife. Further, he failed to identify accused No.8 Latheesh as well from the box, who is alleged to have assaulted him by means of an iron rod. The accused No.11 was also not identified by PW.1, though there was clear allegation against him that he took down the names and address of PW.1 and others. The identification of accused Nos.5, 18 and 23 by PW.1 is also not reliable for the reason that those accused were not arrested during investigation or paraded in test identification parade. Moreover, during cross examination PW.1 deposed that he was not arrayed as an accused in any case prior to the incident in connection with this case, but according to him, police used to array him as accused in political cases thereafter. When Exts.D1 and D2, the certified copies of the remand report and bail application in Crime No.65/2010 of the Taliparamba police station were confronted to him, it is admitted by him, that as per the records he was seen produced before Court on

21.01.2011, he was remanded till 04.02.2011 and his bail application was dismissed on 24.01.2011. It is also admitted by him that civil suit pending in respect of the said incident was compromised and disposed of by the Sub Court, Payyannur as per judgment in O.S. No. 174/2011. Though it is suggested to him that the said case was settled after paying a compensation of ₹.8,00,000/-, he has denied payment of compensation for settling the case. So in view of the aforesaid contradictory version of PW.1 and also on the basis of the dictum laid down in the above mentioned decisions, the oral testimony of PW.1 is only to be discarded as not reliable and believable, argued by the learned counsel.

143. As far as the testimony of PW.2 is concerned, it is submitted that his evidence is also not liable to be accepted as gospel truth. It is his version during cross examination that he is a follower of Sri. Sankaracharya's Adwaitha Sidhantha since 2002 and has no affiliation with Muslim League. Whereas, it is admitted by him that he was an accused in an arson case in respect of destruction of CPI(M) office at Mullool along with CW.10 and other Muslim League workers. It is the definite case of PW.2 that he sustained injuries to his palm while playing cricket and only when his previous statement recorded by the CBI officer was confronted to him, he admitted that he sustained injuries due to falling, while the police chased him. It is the definite case of PW.2 that he has not mentioned the name of accused No.19 before the police or before CBI and he is hearing the name of accused No.19

for the first time during dock identification, that too when accused No.19 revealed his name as a reply to the Court question. Further, PW.2 has given statement before PW.39, the Inspector of Police that one Asari Sajeevan, Kanathilthottam Ramesan and another person assaulted him, but such a statement has been denied by him. The presence of one Baneesh was also stated by him before PW.39. Moreover, the first statement of PW.2 was recorded on 21.02.2012, but the same is subsequently manipulated as a statement dated 23.02.2012. Only on the basis of the statement of PW.2 Baneesh, Sajeevan and Ramesan were added as suspects and they continued as suspects till the submission of final report on 23.08.2012. Further, PW.2 has a case before PW.40, the CBI Officer, that there was pressure on the part of PW.39 to identify the accused No.6 as a suspect, but the said suggestion has been denied by PW.2. According to him also, Umesan/A6 is a close neighbour and he has not stated his name before the investigating officer till 12.03.2012, but his statement did not show that he has furnished such name before the investigating officer. PW.2 was also not able to identify many of the accused from the dock and his statement in chief examination is to the effect that no one is remained to be identified. Further, the statement given by PW.2 before the doctor is that he sustained injury at 2.30 p.m. at Keezhara. When his attention was invited to the said time, it was deposed to him by that he sustained injury at 1.45 p.m. Then why the doctor has recorded the time as 2.30 p.m is not explained by the prosecution. So, in

view of the inter-contradictory version of PW.2, his evidence is also liable to be rejected as unbelievable and unreliable.

144. The testimony of PW.3 is also not reliable and the identification of accused No.10 by her is also not to be accepted. It is submitted that if the remaining accused were present at the courtyard of her house, she could have identify them from the dock. No attempt has been made by the prosecution to prove the identity of the remaining accused through PW.3. So, the testimony of PW.3 is also not useful to the prosecution.

145. On the other hand, the prosecution is relying on various citations to canvass the proposition that the oral evidence of PWs.1 to 3 are not liable to be discarded on the ground of minor contradictions and discrepancies in their evidence. Reliance has been placed on the decision of the Hon'ble High Court of Kerala in Kumaran v. State of Kerala (2021 ICO 1024), wherein the Hon'ble High Court of Kerala has observed that "merely because of the reason that there is some exaggeration or embellishment in the deposition of the witness, from that stated to the police, cannot be a reason to discard the entire evidence unless it is so contradictory as to disprove the material aspects spoken of by the witness. The attempt of the court should always be to find out the grains of truth from such evidence, by carefully scrutinizing the evidence as a whole". Reliance was also placed in that decision on the judgment of the Hon'ble Apex Court in State of U.P v. Anil Singh (AIR 1988 SC 1998, 1988 ICO 172, wherein the Hon'ble Apex Court has observed as

follows:- "It is also our experience that invariably the witnesses add embroidery to prosecution story, perhaps for the fear of being disbelieved. But that is no ground to throw the case overboard, if true, in the main. If there is a ring of truth in the main, the case should not be rejected. It is the duty of the court to cull out the nuggets of truth from the evidence unless there is reason to believe that the inconsistencies or falsehood are so glaring as utterly to destroy confidence in the witnesses. It is necessary to remember that a Judge does not preside over a criminal trial merely to see that no innocent man is punished. A Judge also presides to see that a guilty man does not escape. One is as important as the other both are public duties which the Judge has to perform."

146. Reliance is also placed in the decision of the Hon’ble Apex Court in Pargan Singh v. State of Punjab & Anr (2014 ICO 1310), wherein the Hon’ble Apex Court has observed that “under the given circumstances and keeping in view the nature of incident, 90 seconds was too long a period which could enable the eye witness (PW.2) to watch the accused persons and such a horrible experience would not be easily forgotten. Death of a friend and near death experience by the witness himself would be etched in the memory for long. Therefore, faces of accused persons would not have been forgotten even after 7½ years”. So, according to the prosecutor, the testimony of PW.1 and PW.2 regarding the identification of the accused is not liable to be discarded.

147. Yet another decision relied on by the prosecution is the decision of the Hon'ble Apex Court in Mekala Sivaiah v. State of Andhra Pradesh (2022 ICO 1253), wherein the Hon'ble Apex Court relying on the earlier decision of the Apex Court in Narayan Chetanram Chaudhary & Anr. v. State of Maharashtra (2000) 8 SCC 457, 2000 ICO 5998 held that while appreciating the evidence in a criminal trial only contradictions in material particulars and not minor contradictions can be a ground to discredit the testimony of the witnesses. The relevant paragraph in the earlier decision of the Hon'ble Supreme Court referred to above is Paragraph 42, which read as follows:- "Only such omissions which amount to contradiction in material particulars can be used to discredit the testimony of the witness. The omission in the police statement by itself would not necessarily render the testimony of witness unreliable. When the version given by the witness in the court is different in material particulars from that disclosed in his earlier statements, the case of the prosecution becomes doubtful and not otherwise. Minor contradictions are bound to appear in the statements of truthful witnesses as memory sometimes plays false and the sense of observation differ from person to person. The omissions in the earlier statement if found to be of trivial details, as in the present case, the same would not cause any dent in the testimony of PW 2. Even if there is contradiction of statement of a witness on any material point, that is no ground to reject the whole of the testimony of such witness."

148. Reliance is also placed on the decision of the Hon'ble Chhattisgarh in Ghanshyam Kumeti v. State of Chhattisgarh (2026 ICO 2071), wherein the Hon'ble High Court of Chhattisgarh observed that, " Thus, from the testimony of the injured witness it clearly emerges that he has specifically attributed the act of firing to the accused Ghanshyam Kumeti. His presence at the place of occurrence is unquestionable as he himself sustained firearm injuries in the incident. His evidence is consistent, natural and inspires confidence. Merely because the occurrence took place at night or that certain details were not disclosed immediately while he was undergoing treatment does not render his testimony unreliable. On the contrary, his statement provides direct and cogent evidence establishing that the accused fired upon him and the deceased persons with the AK-47 rifle allotted to him, thereby causing the death of PR Rameshwar Sahu and PC Bindeshwar Sahni, and inflicting injuries upon him. Consequently, the testimony of the injured witness substantially corroborates the prosecution case and strongly supports the finding of guilt recorded by the Trial Court". Another decision relied on by the prosecution is that of Hon'ble Apex Court in Baban Shankar Daphal v. The State of Maharashtra (2025 ICO 744), wherein the Hon'ble Apex Court observed as follows:- "The Trial Court gave undue weight to minor discrepancies in the eye witness accounts, such as variations in their descriptions of the sequence of events or the exact number of blows inflicted. It is a well established principle of law that minor contradictions or

inconsistencies in testimony do not necessarily render it unreliable, as long as the core facts remain intact. The role of the court is to discern the truth by considering the evidence in its totality and not by isolating individual inconsistencies to discredit an entire narrative".

149. Reliance is also placed on the decision of the Hon'ble High Court of Kerala in Varghese v. State of Kerala (2024 ICO 1313), wherein the Hon'ble High Court of Kerala has extracted the observations of the Hon'ble Apex Court in State of U.P v. M.K. Anthony (1985) 1 SCC 505, 1984 ICO 94, which read as follows:- "While appreciating the evidence of a witness, the approach must be whether the evidence of the witness read as a whole appears to have a ring of truth. Once that impression is formed, it is undoubtedly necessary for the court to scrutinise the evidence more particularly keeping in view the deficiencies, drawbacks and infirmities pointed out in the evidence as a whole and evaluate them to find out whether it is against the general tenor of the evidence given by the witness and whether the earlier evaluation of the evidence is shaken as to render it unworthy of belief. Minor discrepancies on trivial matters not touching the core of the case, hyper-technical approach by taking sentences torn out of context here or there from the evidence, attaching importance to some technical error committed by the investigating officer not going to the root of the matter would not ordinarily permit rejection of the evidence as a whole. If the court before whom the witness gives evidence had the opportunity to form

the opinion about the general tenor of evidence given by the witness, the appellate court which had not this benefit will have to attach due weight to the appreciation of evidence by the trial court and unless there are reasons weighty and formidable it would not be proper to reject the evidence on the ground of minor variations or infirmities in the matter of trivial details. Even honest and truthful witnesses may differ in some details unrelated to the main incident because power of observation, retention and reproduction differ with individuals. Cross-examination is an unequal duel between a rustic and refined lawyer. Having examined the evidence of this witness, a friend and well-wisher of the family carefully giving due weight to the comments made by the learned counsel for the respondent and the reasons assigned to by the High Court for rejecting his evidence simultaneously keeping in view the appreciation of the evidence of this witness by the trial court, we have no hesitation in holding that the High Court was in error in rejecting the testimony of witness Nair whose evidence appears to us trustworthy and credible". In the aforesaid decision, the Hon'ble High Court of Kerala has also extracted the relevant portion of the decision of the Hon'ble Apex Court in Bharwada Bhoginbhai Hirjibhai v. State of Gujarat (1983) 3 SCC 217, 1983 ICO 3, which read as follows:- "We do not consider it appropriate or permissible to enter upon a reappraisal or re-appreciation of the evidence in the context of the minor discrepancies painstakingly highlighted by the learned counsel for

the appellant. Overmuch importance cannot be attached to minor discrepancies. The reasons are obvious:

(1) By and large a witness cannot be expected to possess a photographic memory and to recall the details of an incident. It is not as if a video tape is replayed in the mental screen.

(2) Ordinarily, it so happens that a witness is overtaken by events. The witness could not have anticipated the occurrence which so often has an element of surprise. The mental faculties therefore cannot be expected to be attuned to absorb the details.

(3) The powers of observation differ from person to person. What one may notice, another may not. An object or movement might emboss its image on one person's mind, whereas it might go unnoticed on the part of another.

(4) By and large people cannot accurately recall a conversation and reproduce the very words used by them or heard by them. They can only recall the main purport of the conversation. It is unrealistic to expect a witness to be a human tape-recorder.

(5) In regard to exact time of an incident, or the time duration of an occurrence, usually, people make their estimates by guess work on the spur of the moment at the time of interrogation. And one cannot expect people to make very precise or reliable estimates in such matters. Again, it depends on the time-sense of individuals which varies from person to person.

(6) Ordinarily, a witness cannot be expected to recall accurately the sequence of events which takes place in rapid succession or in short time span. A witness is liable to get confused or mixed up when interrogated later on.

(7) A witness, though wholly truthful, is liable to be overawed by the court atmosphere and the piercing cross-examination made by the counsel and out nervousness mix up facts, get confused regarding sequence of events, or fill up details from imagination on the spur of the moment. Subconscious mind of the witness sometimes so operates on account of the fear of looking foolish or being disbelieved though the witness is giving a truthful and honest account of the occurrence witnessed by him - perhaps it is a sort of a psychological defence mechanism activated on the spur of the moment."

150. Reliance is also placed on the decision of the Hon’ble Apex Court in Rajan v. State of Haryana (2025 ICO 4193), wherein the Hon’ble Apex Court considered the aspect of principle of ocular evidence of witness and observed in paragraph 12 as follows:- “ The appreciation of ocular evidence is a hard task. There is no fixed or straight jacket formula for appreciation of the ocular evidence. The judicially evolved principles for appreciation of ocular evidence in a criminal case can be enumerated as under:

"I. While appreciating the evidence of a witness, the approach must be whether the evidence of the witness read as a whole appears to have a ring

of truth. Once that impression is formed, it is undoubtedly necessary for the Court to scrutinize the evidence more particularly keeping in view the deficiencies, drawbacks and infirmities pointed out in the evidence as a whole and evaluate them to find out whether it is against the general tenor of the evidence given by the witness and whether the earlier evaluation of the evidence is shaken as to render it unworthy of belief.

II. If the Court before whom the witness gives evidence had the opportunity to form the opinion about the general tenor of evidence given by the witness, the appellate court which had not this benefit will have to attach due weight to the appreciation of evidence by the trial court and unless there are reasons weighty and formidable it would not be proper to reject the evidence on the ground of minor variations or infirmities in the matter of trivial details.

III. When eye witness is examined at length it is quite possible for him to make some discrepancies. But courts should bear in mind that it is only when discrepancies in the evidence of a witness are so incompatible with the credibility of his version that the court is justified in jettisoning his evidence.

IV. Minor discrepancies on trivial matters not touching the core of the case, hyper technical approach by taking sentences torn out of context here or there from the evidence, attaching importance to some technical error committed by the investigating officer not going to the root of the matter would not ordinarily permit rejection of the evidence as a whole.

V. Too serious a view to be adopted on mere variations falling in the narration of an incident (either as between the evidence of two witnesses or as between two statements of the same witness) is an unrealistic approach for judicial scrutiny.

VI. By and large a witness cannot be expected to possess a photographic memory and to recall the details of an incident. It is not as if a video tape is replayed on the mental screen.

VII. Ordinarily it so happens that a witness is overtaken by events. The witness could not have anticipated the occurrence which so often has an element of surprise. The mental faculties therefore cannot be expected to be attuned to absorb the details.

VIII. The powers of observation differ from person to person. What one may notice, another may not. An object or movement might emboss its image on one person's mind whereas it might go unnoticed on the part of another.

IX. By and large people cannot accurately recall a conversation and reproduce the very words used by them or heard by them. They can only recall the main purport of the conversation. It is unrealistic to expect a witness to be a human tape recorder.

X. In regard to exact time of an incident, or the time duration of an occurrence, usually, people make their estimates by guess work on the spur of the moment at the time of interrogation. And one cannot expect people to

make very precise or reliable estimates in such matters. Again, it depends on the time - sense of individuals which varies from person to person.

XI. Ordinarily a witness cannot be expected to recall accurately the sequence of events which take place in rapid succession or in a short time span. A witness is liable to get confused, or mixed up when interrogated later on.

XII. A witness, though wholly truthful, is liable to be overawed by the court atmosphere and the piercing cross examination by counsel and out of nervousness mix up facts, get confused regarding sequence of events, or fill up details from imagination on the spur of the moment. The sub conscious mind of the witness sometimes so operates on account of the fear of looking foolish or being disbelieved though the witness is giving a truthful and honest account of the occurrence witnessed by him.

XIII. A former statement though seemingly inconsistent with the evidence need not necessarily be sufficient to amount to contradiction. Unless the former statement has the potency to discredit the later statement, even if the later statement is at variance with the former to some extent it would not be helpful to contradict that witness." (See Bharwada Bhoginbhai Hirjibhai v. State of Gujarat (1983 CriLJ 1096 : (AIR 1983 SC 753; 1983 ICO 3), Leela Ram v. State of Haryana (AIR 1999 SC 3717, 1999 ICO 630) and Tahsildar Singh v. State of UP (AIR 1959 SC 1012, 1959 ICO 135)"

151. Yet another decision relied on by the prosecution is that of the Hon'ble High Court of Kerala in Chandanapurath Rajeevan & Anr v. State of Kerala (2024 ICO 912), wherein the Hon'ble High Court of Kerala relying on the earlier decision of the Hon'ble Apex Court held that the evidence of the injured witness has greater evidentiary value and unless compelling reasons exist, their statements are not to be discarded lightly. The relevant paragraph of that judgment can be extracted as follows:- "It is also well settled that the evidence of the injured witness has greater evidentiary value and unless compelling reasons exist, their statements are not to be discarded lightly. In Balu Sudam Khalde and another v. State of Maharashtra (2023 Livelaw (SC) 279; 2023 (2) KLJ 461; 2023 ICO 482), the Hon'ble Supreme Court held that the following legal principles are required to be kept in mind, while appreciating the evidence of an injured witness:

"(a) The presence of an injured eye-witness at the time and place of the occurrence cannot be doubted unless there are material contradictions in his deposition.

(b) Unless, it is otherwise established by the evidence, it must be believed that an injured witness would not allow the real culprits to escape and falsely implicate the accused.

(c) The evidence of injured witness has greater evidentiary value and unless compelling reasons exist, their statements are not to be discarded lightly.

(d) The evidence of injured witness cannot be doubted on account of some embellishment in natural conduct or minor contradictions.

(e) If there be any exaggeration or immaterial embellishments in the evidence of an injured witness, then such contradiction, exaggeration or embellishment should be discarded from the evidence of injured, but not the whole evidence.

(f) The broad substratum of the prosecution version must be taken into consideration and discrepancies which normally creep due to loss of memory with passage of time should be discarded."

152. Reliance is also placed on the decision of the Hon'ble High Court of Kerala in Manoj @ Loonamanoj v. State of Kerala 2026 ICO 2812, wherein the Hon'ble High Court of Kerala observed that "Regarding the contention raised by the learned counsel for the appellant/3rd accused that since no injuries sustained on the legs of the victim even though PW1 given evidence that the 3rd accused beat on his legs, capable of pulling him down, the same by itself is not a reason to discard the evidence of PW1 in toto which is supported by the medical evidence showing serious injuries to PW1".

153. Reliance is also placed on the decision of the Hon'ble Apex Court in Mitesh @ T.V. Vaghela v. State of Gujarat (2026 ICO 1365), wherein the Hon'ble Apex Court observed that "It is a settled principle of criminal jurisprudence that it is the quality and not the quantity of evidence which is

determinative. Even the testimony of a solitary witness, if found to be wholly reliable and of sterling quality, is sufficient to base a conviction".

154. Reliance is also placed on the decision of the Hon'ble High Court of Kerala in Sajeer @ Habeeb, Ors v. State of Kerala 2024 ICO 2438, wherein the Hon'ble High Court of Kerala observed that "It is unrealistic to expect a witness to provide a photographic version of the entire incident while giving an FIS. Moreover, through a series of judicial pronouncements, it is well settled that an FIR need not be an encyclopedia vividly narrating the entire details of the incident. In Sujatha v. State of Kerala and others (2018 KHC 659: 2018 (4) KLJ 294; 2018 ICO 1654), it was observed that the mental condition of the first informant at the time when the statement was given is a relevant aspect to be considered while testing the probative value of FIR and omissions, if any.

155. Relying on the dictums/observations made by the Apex Court and Hon'ble High Courts referred to earlier, the learned Prosecutor argued that, in the case in hand absolutely there are no compelling reasons to discard and disbelieve the oral testimonies of PWs.1 to 3 with regard to the incident and involvement of the accused herein.

156. I have considered the submissions made by either side and also perused the citations referred to above. It is to be taken note that the alleged incident in the case in hand took place in day light and absolutely there was no difficulty for the witnesses to identify the features of the accused as on the

date of the incident. Many of the accused were identified during identification parade conducted by PW.38. Some of the accused, who were not identified during test identification parade were identified from the dock. It appears to me that the oral testimonies of PWs.1 to 3 are not liable to be discarded in toto as not reliable and believable. The reliability can be considered at a later stage while considering the involvement of each accused in the alleged incident.

157. Yet another contention taken by the accused is that many of the occurrence witnesses cited by the prosecution were not examined to prove the involvement of the accused. CWs.1 to 11 were cited as occurrence witnesses by the prosecution and out of them, CWs.1, 2 and 7 were examined as PWs.1 to 3. The witnesses, who might have witness the attack towards PW.2 Ayoob will be CWs.3 and 4 Haris and Abdul Salam, they were given up by the prosecution without assigning any reasons. Likewise, CWs.6 and 8, the inmates of the house of PW.3, who were the husband and son respectively of PW.3 were also given up by the prosecution without assigning any reason. They will be in best position to identify the culprits, who allegedly assembled at the house of their courtyard. Likewise, CWs.5 and 9 to 11, the so-called independent witnesses for the occurrence were also given up by the prosecution. According to the defence, the non examination of those witnesses is fatal to the prosecution and the learned counsel has placed reliance on the decisions of the Hon'ble Apex Court in Zainu v. State of Bihar

(2025 KHC OnLine 6843, Sawaldas v. State of Bihar (1974 KHC 644 = AIR 1974 SC 778, State of U.P and Another v. Jaggo and Others (1971 KHC 521= AIR 1971 SC 1586), Manikandan v. State of Kerala (2026 KHC OnLine 1981, Nirmala Bai Devidas Chavhan v. State of Maharashtra (2026 KHC OnLine 7398, Jogirder Singh v. State of Haryana (2013 KHC 4842), Mehtab v. State of Uttarakhand (2026 KHC OnLine 6424 and Mottammal Shaji @ Kakka Shaji and Others v. State of Kerala (2017 KHC 155. In the aforesaid decisions it has been held by the Hon'ble Apex Court and High Court of Kerala that non examination of the witnesses will be vital when the testimonies of witnesses already examined are not inspiring the confidence of the Court and not credible. I have already found that there are no reasons to discard the entire testimonies of PWs.1 to 3 as utter falsehood. Accordingly, I find that the non examination of the other independent witnesses is not fatal to the prosecution case.

158. As stated earlier, the oral testimonies of PW.9, PW.10, PW.11, PW.12 and PW.39 also prove the prosecution case that the injured witnesses/PWs.1 and 2 and the deceased Shukkoor were taken to the hospital, with injuries. It is true that there is delay in searching out Shukkoor from the scene of occurrence. He was found at the varamba of Chulliyottuvayal after 4.00 p.m. on 20.02.2012. He received stab injuries on his chest and abdomen. The earlier version of the prosecution as per the final report and the statement of the witnesses is that Shukkoor was found lying on

his stomach(prawn position), whereas at the time of evidence, the said case has been changed through the evidence of witnesses to the effect that Shukkoor was found lying at the varamba on his back(supine position). So, the defence argued that the case of the witnesses that Shukkoor was found at the vayal is not a believable story. PW.39, the Inspector of Police and other police officers deposed to the fact that they saw Shukkoor at the varamba of the paddy field he was taken to the Medical College Hospital, Pariyaram. He was declared dead on examination by the doctor. It is proved by the prosecution through the testimonies of the police officers referred to above that Shukkoor was found at the varamba of the paddy field with stab injuries. Whether he was found lying on his back or stomach is not a serious thing, as the witnesses took him from the scene of occurrence to the hospital.

159. I have already narrated the evidence of PW.9, PW.10, PW.11 and PW.39, with regard to taking of PW.1 and Shukkoor from the scene of occurrence to the hospital. The evidence of PW.12 shows that he took PW.2 to the hospital from a place near to the League Office at Ariyil. Absolutely, there is no compelling reason to disbelieve their versions in that regard.

160. The case of the prosecution is that MO.8 knife is used by the first accused to stab Shukkoor, MO.6 knife used by the accused No.2 to inflict injury to PW.1 and MO.7 knife is used by accused No.3 for inflicting injury to PW.1. Those weapons were seized by PW.39, the Inspector of Police,

Valapattanam under separate mahazars pursuant to the disclosure statement of the accused persons and also in the presence of the witnesses.

161. It is the version of PW.39 that on interrogation of accused No.1 it was stated by him that he handed over the knife to one Sajith and if he is taken, he will point out Sajith and his house. The extract of the relevant portion of the statement of first accused is marked as Ext.P195. Pursuant to the said statement, PW.39 went to the house of accused No.16, Sajith and took him into custody. Later, on interrogation accused No.16 stated that he had concealed the knife in his motor cycle, if he is taken, he will take and hand over the knife. Accordingly, on 02.06.2012, PW.39 effected seizure of MO.8 knife under Ext.P12 seizure mahazar. Ext.P12(a), the relevant portion of the disclosure statement of accused No.16 extracted in Ext.P12 was also marked on the side of the prosecution. It is the version of PW.39 that CW.29 Shamsudeen and PW.20 Junaid were present along with him at the time of seizure of MO.8 knife. MO.20 the cover of the knife, MO.21 the key with key chain and the motor cycle were also seized under Ext.P12. PW.20, Junaid also testified regarding accompanying of the police party and accused No.16 Sajith. He testified regarding the seizure of MO.8 knife, MO.20 its cover, MO.21 the key with key chain and the motor cycle under Ext.P12 mahazar. He identified his signature and also the signature of CW.29 Shamsudeen in the said mahazar. It is the contention of the accused that, PW.20 and CW.29 are planted witnesses and they were from a local distance, i.e., from

Pappinessery and the place of seizure is at Cherukunnu. It is the contention taken by the accused that he was subjected to torture by the police after taking him into custody and as such the disclosure statement cannot be taken as a voluntary statement. I find no reason to disbelieve the testimonies of PW.39 and PW.20 regarding seizure of MO.8 knife and other items under Ext.P12 seizure mahazar pursuant to the P12(a) disclosure statement of accused No.16.

162. The case of the prosecution is that MO.6 knife is used by the second accused for inflicting injuries to PW.1. MO.6 was seized by PW.39 under Ext.P13 seizure mahazar pursuant to Ext.P13(a) disclosure statement of the 2nd accused, in the presence of independent witnesses named Ihsan(PW.21) and Shahu Jahan (CW.31). It is the version of PW.39 that, he obtained police custody of the 2nd accused from the Court and it was stated by the 2nd accused that he has placed the knife at a place, if he is taken to that place, he will point out the place and hand over the knife. Pursuant to that statement on 06.06.2012, at about 11.00 a.m., PW.39 effected seizure of MO.6 knife under Ext.P13 seizure mahazar, pursuant to the aforesaid Ext.P13(a) disclosure statement of the 2nd accused in the presence of witnesses. PW.21, Ihsan deposed that he accompanied the police party and witnessed the seizure of MO.6 knife under Ext.P13 seizure mahazar, as the same was produced by the 2nd accused. PW.21 has identified the 2nd accused from the dock and he also identified his signature as well as the signature of

CW.31 Shahu Jahan in the said mahazar. Similar contention has been taken by the defence that this witness is from Pappinissery and he is also to be considered as a planted witness. I find no reason to discard the testimonies of PW.39 and PW.21 regarding seizure of MO.6 knife in the presence of the 2nd accused.

163. The prosecution has a case that MO.7 knife was used by the 3rd accused for inflicting injuries to PW.1. The said knife was seized under Ext.P10 seizure mahazar in the presence of PW.19 Isham and Anas(CW.27) on 16.06.2012. PW.39, the Inspector of Police deposed that after obtaining the custody of accused No.3, he interrogated the 3rd accused and as per his statement, it is revealed that he will take and hand over the knife, if he is taken to that place. Pursuant to the said statement of accused No.3, PW.39 and the police party along with PW.19 and Anas went to Valluvankadavu bhagam and effected seizure of MO.7 knife under Ext.P10 seizure mahazar, pursuant to the Ext.P10 (a) disclosure statement of the 3rd accused. PW.19 deposed that on 16.06.2012, he accompanied the police party and witnessed seizure of MO.7 knife in the presence of the 3rd accused under Ext.P10 seizure mahazar. He identified the signature of himself and that of Anas/CW.27 in the said mahazar. The 3rd accused was also identified by him from the dock. With regard to the seizure of MO.7 knife by PW.39 in the presence of PW.19 and Anas, I find no reason to discard the same.

164. PW.39 has prepared Ext.P11 observation mahazar on 16.06.2012 by visiting the place, where the first accused has concealed the knife. PW.19 is also attestor to the said mahazar and he identified his signature in that mahazar as well. It is relevant to mention even prior to the preparation of Ext.P11 mahazar, MO.8 knife was seized on 02.06.2012 under Ext.P12 seizure mahazar in the presence of accused No.16. So no reliance can be placed on Ext.P11 observation mahazar.

165. By the aforesaid evidence the prosecution has succeeded in proving seizure of MO.6 to MO.8 knives under the mahazars pursuant to the disclosure statement of accused Nos.2, 3 and 16 respectively. The said weapons were examined by PW.37 and as per Ext.P97 report blood was detected in MO.8 knife alone. No blood was detected in MO.6 and MO.7.

166. Ext.P1 F.I statement of PW.1 was recorded on 20.02.2012 at about 3.30 p.m. and on the basis of the same, Ext.P5 F.I.R was registered on the same day at 4.30 p.m. Ext.P5 reached the Magistrate on the next day i.e., on 21.02.2012 at 10.55 a.m. It is contended that there is inordinate delay in reaching the F.I.R before the Magistrate. It is to be taken that the Magistrate will be engaged in dictation and other acts in the morning, prior to the sitting and that may be the reason why the Magistrate has received the F.I.R. at 10.55 a.m. It is true that the F.I.R was not produced before the Magistrate on the date of its registration. Absolutely, no one is arrayed as accused in the F.I.R and in the F.I statement also the names of the culprits

were not mentioned. So, the delay in reaching the F.I.R before the Magistrate cannot be treated as a ground to hold that it is subsequent creation at the whims and fancies of the police officers.

167. PW.39 has visited the scene of occurrence on the same day of incident at 5.15 p.m. and prepared Ext.P4 scene mahazar. Blood stained grasses and blood stained soil were seized from the scene of occurrence. Certain chappals were also seized from there and perusal of Ext.P4 scene mahazar shows that there is some evidence of incident of attack at the scene of occurrence.

168. Later, on 21.02.2012, PW.37 the expert of RFSL Kannur collected blood stains from the blood pool and also the blood stained leaves from the scene of occurrence and the same were produced before PW.39, which was seized under Ext.P9 seizure mahazar. PW.39 also visited the house of Muhammed Kunhi and seized MO.5 mobile phone, alleged to be that of Shukkoor from there under Ext.P2 seizure mahazar on 21.02.2012. Another mahazar was prepared by visiting the house of Muhammed Kunhi on 21.02.2012 and the said mahazar is Ext.P111. PW.39 has also visited the place of occurrence, from where PW.1 is alleged to be attacked and prepared Ext.P127 mahazar on 16.03.2012, the said place is very close to the scene of occurrence mentioned in Ext.P4 mahazar. PW.39 has also visited the Taliparamba Co-operative Hospital and prepared Ext.P36 mahazar regarding the alleged place of conspiracy, i.e., room No.315 of the Co-operative

Hospital, Taliparamba. Ext.P3 inquest report was also prepared by PW.39 between 7.30 a.m. to 9.30 a.m. on 21.02.2012. As stated earlier, the weapons alleged to be used by the accused were also seized by PW.39. The motor cycles allegedly used by accused Nos.2 and 3 to reach the scene of occurrence were also seized by him under Exts.P8 and P7 seizure mahazars. PW.39 has also recorded the arrest of accused persons and produced them before the Magistrate under various remand reports. The first arrest was that of accused No.27 Ajith Kumar on 29.02.2012 and he was produced before the Magistrate on 01.03.2012 along with Ext.P121 remand report. Subsequently, accused No.24, P. Rajeevan was arrested on 11.03.2012 and he was produced before the Magistrate on 12.03.2012 along with Ext.P124 remand report. Exts.125 and 126 are the arrest and inspection memos. Meanwhile, the accused Nos.4, 6, 7, 9, 10, 12, 17 and 29 surrendered before the Magistrate on 29.03.2012 and they were remanded to judicial custody. Later, accused No.25 V.V. Mohanan was arrested on 28.04.2012 and he was produced before the Magistrate on the same day along with Ext.P138 remand report. Exts.P139 and P140 are the arrest and inspection memos. Subsequently on 13.05.2012, he arrested accused No.14, E.P. Radhakrishnan and he was produced before the Magistrate along with Ext.P142 remand report. Exts. P143 and P144 are the arrest and inspection memos. On 18.05.2012, he arrested accused No.28, Sureshan P.P. as per Exts.P147 and P148 arrest and inspection memos and produced him before

the Magistrate along with Ext.P146 remand report. On 25.05.2012, he arrested accused Nos.21, 22, 26 and 30, Shaji, Prakasan, Purushothaman and U.V. Venu under Exts.P157 to P164 arrest and inspection memos and produced them before Court along with Ext.P156 remand report. On 26.05.2012, he arrested accused Nos.2 and 8, Ganesan and Latheesh under Exts.P168 to 173, arrest, inspection and custody memos and produced them before the Magistrate on 27.05.2012 along with Ext.P167 remand report. On 29.05.2012, he arrested accused Nos.11, 13 and 15, C.N. Mohanan, N.P. Nithin and Shijin after preparing Exts.P176 to P181 arrest and inspection memos and produced them before the Magistrate along with Ext.P175 remand report. Subsequently on 01.06.2012, he arrested accused Nos.1, 3 and 16, Sumesh, Anoop and Sajith under Exts.P186 to P194, custody, arrest and inspection memos and produced them before the Magistrate along with Ext.P185 remand report. Later, on 04.07.2012, he arrested accused Nos.20 and 31, Sareesh and A.V. Babu under Exts.P220 to P223 custody, arrest and inspection memos and produced them before the Magistrate on the same day along with Ext.P219 remand report. On 01.08.2012, he arrested accused No.32 P. Jayarajan under Exts.P232 and P233 arrest and inspection memos and produced him before the Magistrate along with Ext.P231 remand report. Subsequently, the accused No.33,T.V. Rajesh surrendered before the Magistrate on 13.08.2012. The remaining accused, i.e., accused Nos.5, 18,

19 and 23, K. Prakasan, Naveen M.P., Syamjith and Ajayakumar were not arrested during investigation, as they were reported absconding.

169. PW.39 has taken steps for conducting test identification parade in respect of 23 suspects, who are the present accused Nos.1 to 4, 6 to 15, 17, 20 to 22 and 25 to 29, by addressing the Chief Judicial Magistrate, Thalassery. Pursuant to the request by PW.39, the Chief Judicial Magistrate, Thalassery has authorized PW.38, Anil T.P., the then Judicial First Class Magistrate-II, Kannur to conduct test identification parade in respect of the suspects. The test identification parade was conducted by him from the Special Sub Jail, Kannur on various dates and after completing the same, he submitted Exts.P99 to 107, reports of test identification to the jurisdictional Magistrate, i.e., the first committal Court. The prosecution has examined PW.38 to prove the said reports.

170. PW.38 has deposed regarding the manner in which he conducted test identification parade in respect of the suspects. The details of the same can be summarized in short as follows:- According to PW.38, firstly, he conducted test identification parade in respect of the present accused No.27, P.K. Ajithkumar on 19.03.2012. In the test identification parade PW.1 and PW.2 identified the accused No.27. CW.3, Haris also identified the accused No.27, but CW.4 Abdul Salam failed to identify the suspect. Ext.P99 is the report in respect of the said test identification parade.

171. PW.38 was authorized by the CJM to conduct test identification parade in respect of the accused Nos.17, 7, 6, 4, 29, 10, 12 and 9 as per order dated 31.03.2012. PW.38 has conducted test identification parade in respect of the said accused on 04.04.2012, 07.04.2012 and 09.04.2012. On 04.04.2012, he has conducted test identification parade in respect of the accused No.17, Sudhakaran and accused No.7, Pavithran. During the test identification parade, according to PW.38, PW.1 and CW.3 Haris alone identified accused No.17 Sudhakaran and PW.2 and Abdul Salam failed to identify him. As far as accused No.7 Pavithran is concerned, all the four witnesses, i.e., PW.1, PW.2, CW.3 and CW.4 identified him. The test identification parade in respect of accused No.6 Umeshan, accused No.4 Vijesh and accused No.29 Babu was conducted on 07.04.2012 and in test identification parade, all the four witnesses referred to above identified the accused Nos.6, 4 and 29. It was also stated by the witnesses that the accused No.6 Umeshan is previously known to them. The test identification parade in respect of accused No.10 M.P. Dinesan, accused No.12 Bijumon and accused No.9 Manoharan was conducted on 09.04.2012 and in the test identification parade all the four witnesses identified the aforesaid accused in all the three rounds. Ext.P100 is the report of test identification parade in respect of the aforesaid nine accused.

172. The test identification parade in respect of accused No.25 V.V. Mohanan was conducted on 15.05.2012 as per order dated 03.05.2012 of

CJM, Thalassery. In the test identification parade, PW.1, PW.2, CW.3 and CW.4 identified the accused. CW.9 Ummurul Farooq failed to identify him. Ext.P101 is the report of test identification in respect of the accused No.25.

173. The test identification parade in respect of accused No.14 E.P. Radhakrishnan was conducted on 22.05.2012 as per order dated 17.05.2012 of CJM, Thalassery. In the test identification parade, PW.1, PW.2, CW.3 and CW.4 identified the accused. Ext.P102 is the report of test identification in respect of the accused No.14.

174. The test identification parade in respect of accused No.28 Sureshan. P.P. was conducted on 30.05.2012 as per order dated 22.05.2012 of CJM, Thalassery. In the test identification parade, PW.1 alone identified the accused. PW.2, CW.3 and CW.4 failed to identify him. Ext.P103 is the report of test identification in respect of the accused No.28.

175. PW.38 was authorized by the CJM to conduct test identification parade in respect of the accused Nos.26, 22, 21, 8 and 2 as per order dated 31.03.2012. PW.38 has conducted test identification parade in respect of the said accused on 02.06.2012 and 06.06.2012. On 02.06.2012, he has conducted test identification parade in respect of the accused No.8, Latheesh and accused No.2, Ganeshan. During the test identification parade, PW.1, PW.2, CW.3 and CW.4 failed to identify both the accused. The test identification parade in respect of accused No.26, Purushothaman @ Purushu, accused No.22, Prakasan and accused No.21 Shaji. K.V was

conducted on 06.06.2012 and in test identification parade, PW.1 identified accused No.26 in the third round alone, whereas PW.2 and CW.4 identified him in all the three rounds. CW.3 Haris failed to identify him in all the three rounds. The accused No.22, Prakasan.K. and accused No.21 Shaji K.V. were not identified by all the four witnesses referred to above in the parade. Ext.P104 is the report of test identification parade in respect of the aforesaid five accused.

176. As per order dated 02.06.2012 of CJM Thalassery, PW.38 was authorized to conduct test identification parade in respect of the accused Nos.15, 13 and 11, Shijin, Nithin and C.N. Mohanan. PW.38 has conducted test identification parade in respect of the said accused on 11.06.2012 and 13.06.2012. On 11.06.2012, he has conducted test identification parade in respect of the accused No.15, Shijin and accused No.13, Nithin. During the test identification parade, PW.1, PW.2, CW.3 and CW.4 identified the accused No.15, Shijin but they failed to identify the accused No.13, Nithin. The test identification parade in respect of accused No.11, C.N. Mohanan was conducted on 13.06.2012 and in test identification parade, PW.1, PW.2, CW.3 and CW.4 identified the accused No.11, C.N. Mohanan. Ext.P105 is the report of test identification parade in respect of the aforesaid three accused.

177. The test identification parade in respect of accused No.1 K.V. Sumesh and accused No.3, E. Anoop was conducted on 13.06.2012 as per order dated 05.06.2012 of CJM, Thalassery. In the test identification parade,

PW.1, PW.2, CW.3 and CW.4 identified the accused No.1 Sumesh K.V and accused No.3 E. Anoop. Ext.P106 is the report of test identification in respect of the accused No.28.

178. The test identification parade in respect of accused No.20 Sareesh was conducted on 13.07.2012 as per order dated 06.07.2012 of CJM, Thalassery. In the test identification parade, PW.1, PW.2 and CW.4 identified the accused, on the other hand, CW.3 Haris failed to identify the accused in all the three rounds. Ext.P107 is the report of test identification in respect of the accused No.20. It is to be mentioned that the accused No.20 is now no more and charge against him stood abated.

179. No test identification parade was conducted in respect of A5, A16, A18, A19, A23 and A24. Out of them, A5, A18, A19 and A23 were not arrested during the course of investigation, the accused No.16 is not involved in the incident and his limited role is concealment of MO.8 knife and accused No.24 was known to the witnesses, even prior to the incidents.

180. It is argued on behalf of the accused that PW.38 has disclosed names of many of the suspects to the witnesses even before the test identification and the said fact is evident from the statement of witnesses recorded by PW.38. The said conduct of PW.38 caused prejudice to the accused and that might have aided the witnesses in identifying the suspects. It is true that the statement of the witnesses recorded by PW.38, which form part of the reports of inspection, show that names of many of the accused

were disclosed to the witnesses even prior to the identification by the witnesses. However, it was the specific case of the witnesses they have not seen the suspects prior to the incident and their photographs were also not shown to them. Hence, I am of the considered view that the information regarding the name of the suspects by PW.38 has not aided the witnesses in identifying the suspects. Accordingly, I find no reason to discard the oral testimony of PW.38 and Exts.P99 to P107 reports. As stated earlier, Ext.P107 report is in respect of accused No.20, who is now reported no more. The accused No.6 was previously known to the witnesses and as such there was no necessity for conducting test identification parade in respect of him. It is also borne out from the statements of the witnesses accompanying Ext.P100 report that the accused No.29 Babu is also known to them prior to the incident. Hence, there was no necessity for conducting test identification parade in respect of him as well. Since the accused Nos.2, 8, 13, 21, 22 were not identified during the test identification parade by the witnesses, the reports relating to their test identification parade is not helpful to the prosecution.

181. The scientific evidence available in this case is the oral testimony of PW.37 Ajeesh Thekkalavan and Exts.P95 and P97 reports submitted by him. The oral testimony of PW.37 has already been narrated, which shows that, as per the direction from the Assistant Director, Regional Forensic Science Laboratory (RFSL), Kannur, he visited scene of occurrence in Crime

No.136/2012 of Kannapuram Police Station in the presence of the Investigating Officer on 20.02.2012 afternoon and 21.02.2012 forenoon and collected two samples, i.e, blood stain in cotton gauze from the blood pool and blood stained leaves collected from the scene on 21.02.2012. The collected materials were packed, labeled, sealed and handed over to the Investigating Officer, U. Preman, Inspector of Police, Valapattanam (CW73/PW.39). Those items were seized by CW73/PW.39 by preparing a seizure mahazar. He has issued a collection receipt from the scene of occurrence and submitted to CW73/PW.39. Subsequently, on 19.03.2012 he had given Ext.P93, a detailed report regarding his visit, inspection and collection of samples from the scene of occurrence to CW73/PW.39. Later, on 16.04.2012, he has received 15 sealed packets, including two items already handed over by him from the scene of occurrence to CW73/PW.39, through the JFCM Court-I, Kannur. The seals were intact and tallied with the specimen seal impression provided. The items were specifically mentioned as item Nos.1 to 15 in the description portion of his report. All the 15 items were examined using standard protocols and submitted a detailed report, through proper channel to the JFCM-I, Kannur, with a covering letter of Assistant Director. Ext.P95, the report dated 30.06.2012 shows the result of examination as follows:-

(i) Items Nos.8, 9, 10 & 14 contain human blood belonging to the group ‘B’.

(ii) Items 12, 13 and 15 contain human blood belonging to the group ‘O’.

(iii) Item No.1 contain human blood and

(iv) Items 2 to 7 & 11 contain blood which is insufficient for determining the origin and group.

Later, on 26.07.2012, he received one sealed packet, through the JFCM Court-I, Kannur. The seals were intact and tallied with the specimen seal impression provided. The packet consisted of 3 unsealed packets and they were numbered as Items 1, 2 & 3 in his report, they are knives, the description and details are shown in his report. The items were subjected to examination using standard protocol and he has submitted a detailed report, dated 25.08.2012 to the JFCM-I, Kannur, with a covering letter of Assistant Director. The result of examination as per Ext.P98 is as follows :-

(i) Item No.1 contains blood which is found to be insufficient for determining the origin & Group and

(ii) Blood is not detected on item No.2 & 3.

It can be seen that item Nos.1 to 15 shown in Exts.P95 report are dried leaves and soil particles, foot wears, pieces of calendar, dresses of PW.1 and Shukkoor and the sample collected from the scene of occurrence. Item Nos.8, 9, and 10 are MO.3, MO.17 and MO.16, which contain human blood belonging to the group ‘B’ and item Nos.12 and 13, which are MO.1 and

MO.2, contain the human blood belonging to group ‘O’. It can be seen that MO.3, MO.4 and MO.16 are the dresses of deceased Shukkoor and MO.17, the currency notes seized from the pocket of MO.3 shirt. So, it is evident that, the blood group ‘B’ is that of Shukkoor and the same is confirmed by the mentioning of the blood group ‘B’ in Ext.P20 postmortem certificate. Since the blood group detected in MOs.1 and 2 is group ‘O’, it can be inferred that the said blood group is that of PW.1 Sakkariya. Further, Ext.P95 shows that the blood stains collected from the scene of occurrence, i.e., item No.14 contains the blood group belonging to group ‘B’, that is that of Shukkoor. Item No.15, the blood stained leaf pieces collected from the scene of occurrence contain human blood belonging to the group ‘O’ and that can be that of PW.1. So, the scientific evidence prove the presence of blood of PW.1 and the deceased Shukkoor at the scene of occurrence.

182. Item Nos. 1 to 3 shown in Exts.P97 report are knives. The R.P number and the description of the knives are shown in Ext.P97 and from the description it can be seen that, item No.1 is MO.8, item No.2 is MO.6 and item No.3 is MO.7. As per the said report item No.1/MO.8 alone contains blood, but the same is insufficient to determine the origin and group. No blood is detected on item Nos.2 and 3/MOs.6 and 7. So Ext.P97 proves that MO.8 allegedly used by the accused No.1 for inflicting injury to the deceased Shukkoor contains blood, though it is sufficient to determine the origin and group.

183. The prosecution has produced Exts.P23 to P34, the certified copies of the F.I.Rs and F.I. statements in Crime Nos.221/2012, 228/2012, 229/2012, 230/2012, 231/2012 and 232/2012 of Taliparamba police station to prove that there was series of incidents, which is allegedly between the activists of Muslim League activist and CPI(M) activists. Ext.P27 is the F.I.R in Crime No.229/2012, which was registered on the basis of the F.I statement of accused No.32 herein for the alleged attack towards his vehicle and also for causing injuries to him. The prosecution alleges that the deceased and others were involved in the said incident and as a revenge for the same, the accused persons alleged to have committed the offences in this case, including murder of Shukkoor. That is the only motive alleged in the present case. It is to be taken note that Shukkoor, PW.1, PW.2 or other witnesses were not arrayed as accused in the said crime and the said fact is admitted by PW.39. So, the alleged motive is not proved by the prosecution. But, it is to be mentioned that this is a case in which there is direct evidence to prove the incident and as such, the absence of motive is not a relevant fact to discard the prosecution case.

184. The learned counsel appearing for the accused argued that there are flaws in the investigation conducted by the Kerala Police and the CBI. Even the mother of the deceased Shukkoor has a complaint that Ext.P1 F.I statement of PW.1 was forged by the police by using the blank signed paper procured from PW.1. Though she was cited by the prosecution as CW.25,

she was not examined on the side of prosecution. There was omission on the part of PW.39 to record the statement of CW.6 or others at the time of visiting their house around 3.30 p.m. PW.39 has not recorded the further statement of PW.1, while his dresses were seized under the mahazar. The delay in recording the statement of the witnesses is fatal to the prosecution case and in that regard reliance has been placed by the learned counsel on the decision of the Hon'ble Apex Court in Shahid Khan v. State of Rajastan (AIR 2016 SC 1178). Moreover the material objects were not packed and sealed from the scene of occurrence. Though there was several dwelling houses very near to the scene of occurrence, none of them were interrogated during the course of investigation and cited as witnesses on the side of prosecution. PW.39 has gone to the extent of showing the accused persons to the witnesses from the police station by showing their names. The suspects, who were not identified during test identification parade were also shown to the witnesses from the police station by saying their names. Though the then Dy.S.P of Kannur Sri.P. Sukumaran, the Head of the Investigation team, as evident from Ext.D14, the order of Hon'ble High Court of Kerala in Crl. M.C. No. 2173/2013 dated 05.08.2014, was withheld by the prosecution for the reason that there is allegation of custody torture by him towards accused Nos.1, 3 and 16 from the police station. Exts.D7 to D12 show that statement of accused No.1, 3 and 16 were recorded by the JFCM-I, Kannur in respect of the custodial torture, a case against the aforesaid Dy.S.P was registered as

C.C. No. 1132/2012, alleging the offence punishable U/s. 324 IPC, the prayer of Sri. Sukumaran to quash the said proceedings and later to discharge him were disallowed by the Courts. As per Ext.D12, charge was framed against him the JFCM-II, Kannur for the offence punishable U/s. 324 IPC. So, the non examination of Sri. Sukumaran, the then Dy.S.P of Kannur, who was the head of the investigation team and cited by the CBI in the supplementary charge sheet as CW.20 is very fatal to the prosecution case. Further, while recording the statement of PW.2 during investigation, it was stated by him that one Baneesh, Asari Sajeevan and Kanathil Ramesan were involved in the incident, on the basis of the said statement, they were arrayed as accused and subsequently deleted from the array of accused at the time of laying final report, without assigning any reason. Moreover, the accused No.6 and 29 were already booked by the Taliparamba police for Crime No.232/2012 for the alleged incident which took palce on 20.02.2012 itself at 2.15 p.m. at Ariyil. They were in judicial custody for several days in connection with the crime and subsequently, deleted from the array of accused by the Taliparamba police as per Ext.P35 report dated 10.08.2012. While PW.39 was examined he pleaded ignorance about the same.

185. Likewise, there is serious flaws in the investigation conducted by the CBI as well. The CBI has conducted further investigation as per Judgment of the Hon’ble High Court of Kerala in Writ Petition No. WP(C) 25123/2013 and the investigation was not limited to the aspect of criminal

conspiracy alone. Whereas PW.41 deposed that the further investigation was limited to the conspiracy aspect alone. If that be so, there was no necessity for PW.40, the former investigating officer to record the further statement of occurrence witnesses like PW.1, PW.2 and others. Further when PW.1 was interrogated by PW.40, it was stated by PW.1 that he had seen the culprit, who stabbed him, from a place near to the Railway Station, Payyannur. PW.1 has no case before PW.40 that the said person is the accused No.2 Ganesan. No attempt has been made by the CBI officers to enquire as to the identity of that person. It is further statement of PW.2 before PW.40 that PW.39 forced him to say the name of accused No.6 Umesan as a culprit. No investigation has been conducted by the CBI in that regard. Moreover, the statement given by PW.1 and PW.2 before the CBI Officers were entirely different versions, than what is given before the State Police.

186. Reliance has been placed by the learned counsel appearing for the accused on the decisions in Rollymole v. State of Kerala (2024 KHC 7324), Naveen v. State of Kerala (2023 KHC 9168), Rajesh @ Sunil v. State of Kerala (2024 KHC 747), Renuka Prasad v. State (2025 KHC 6458) and Kumar v. State represented by Inspector of Police (2018 KHC 6413).

187. The prosecution on the other hand submitted that absolutely there is no serious flaws in the investigation conducted by the investigating agencies and as such the case of the prosecution is not liable to be discarded.

188. I have considered the submissions of either side regarding the lapses on the part of the investigating agency. I am of the considered view that absolutely there is no serious lapses on the part of the investigating officers, so as to affect the root of the prosecution case and absolutely there is no serious flaws as well to discard the prosecution case as false.

189. Now the alleged involvement of the accused persons in the alleged incident can be considered with the aid of the available evidence. As stated earlier, the case of the prosecution is that, the accused Nos.4, 10, 13 and 15 followed PW.1, PW.2, CW.3 and CW.4, while they were walking along the road on the side of the paddy field, thereupon accused Nos.7 to 9, 21, 22, 23 and 26 came in front of the aforesaid witnesses and thereafter, the accused Nos.6, 11, 12, 14, 17, 19, 20, 24, 25, 27, 28 and 29 also assembled at the courtyard of the house of PW.3 and the assembly of the said persons were with the common object of committing offences. Subsequently, the accused Nos.1 to 3 and 5 also joined the unlawful assembly. It is also the case of the prosecution that subsequently PW.2, CW.3 and CW.4 were taken from the house of PW.3 to the paddy field by accused Nos.4, 6 to 10, 12, 13 and 15 and from the paddy field the accused Nos.1 and 6 slapped PW.2 on his face and accused Nos.8 and 9 criminally intimidated PW.2, CW.3 and CW.4 by showing iron rod and iron pipe respectively. The aforesaid witnesses were threatened and sent away from there. Subsequently, PW.1 and Shukkoor were taken to the paddy field from the house of PW.3 by accused

Nos.1 to 4, 7 and 10, from the paddy field accused No.10 shouted to do away with PW.1 and Shukkoor and by that time accused Nos.4 and 7 caught hold PW.1, the accused No.1 slapped on the face of PW.1 and the accused Nos.2 and 3 inflicted injuries to PW.1 by means of MO.6 and MO.7 knives. When Shukkoor attempted to ran away from there by getting release from the clutches of the accused, the accused Nos.1 to 5 followed Shukkoor, restrained him and thereafter, the 2nd accused stabbed Shukkoor on his abdomen by means of MO.6 knife and the first accused stabbed Shukkoor on his chest by means of MO.8 knife. Resultantly, Shukkoor sustained stab injuries and succumbed to the injuries. It is also alleged by the prosecution that the accused persons, who were members of the unlawful assembly committed rioting and rioting armed with deadly weapons, criminally trespassed into the courtyard and also the house of PW.3, abducted PW.1, PW.2, CW.3, CW.4 and Shukkoor to the paddy field, criminally intimidated them and also caused hurt to PW.1 and PW.2. It is also alleged that the acts of accused Nos.2 and 3 in inflicting injuries to PW.1 was with an intention to murder him and thereby it is alleged that they attempted murder of PW.1. It is also the case of the prosecution that, the accused persons, who were members of the unlawful assembly abetted commission of the aforesaid offences.

190. By virtue of Section 141 of Indian Penal Code, an assembly of five or more persons is designated as an unlawful assembly, if the common

object of the said persons composing that assembly is to commit any mischief, or criminal trespass or other offence. (see the third limb of section 141 of IPC).

191. As per Section 146 of IPC, whenever force or violence is used by an unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting.

192. Section 148 of IPC says that, whoever is guilty of rioting, being armed with deadly weapon or with anything which, used as a weapon of offence, is likely to cause death is liable for punishment under that section.

193. As far as the accused No.1 is concerned, it is the prosecution case is that, he joined the unlawful assembly with other accused, he was armed with MO.8 knife, a deadly weapon, he voluntarily caused hurt to PW.1 and PW.2 by slapping and inflicted serious injuries to Shukkoor by stabbing on his chest by means of MO.8 knife. As stated earlier, PW.2 was earlier taken to the paddy field from the house of PW.3 and from the paddy field he was assaulted by the accused. When PW.2 was examined before Court, he deposed almost in tune with the prosecution case, which has already been narrated. It is his specific version before Court that, he was forcibly taken to the Chuliyootuvayal and from there the accused No.1 slapped on his face near left eye, which resulted in sustaining injuries to him. That is the only evidence adduced by PW.2 against the first accused. It is to be inferred that

by slapping on the face one will certainly suffer pain. It can be seen from Ext.P44 wound certificate relating to PW.2 that, he had sustained contusion with pain below the left eye. So the medical evidence also corroborate with the oral testimony of PW.2. As stated earlier, Ext.P44 wound certificate was proved through PW.34. It is also to be taken note that PW.2 has identified the accused No.1 from the dock and there was previous identification in the test identification as well. So, the identity of the first accused is also established. Hence, it is evident that the first accused voluntarily caused hurt to PW.2 by slapping on his face.

194. The further involvement of the first accused is in assaulting PW.1 from the very same paddy field, while PW.1 and Shukkoor were taken to that place. According to PW.1, the first accused slapped on the left ear of PW.1 and which resulted in sustaining severe pain and by receiving the said slap he fell on the ground. This is the only allegation by PW.1 against the first accused in respect of inflicting injury to him. As stated earlier, by slapping on the ear one will certainly suffer pain and PW.1 specifically deposed that he suffered pain due to the slapping. So, the evidence of PW.1 in that regard prove that the first accused voluntarily caused hurt to PW.1 as well.

195. The further version of PW.1 against the first accused is regarding the attack towards Shukkoor. According to him, when Shukkoor attempted to ran away from there, the culprits followed him and started to beat him by means of stick and also stabbed him by means of knife. It is his specific case

against the first accused that the first accused stabbed on the chest of Shukkoor by sitting on the body of Shukkoor. PW.1 has also identified MO.8 knife as the weapon used by the first accused for stabbing Shukkoor. The medical evidence available also shows that Shukkoor sustained incised penetrating wound on the left side of front of chest. The details regarding the same has already been discussed while considering the oral testimony of PW.25 and Ext.P20 postmortem certificate. PW.25 has specifically deposed that the stab injury to the chest of Shukkoor resulted in his death. It is relevant to mention that PW.1 has identified the accused No.1 from the dock and there was previous identification in the test identification parade as well. So, the identity of the first accused is established through PW.1 as well. It is true that, the first accused has a specific case that he has been falsely implicated in this case after custodial torture from the police station. He has reported the said fact to the Magistrate and necessary medical aid was rendered to him. He was admitted in the hospital for a period from 03.06.2012 to 08.06.2012. Later, he was examined by the doctor as ordered by the Magistrate on 14.06.2012. Ext.P238 is the wound certificate in respect of his examination on 14.06.2012, which was marked subject to proof through PW.39. Ext.P238 only shows that, he had contusion on right big toe with blackening of nail, less than 10 days old and dermal abrasion on shin of right leg, which was healed with scab and the scab was partially removed. Though the first accused has a contention while submitting his statement U/s.313 (1)(b) Cr.P.C that iron pipe

has been inserted to his anus, no injuries on the anus was noted in the wound certificate and absence of such an injury is specifically mentioned therein.

196. It is true that, a case was booked by JFCM-I, Kannur on the basis of the statement of accused No.1 and the same is now pending before the JFCM Court-II, Kannur as C.C. No.1132/2012. Exts.D7 to D9 are the copies of the statement of A1, A3 and A16 in respect of the said case, Ext.D10 is the certified copy of the discharge petition filed by Dy.S.P. Sukumaran and Ext.D11 is the copy of order passed by JFCM Court-II, Kannur dated 05.08.2019 dismissing the application for discharge and Ext.D12 is the copy of the charge framed by the said Magistrate against P.Sukumaran alleging offence punishable U/s.324 IPC. The allegations in the said case is to be proved by the first accused in that case and mere pendency of such a case alone is not sufficient to accept the case of first accused that he is falsely implicated in this case after custodial torture.

197. The oral testimony of PW.1 with regard to the incident is inspiring the confidence of this Court and absolutely, there is no reason to discard his testimony. Hence, I accept the oral testimony of PW.1 in that regard as believable and reliable.

198. On interrogation by PW.39, the accused No.1 stated that he has entrusted the knife to the accused No.16 and the extract of the said statement is marked as Ext.P195 on the side of the prosecution. Pursuant to the said

statement, PW.39 went to the house of accused No.16 and arrested him. MO.8 knife, allegedly used by the first accused for inflicting stab injury to Shukkoor was seized by PW.39 under Ext.P12 seizure mahazar on 02.06.2012 pursuant to Ext.P12(a) disclosure statement of the accused No.16. As stated earlier, PW.1 has identified MO.8 knife as the weapon used by the first accused and presence of blood was also noted on MO.8, as per Ext.P97 report submitted by PW.37. It is true that the accused No.16 also has a contention that he was also subjected to torture by the police to effect the so called discovery. According to him, the weapon was planted there, and there was no discovery as stated by PW.39. The testimony of PW.39 regarding the discovery of MO.8 and seizure of the same under Ext.P12 seizure mahazar is also inspiring the confidence of this Court and absolutely there are no reasons to discard his testimony as well. So the involvement of the first accused in inflicting injuries to Shukkoor is also established by the prosecution.

199. The medical evidence to prove the death of Shukkoor has already been discussed and the oral testimony of PW.25 and Exts.P20 postmortem certificate prove that Shukkoor died due to the stab injury to his chest. As stated earlier, the said stab injury has been caused by the accused No.1. Thus, the prosecution alleges that the first accused is liable for the said death, which is alleged to be a murder. Section 299 of IPC defines culpable homicide as follows:- Whoever, caused death by doing an act with the

intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide. As per Section 300 of IPC, except in the cases herein after excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death or secondly, if it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or thirdly if it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or fourthly, if the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid. Five exceptions are there in section 300 of IPC. Here, in the case in hand it is evident that the act of the first accused in inflicting stab injury to Shukkoor was with intention of causing his death. The first accused has no case that his acts come within the purview of any of the five exceptions provided in Section 300 of IPC. So, the prosecution has established its case that, the first accused committed murder of Shukkoor.

200. It is also proved by the prosecution through the testimonies of PW.1 and PW.2 that the first accused was a member of unlawful assembly, he committed rioting and rioting armed with deadly weapon/MO.8 knife.

201. Though there is an allegation against the accused No.1 that, he was also a party to the abduction of PW.1, PW.2 and others from the house of PW.3, the available evidence before Court are insufficient to prove the same; on the other hand the evidence only prove the presence of first accused at the paddy field, where the witnesses were brought from the house of PW.3. On the other hand, the evidence of PW.1 prove that the first accused along with others wrongfully restrained Abdul Shukkoor from the paddy field before attacking him. Hence, the offence U/s. 341 IPC is also established against the first accused. The vicarious liability of the first accused in respect of the remaining offences can be considered later.

202. As far as the 2nd accused is concerned, the allegation against him is that he inflicted injury to PW.1 by means of MO.6 knife and by using the same, he inflicted stab injury to the abdomen of Abdul Shukkoor. The accused No.2 was arrested by PW.39 on 26.05.2012 and he was remanded to judicial custody. As discussed earlier, he was subjected to test identification, as per the test identification parade conducted by PW.38. The parade was conducted on 02.06.2012 and Ext.P104 is the report in respect of the test identification parade of accused No.2 and four others, the details of the same has already been discussed. In the test identification parade, PW.1

or other witnesses have not identified the accused No.2, as evident from Ext.P104 report. PW.1 has availed only one opportunity to identify the accused No.2 and he stated before PW.38 that he is unable to identify accused No.2 and second and third round identification is not required. At the time of examination PW.1 alone identified the 2nd accused from the dock and PW.2 or other witnesses have not identified the 2nd accused. It is the version of PW.1 that the 2nd accused stabbed him on the back of his left shoulder by means of MO.6 knife. It is also the version of PW.1 that due to fear, he failed in identifying the accused No.2 during the test identification parade. No such explanation has been given by PW.1 before any of the investigating officers. Further, when PW.1 was interrogated by the investigating officer of CBI, i.e., PW.40, the version before him is to the effect that he had seen the person who stabbed him with a knife after the test identification parade from a place near to the Railway Station at Payyannur. When the attention of PW.1 was brought to his notice, he has denied the same, but when PW.40 was examined before Court, the said contradictory portion was proved through him. When PW.1 was interrogated by PW.40, that too after the test identification parade, PW.1 has no case that he failed to identify the accused No.2 during the test identification parade due to fear. Moreover, he has no specific case before PW.40 that, the person he had seen from the Payyannur Railway Station is accused No.2 Ganesan. So, the dock identification of accused No.2 by PW.1 for the first time is not liable to be accepted. It is true

that MO.6 knife was seized under Ext.P13 seizure mahazar pursuant to Ext.P13(a) disclosure statement of accused No.2. It is also to be mentioned that when PW.25 was examined before Court, he failed to identify MO.6 knife as a weapon shown to him by the police. His version is that MO.7 and MO.8 knives were shown to him by the investigating officer. It is true that during re-examination it is admitted by him that the injury sustained by Shukkoor is possible by MO.6 as well.

203. PW.1 alone has identified the accused No.2 from the dock and PW.2 has not identified the 2nd accused. It is true that the PW.21, has identified the accused No.2 Ganesan and stated that he was present along with the police at the time of recovery of MO.6 knife. The recovery of MO.6 knife alone is not sufficient to prove the involvement of the 2nd accused in the alleged incident. The test identification parade was conducted on 02.06.2012 within four months of the alleged incident and if the 2nd accused is the real culprit, PW.1 and PW.2 could not have much difficulty to identify him during the test identification parade. On the other hand, both of them failed to identify the 2nd accused during the test identification parade. CWs.3 and 4 also failed in identifying him during the parade. The reason stated by PW.1 that, due to fear he failed in identifying the 2nd accused during the test identification parade is not liable to be accepted. Moreover, it is relevant to mention that after the test identification parade, the 2nd accused was shown to PW.1 from the police station and at that time also he has no case that due to

fear he failed in identifying the 2nd accused. Since the 2nd accused was shown to PW.1 from the police station, that too after the test identification parade, the identification of the 2nd accused before Court is not reliable. For the above reason, I am of the considered view that the involvement of the 2nd accused in the alleged incident is not established by the prosecution beyond the reasonable doubt. There is a reasonable doubt arose regarding the involvement of the 2nd accused, for the non-identification of him during the test identification parade, as such I am of the view that the 2nd accused is entitled for the benefit of doubt. Accordingly, I find that the prosecution has not succeeded in proving the guilt of the 2nd accused for the offences charged against him.

204. The allegation against the 3rd accused is that he joined the unlawful assembly and inflicted injury to PW.1 by means of MO.7 knife. PW.1 alone identified the accused No.3 as the culprit, who inflicted injury to him. It is the version of PW.1 that the 3rd accused inflicted injury to him by means of MO.7 knife on his right hand, muscle portion and forearm. PW.1 has identified the accused No.3 during the test identification parade, which was conducted on 13.06.2012 and Ext.P106 is the report identification in respect of the accused No.3 as well. There is no other allegations against the 3rd accused by PW.1. MO.7 knife was recovered by PW.39 under Ext.P10 seizure mahazar pursuant to Ext.P10 (a) disclosure statement of accused No.3. PW.39 and PW.19, the attesting witnesses to the said mahazar

testified regarding the seizure in the presence of accused No.3. The accused No.3 has got a contention that he was also subjected to ill-treatment by the police while in police custody. Though he sustained injuries, the police officer who took him to the doctor did not permit to divulge the same to the doctor. Again on taking back to the office of the Dy.S.P., Dy.S.P. Sukumaran has threatened and ill-treated him. The details of ill-treatment was stated before the Magistrate and the same was recorded in the remand report. He did not gave any statement before PW.39 and MO.7 was not recovered pursuant to his statement. Ext.P239 is the wound certificate dated 14.06.2012, in respect of the 3rd accused, which shows that he had complaints of pain on right shoulder and movement of right shoulder was painful. No external injuries were noted on his body. I find no reason to discard the oral testimony of PW.1 in respect of the infliction of injury by the 3rd accused to him and also the testimonies of PW.19 and PW.39 regarding the seizure of MO.7. Further, the medical evidence also almost corroborate with the ocular testimony of PW.1 with regard to the injury sustained by PW.1. MO7 is a knife, which can be used an instrument for stabbing, therefore, it is certainly a dangerous and deadly weapon.

205. The further allegation against the 3rd accused is that by inflicting injury to PW.1, he has attempted murder of PW.1. It is to be mentioned that the injuries sustained by PW.1 are only laceration and he had not sustain any serious injuries. The nature of the injuries sustained by PW.1 has already

been discussed. If the intention of accused No.3 and others was to do away with PW.1, they might have inflicted serious injuries to him. It appears to me from the available evidence on record that the main target of the culprits was Abdul Shukkoor and they removed PW.2, CW.3, CW.4 and PW.1 from the scene of occurrence by threatening them and thereafter Abdul Shukkoor alone was with the culprits. Thereafter, stab injuries were caused to Abdul Shukkoor, which resulted in his death. So from the evidence available, there cannot be any inference and consequent finding that the acts of the 3rd accused was with an intention to cause death of PW.1 and thereby he attempted to murder of PW.1. The prosecution has succeeded in proving the involvement of the 3rd accused in the alleged incident, as indicated above. It is also evident from the testimony of PW.1 that, the 3rd accused joined the unlawful assembly committed rioting and rioting armed with deadly weapons. It is also evident from the testimony of PW.1 that the 3rd accused followed Shukkoor and restrained him and only thereafter, the accused No.1 inflicted stab injury to Shukkoor, which resulted in his death. So, the 3rd accused being a member of an unlawful assembly had the knowledge of attack by the accused No.1 towards Shukkoor. So, he is vicariously liable for the act of the first accused, being a member of an unlawful assembly, having knowledge about the said incident. As stated earlier, the available evidence is not sufficient to prove the guilt of the 3rd accused for the offence punishable U/s.

307 of IPC. The vicarious liability of the 3rd accused in respect of the remaining offences can be considered later.

206. As far as the accused No.4 is concerned, the prosecution case is that he is also a member of unlawful assembly and involved in the alleged incident. Test identification parade was conducted in respect of accused No.4 on 07.04.2012 and Ext.P100 is the report relating to the test identification of accused No.4 and seven others. During test identification parade PW.1, PW.2, CW.3 and CW.4 identified the accused No.4 in all the three rounds. Whereas when examined before Court PWs.1 and 2 failed in correctly identifying the accused No.4 from the dock. PW.1 identified accused No.16 Sajith as A4 and PW.2 identified accused No.3 Anoop as A4. So, absolutely there is no dock identification in respect of the accused No.4. Though PWs.1 and 2 have a case that the accused No.4 Vijesh caught hold them from the paddy field, for want of his identification the said version is not liable to be used against him. The identification during the test identification parade can only be used for corroborating the dock identification. Here, PW.1 and PW.2 failed in identifying accused No.4 from the dock and as such the identification during test identification parade cannot be pressed into service in the case in hand. Since there is no dock identification of accused No.4 by PWs.1 and 2, the only material witnesses, I am of the considered view that the prosecution has not succeeded in proving the involvement of the accused No.4 in the alleged incident and consequent guilt. Accordingly I find that the prosecution

has miserably failed in proving the guilt of the accused No.4 beyond the reasonable doubt for the offences charged against him.

207. As far as the accused No.5 is concerned, he was not arrested during investigation and as such not subject to test identification parade. Out of PWs.1 and 2, PW.1 alone identified the accused No.5 from the dock and stated that accused No.5 was present at the courtyard of the house of PW.3 and also at Chulliyottuvayal. His version before Court is only a general statement that the accused No.5 along with Naveen, Ajayakumar etc., were present among the persons who followed them from Valluvankadavu and also among the persons present at the house of Muhammed Kunhi and also among the persons who took them to Chulliyottuvayal and attacked. Absolutely, there is no specific overt act alleged against him. It is the contention taken by the accused No.5 that he is falsely implicated in this case, he was interrogated by the police during investigation and his innocence was known to the police and only at the instance of Sukumaran, Dy.S.P., Kannur he has been falsely implicated in this case. PW.1 might have seen his photograph, which was taken during his interrogation and only on the basis of the same, he identified accused No.5 from the dock. Further, when PW.2 was examined before Court, he has pointed out accused No.5, as accused No.18 Naveen, that also supports his contention of false implication. Reckoning the said aspects I am of the considered view that the prosecution has not succeeded in proving the involvement of the accused No.5 in the

alleged incident. The dock identification of accused No.5 by PW.1 is not reliable as he is not known to him earlier. Accordingly I find that the prosecution has miserably failed in proving the guilt of the accused No.5 beyond the reasonable doubt for the offences charged against him.

208. As far as accused No.6 is concerned, the prosecution case is that he has also joined the unlawful assembly, voluntarily caused hurt to PW.2 from the paddy field and an active participant through out the alleged incident. It is the admitted case of PW.1 and PW.2 that, the accused No.6 is known to them earlier. Test identification parade was conducted, including him on 07.04.2012 and the report relating to the same is Ext.P100. Even at the time of test identification parade, PW.1 and PW.2 have stated before PW.38 that, accused No.6 is known to them. It is relevant to mention that the name of accused No.6 was not furnished by PW.1 in Ext.P1 F.I. statement or his subsequent statements till the conducting of test identification parade and the said fact is admitted by PW.39. Yet another aspect is to be considered is that Crime No.232/2012 was registered by the Taliparamba police against accused No.6 and 29 herein and others for an alleged incident which took place on 20.02.2012 itself. Ext.P33 is the certified copy of the F.I.R and Ext.P34 is the certified copy of the F.I Statement in that crime. The said crime was registered on the basis of F.I. statement of one Jubair, with an allegation that the accused Nos.6 and 29 herein along with one Shaji, Vineesh, Sujin and others formed themselves into an unlawful assembly on 20.02.2012 at

2.15 p.m. near the K.M. Store at Ariyil and they also caused explosion by throwing bomb. In Ext.P34, Jubair has specifically mentioned the names of the aforesaid five persons, including the accused Nos.6 and 29 herein. So, as per the said allegation, the accused No.6 was there at Ariyil on 20.02.2012 at 2.15 p.m. It is submitted that the accused No.6 and 29 were remanded to judicial custody for some period. During trial the prosecution has produced Ext.P35, certified copy of a report dated 10.08.2012 which shows that the accused Nos.6 and 29 herein were deleted from the array of accused. It is also relevant to mention that the said report reached the JFCM Court, Taliparamba only on 19.10.2012, as evident from the seal and date of receipt therein, which is long after laying of the final report in this case. So it is contended that the said report is a subsequent creation, after filing of the final report in this case. Yet another aspect to be considered is that when PW.2 was interrogated by PW.40, the investigating officer of CBI, it was stated by him to PW.40 that there was compulsion on the part of PW.39, Sri.Preman, Circle Inspector to identify the accused No.6 herein by showing his photographs, to which he declined for the reason that he had not seen accused No.6 at the scene of occurrence. The said fact was informed by him to the Muslim League leaders and also to PW.14 Davood, the brother of the deceased. PW.2 when examined before Court has denied the said statement. When PW.40 was examined before Court the said contradictory portion was proved through him. It is true that during evidence PW.1 and PW.2 deposed

regarding the involvement of the accused No.6 in the alleged incident and PW.2 also deposed that the accused No.6 slapped on his face. Both PW.1 and PW.2 identified accused No.6 from the dock. Admittedly the accused No.6 is previously known to them. In view of the fact that an F.I.R was registered by the Taliparamba police mentioning the name of the accused No.6 and others as culprits in an incident which took place on the same day at Ariyil and also considering the contradictory version of PW.2, referred to earlier, I am of the considered view that the oral testimonies of PW.1 and PW.2 that the accused No.6 was present at the scene of occurrence through out and he slapped on the cheek of PW.2 is not reliable and believable. Accordingly, I find that the prosecution has not succeeded in proving the guilt of the accused No.6 beyond reasonable doubt for the offences charged against him.

209. As far as the accused No.7 is concerned, the prosecution alleges that he was present among the group of persons who came in front of PW.1 and others, he was the member of unlawful assembly through out the incident and took PW.2, CW.3, CW.4 to the paddy field and later PW.1 and Shukkoor was also taken to the paddy field by a group of persons including the accused No.7. He caught hold PW.1 from the paddy field before the alleged attack. After his surrender before the Magistrate, he was remanded to judicial custody and subjected to test identification parade on 04.04.2012 and Ext.P100 is the report relating to the test identification parade of himself and

others. During test identification parade, PW.1, PW.2, CW.3 and CW.4 identified the accused No.7 as suspect. During trial PW.1 and PW.2 identified the accused No.7 from the dock. It is the version of PW.1 against accused No.7 that, he along with Vijesh caught hold on the hand of PW.1 and thereafter, the accused No.1 and others unleashed violence towards him. The version of PW.2 is that the accused No.7 was present at the courtyard of the house of PW.3 and demanded for release of PW.1 and others and if not released, he will cause bomb blast. PW.1 and PW.2 identified the accused No.7 from the dock correctly and as stated earlier there was an earlier identification during the test identification parade. I find no reason to discard the testimonies of PWs.1 and 2 regarding the involvement of accused No.7 in the incident as deposed to by them. The contention of the accused No.7 that he has been falsely implicated in this case at the instance of IUML leaders and the identification during test identification parade and also before Court is on the basis of his photograph made available to the witnesses is not liable to be accepted. Accordingly, I find that the prosecution has succeeded in proving its case that the accused No.7 was a member of unlawful assembly, he committed rioting and also wrongfully restrained PW.1 and criminally intimidated the witnesses. The vicarious liability of the 3rd accused in respect of the remaining offences can be considered later.

210. As far as the accused No.8 is concerned, the allegation by the prosecution is that he is also a member of unlawful assembly and participated

in the incident through out and joined in taking PW.1, PW.2, Shukkoor and others to the Chulliyottuvayal. The accused No.8 was arrested by PW.39 on 26.05.2012 and he was remanded to judicial custody. As discussed earlier, he subjected to test identification, as per the test identification parade conducted by PW.38. The parade was conducted on 02.06.2012 and Ext.P104 is the report in respect of the test identification parade of accused No.8 and four others, the details of the same has already been discussed. In the test identification parade, PW.1 or other witnesses have not identified the accused No.8, as evident from Ext.P104 report. PW.1 has availed only one opportunity to identify the accused No.8 and he stated before PW.38 that he is unable to identify accused No.8 and second and third round identification is not required. At the time of examination PW.1 alone identified the accused No.8 from the dock and PW.2 or other witnesses have not identified the accused No.8. It is the version of PW.1 that the accused No.8 attempted to inflict injury by means of an iron rod, aiming his head, he evaded from that blow and as a result of the same, he did not receive injuries. No explanation has been given by PW.1 before any of the investigating officers for the non-identification of accused No.8 during the test identification parade.

211. Moreover, it is relevant to mention that after the test identification parade, the accused No.8 was shown to PW.1 from the police station and at that time also he has no case that due to fear he failed in identifying the accused No.8. Since the accused No.8 was shown to PW.1 from the police

station, that too after the test identification parade, the identification of the accused No.8 before Court is not reliable. For the above reason, I am of the considered view that the involvement of the accused No.8 in the alleged incident is not established by the prosecution beyond the reasonable doubt. There is a reasonable doubt arose about the involvement of the accused No.8, for the non-identification of him during the test identification parade, I am of the view that the accused No.8 is entitled for the benefit of doubt. Accordingly, I find that the prosecution has not succeeded in proving the guilt of the accused No.8 for the offences charged against him.

212. The allegation against the accused No.9 is that he was member of the unlawful assembly, who followed PW.1 and others and also assembled at the courtyard of the house of PW.3 and he was armed with deadly weapon, an iron rod. The test identification parade was conducted in respect of accused No.9 on 09.04.2012 by PW.38 and Ext.P100 is the report in respect of the parade of accused No.9 and others. During test identification parade, PW.1, PW.2, CW.3 and CW.4 identified the accused No.9 in all the three rounds. During trial PWs.1 and 2 identified accused No.9 from the dock. It is the version of PW.1 that, the accused No.9 Manoharan was present among the culprits, he was armed with an iron pipe, he attempted to inflict injury to the leg of PW.1 by beating with the same and from that attack, PW.1 evaded, as such he did not sustain injuries. The testimony of PW.2 regarding the involvement of accused No.9 is to the effect that he was present at the

courtyard of the house of Muhammed Kunhi along with 10-12 persons and he was armed with weapon, the nature of weapon possessed by accused No.9 is not specifically deposed to by PW.2. The contention of the accused No.9 is that he is falsely implicated in this case at the instance of Muslim League/Congress leaders, he was falsely arrested and his photographs were taken before his production in the Court. Moreover, he was shown to the Muslim League activists from the Court compound near the canteen. So only on the basis of the said photos, PW.1 and PW.2 identified him during test identification parade and also before Court. If he was actually involved in the incident, PW.3 could have identified him. The oral testimonies of PWs.1 and 2, connecting the accused No.9 is stated to be an omission and there was no such specific statement by PW.1 and 2 before the investigating officers. It appears to me that the identification of accused No.9 by PW.1 and PW.2 before Court is reliable, as there is an earlier identification in test identification parade to corroborate the dock identification. The fact that the accused No.9 was armed with an iron rod is specifically deposed to by PW.1 and PW.2 also deposed regarding possession of weapon by accused No.9, but he has not described the nature of the weapon. It is also evident from the evidence on record that accused No.9 was a member of an unlawful assembly who committed rioting and he was armed with deadly weapon, i.e., an iron rod. So, the involvement of the accused No.9 in the alleged incident is proved by the prosecution through the testimonies of PW.1 and PW.2. It is

also evident from record that the members of the unlawful assembly threatened the witnesses and subsequently PW.1, PW.2, CW.3, CW.4 and Abdul Shukkoor were taken to the paddy field for the purpose of criminal intimidation and attack. The vicarious liability of the accused No.9 in respect of the remaining offences can be discussed later.

213. The allegation against accused No.10 is that he was also a member of the unlawful assembly, who followed PW.1 and others and later, reached at the courtyard of the house of PW.3 and later at the paddy field. Test identification parade was conducted in respect of accused No.10 on 09.04.2012 and Ext.P100 is the report in respect of test identification of A10 and others. During test identification parade PW.1, PW.2, CW.3 and CW.4 identified the accused No.10. During trial, PW.1 and PW.2 identified the accused No.10 from the dock. It is the case of the prosecution that the accused No.10 took the photographs of PW.1 and others in his mobile phone and forwarded to others. It is also alleged that he was an active participant in the crime and present through out the alleged transaction. PW.1 deposed that the accused No.10, who is the member of the unlawful assembly, who took the photographs of PW.1 and others in his mobile phone and later shouted to do away with PW.1 and Shukkoor from the paddy field. The version of PW.2 is also to the effect that the accused No.10 took photographs of PW.2 and others in his mobile phone, he was present from the very beginning of the transaction, i.e., by following PW.2 and others from the initial stage and he

also threatened PW.2 and others with threat to their life. PW.3 also identified the accused No.10 from the dock as the member of the culprits. She also testified the accused No.10 took the photographs of PW.1 and others in his mobile phone. According to her, accused No.10 is known to her earlier. It is contended that the evidence of PW.1, PW.2 and PW.3 against the accused No.10 is also in the form of an omission, as they have no such specific statement during investigation. The contention of the accused No.10 is also that he is falsely implicated in this case at the instance of Muslim League/Congress leaders, he was falsely arrested and his photographs were taken before his production in the Court. Moreover, he was shown to the Muslim League activists from the Court compound near the canteen. So only on the basis of the said photos, PW.1 and PW.2 identified him during test identification parade and also before Court. I have considered the testimonies of PW.1, PW.2 and PW.3 and it appears to me that the identification of accused No.10 by PW.1, PW.2 and PW.3 and the overt acts attributed against him is inspiring the confidence of the Court. The prosecution case that he criminally trespassed into the courtyard and house of PW.3 and also intimidated the witnesses is also established by the prosecution. The vicarious liability of the accused No.10 in respect of the remaining offences can be discussed later.

214. As far as the accused No.11 is concerned, the prosecution case is that he is also a member of unlawful assembly and involved in the alleged

incident. It is specifically alleged that he took down the name and address of PW.1 and others from the house of PW.3, to ascertain their identity for sharing to others. Test identification parade was conducted in respect of accused No.11 on 13.06.2012 and Ext.P105 is the report relating to the test identification of accused No.11 and two others. During test identification parade PW.1, PW.2, CW.3 and CW.4 identified the accused No.11 in all the three rounds. Whereas, when examined before Court PWs.1 and 2 failed in correctly identifying the accused No.11 from the dock. PW.1 and PW.2 identified accused No.21 Shaji as A11. So, absolutely there is no dock identification in respect of the accused No.11. Though PWs.1 and 2 have a case that the accused No.11 C.N. Mohanan take down the name and address of PW.1, PW.2 and others, for want of his identification the said version is not liable to be used against him. The identification during the test identification parade can only be used for corroborating the dock identification. Here, PW.1 and PW.2 failed in identifying accused No.11 from the dock and as such the identification during test identification parade cannot be pressed into service in the case in hand. Since there is no dock identification of accused No.11 by PWs.1 and 2, the only material witnesses, I am of the considered view that the prosecution has not succeeded in proving the involvement of the accused No.11 in the alleged incident and consequent guilt. Accordingly I find that the prosecution has miserably failed in proving the guilt of the accused No.11 beyond the reasonable doubt for the offences charged against him.

215. As far as the accused No.12 is concerned, the prosecution alleges that he was present among the group of persons, who assembled at the courtyard of the house of PW.3, he was the member of unlawful assembly through out the incident and took PW.2, CW.3, CW.4 to the paddy field. No overt act is specifically alleged against him. After his surrender before the Magistrate, he was remanded to judicial custody and subjected to test identification parade on 09.04.2012 and Ext.P100 is the report relating to the test identification parade of himself and others. During test identification parade, PW.1, PW.2, CW.3 and CW.4 identified the accused No.12 as suspect. During trial PW.1 alone identified the accused No.12 from the dock. It is the version of PW.1 against accused No.12 that, he was present along with culprits. No overt act is specifically alleged against the accused No.12 by PW.1. PW.1 identified the accused No.12 from the dock correctly and as stated earlier there was an earlier identification during the test identification parade. I find no reason to discard the testimony of PW.1 regarding the involvement of accused No.12 in the incident as deposed to by him. The contention of accused No.12 that he has been falsely implicated in this case at the instance of IUML leaders and the identification during test identification parade and also before Court is on the basis of his photograph made available to the witnesses is not liable to be accepted. Accordingly, I find that the prosecution has succeeded in proving its case that the accused No.12 was a member of unlawful assembly and committed rioting. It is also

established by the prosecution that he committed criminal trespass to the courtyard of the house of PW.3. The vicarious liability of the accused No.10 in respect of the remaining offences can be discussed later.

216. As far as the accused No.13 is concerned, the allegation by the prosecution is that he is also a member of unlawful assembly and participated in the incident through out and joined in taking PW.2 and others to the Chulliyottuvayal. The accused No.13 was arrested by PW.39 and he was remanded to judicial custody. As discussed earlier, he was subjected to test identification, as per the test identification parade conducted by PW.38. The parade was conducted on 11.06.2012 and Ext.P105 is the report in respect of the test identification parade of accused No.13 and two others, the details of the same has already been discussed. In the test identification parade, PW.1, PW.2 or other witnesses have not identified the accused No.13, as evident from Ext.P105 report. At the time of examination PW.1 and PW.2 identified the accused No.13 from the dock and stated that he was present among the culprits who assembled at the courtyard of the house of PW.3 and PW.1 further deposed that the accused No.13 was present at the Chulliyottuvayal as well. No explanation has been given by PW.1 or PW.2 before any of the investigating officers for the non-identification of accused No.13 during the test identification parade. It is the contention of the accused No.13 that he has been falsely implicated in this case, he was shown to the witnesses from the police station after the test identification parade and his

photographs were shown to the witnesses prior to their examination before Court. Moreover, PW.2 identified accused No.16 as accused No.13 only in the second breath he identified accused No.13 correctly. Since the accused No.13 was not identified by PW.1 and PW.2 during the test identification parade, the dock identification for the first time before Court is not reliable, particularly there is a specific contention by accused No.13 that his photographs were made available to the witnesses prior to their examination. For the above reason, I am of the considered view that the involvement of the accused No.13 in the alleged incident is not established by the prosecution beyond the reasonable doubt. There is a reasonable doubt arose about the involvement of the accused No.13, for the non-identification of him during the test identification parade, I am of the view that the accused No.13 is entitled for the benefit of doubt. Accordingly, I find that the prosecution has not succeeded in proving the guilt of the accused No.13 for the offences charged against him.

217. As far as the accused No.14 is concerned, the prosecution alleges that he was present among the group of persons, who assembled at the courtyard of the house of PW.3 and he was a member of unlawful assembly. No overt act is specifically alleged against him. He was subjected to test identification parade on 22.05.2012 and Ext.P102 is the report relating to the test identification parade. During test identification parade, PW.1, PW.2, CW.3 and CW.4 identified the accused No.14 as suspect. During trial

PW.1 alone identified the accused No.14 from the dock. It is the version of PW.1 against accused No.14 that, he was present along with culprits, from the beginning and he was present through out while taking them to the paddy field and assaulting from there. No overt act is specifically alleged against the accused No.14 by PW.1. PW.1 identified the accused No.14 from the dock correctly and as stated earlier there was an earlier identification during the test identification parade. I find no reason to discard the testimony of PW.1 regarding the involvement of accused No.14 in the incident as deposed to by him. The contention of accused No.14 that he has been falsely implicated in this case at the instance of IUML leaders and the identification during test identification parade and also before Court is on the basis of his photograph made available to the witnesses is not liable to be accepted. Accordingly, I find that the prosecution has succeeded in proving its case that the accused No.14 was a member of unlawful assembly and committed rioting and criminal trespass to the courtyard of the house of PW.3. The vicarious liability of the accused No.14 in respect of the remaining offences can be discussed later.

218. The allegation against the accused No.15 is that he was member of the unlawful assembly, who followed PW.1 and others and also assembled at the courtyard of the house of PW.3. He was also present in the unlawful assembly while taking PW.2 and others to the paddy field. The test identification parade was conducted in respect of accused No.15 on

11.06.2012 by PW.38 and Ext.P105 is the report in respect of the parade of accused No.15 and two others. During test identification parade, PW.1, PW.2, CW.3 and CW.4 identified the accused No.15 in all the three rounds. During trial PWs.1 and 2 identified accused No.15 from the dock. When PW.1 was examined in chief in the forenoon session, PW.1 failed to identify the accused No.15 correctly, but he pointed out accused No.18 Naveen as accused No.15. Later when he was further examined in the afternoon session, he correctly identified the accused No.15 from the dock. It is the version of PW.1 that, the accused No.15 Shijin was present among the culprits, who followed PW.1 and others from the Valluvankadavu and also present through out the incident. The testimony of PW.2 regarding the involvement of accused No.15, Shijin Mohan is also in tune with the version of PW.1. The contention of the accused No.15 is that he is falsely implicated in this case at the instance of Muslim League/Congress leaders, he was falsely arrested and his photographs were taken before his production in the Court. So, only on the basis of the said photos, PW.1 and PW.2 identified him during test identification parade and also before Court. If he was actually involved in the incident, PW.3 could have identified him. The oral testimonies of PWs.1 and 2, connecting the accused No.15 is stated to be an omission and there was no such specific statement by PW.1 and 2 before the investigating officers. It appears to me that the identification of accused No.15 by PW.1 and PW.2 before Court is reliable, as there is an earlier

identification in test identification parade to corroborate the dock identification. It is also evident from the evidence on record that accused No.15 was a member of an unlawful assembly and committed rioting and criminal trespass to the courtyard of the house of PW.3. So, the involvement of the accused No.15 in the alleged incident is proved by the prosecution through the testimonies of PW.1 and PW.2. The vicarious liability of the accused No.15 in respect of the remaining offences can be discussed later.

219. The allegation against the accused No.16 is that, he concealed MO.8 dagger, allegedly used by accused No.1 to inflict injury to the deceased and thereby caused disappearance of evidence. As discussed earlier, while considering the involvement of accused No.1, the accused No.16 was taken into custody on the basis of the statement of accused No.1 that he has handed over the knife to accused No.16 and Ext.P195 is the relevant extract of the statement of accused No.1. Subsequently, after arresting accused No.16, PW.39 interrogated the accused No.16 and effected seizure of MO.8 knife along with its cover from the tool box of the motor cycle bearing Regn. No. KL-13-U-2973 owned by the accused No.13 under Ext.P12 seizure mahazar. Ext.P12 (a) is the extract of the disclosure statement of accused No.16, extracted in Ext.P12. MO.21 the key with key chain of the motor cycle and the aforesaid motor cycle were also seized under the mahazar. PW.20 the attestor to the said mahazar identified the accused No.16 from the dock and he testified the manner in which MO.8 knife was seized by PW.39.

PW.39 also spoke about the arrest of the accused No.16 and seizure of MO.8 knife under Ext.P12 seizure mahazar, pursuant to Ext.P12(a) disclosure statement of accused No.16. I have already found that MO.8 knife was used by the accused No.1 for stabbing the deceased Abdul Shukkoor and Ext.P195, the extract of the statement of the accused No.1 shows that he had entrusted the knife to accused No.16. Perusal of Ext.P12 seizure mahazar shows that MO.8 knife was seized from the tool box of the aforesaid motor cycle, as the accused No.16 took the same after opening the tool box by using MO.21 key. The alleged incident in this case was on 20.02.2012 and MO.8 was seized only on 02.06.2012. So, it is evident that the accused No.16 kept the knife in the tool box of the motor cycle till that date, the same can only with an intention to destroy the evidence. The accused No.1 is alleged to have committed the offence of murder of Abdul Shukkoor, which is punishable with death or in the alternative for imprisonment for life. The act of the accused No.16 in concealing MO.8 knife in the tool box of his motor cycle can only be with the intention of screening the accused No.1 from the legal punishment. His attempt to destroy MO.8 knife has not succeeded due to his arrest and subsequent seizure of MO.8 by PW.39. The fact that the accused No.16 was having knowledge and reason to believe that an offence has been committed by using MO.8 knife is only to be gathered from the attending circumstances and conduct of accused No.16 in concealing the same. Here, the accused No.16 has not caused disappearance of evidence, but he has

attempted to cause disappearance of evidence. The contention of accused No.16 that he falsely arrested in this case, subjected to custodial torture and subsequently, implicated in this case is not liable to be accepted. The fact that the accused No.1 has complained the ill-treatment by the police under the leadership of the then Dy.S.P, Kannur, Sri.P. Sukumaran and the statement of the accused No.1, accused No.3 and accused No.16 were recorded by the Magistrate and a case is pending before the JFCM Court-II, Kannur as C.C. No. 1132/2012 in respect of the said incident is not at all a sufficient ground to accept the contention of the accused No.16 that he has been falsely implicated in this case. Accordingly, I find that the prosecution has succeeded in proving the guilt of the accused No.16 for the offence punishable U/s.511 r/w 201 of IPC.

220. It is the allegation against accused No.17 that he was a member of unlawful assembly, assembled at the courtyard of the house of PW.3 and committed rioting and aided the remaining accused in committing the offences alleged. No active participation is alleged against him. It is the allegation that he reached the house of PW.3 along with accused No.29 after the alleged criminal conspiracy. Test identification parade was conducted in respect of accused No.17 on 04.04.2012 and Ext.P100 is the report relating to the test identification of accused No.17 and seven others. During test identification parade PW.1 and CW.3 identified the accused No.17. PW.2 and CW.4 failed in identifying him during the test identification parade. When

examined before Court, PWs.1 and 2 have not identified the accused No.17 from the dock. So, absolutely there is no dock identification in respect of the accused No.17. The identification during the test identification parade can only be used for corroborating the dock identification. Here, PW.1 and PW.2 failed in identifying accused No.17 from the dock and as such the identification during test identification parade cannot be pressed into service in the case in hand. Since there is no dock identification of accused No.17 by PWs.1 and 2, the only material witnesses, I am of the considered view that the prosecution has not succeeded in proving the involvement of the accused No.17 in the alleged incident and his consequent guilt. Accordingly I find that the prosecution has miserably failed in proving the guilt of the accused No.17 beyond the reasonable doubt for the offences charged against him.

221. As far as the accused No.18 is concerned, he was not arrested during investigation and as such not subject to test identification parade. Out of PWs.1 and 2, PW.1 alone identified the accused No.18 from the dock and stated that accused No.18 was present among the persons who followed him and others from Valluvankadavu and also among the persons assembled at the courtyard of the house of PW.3 and also at Chulliyottuvayal. His version before Court is only a general statement that the accused No.18 along with Naveen, Ajayakumar etc., were present among the persons who followed them from Valluvankadavu and also among the persons present at the house of Muhammed Kunhi and also among the persons who took them to

Chulliyottuvayal and attacked. Absolutely, there is no specific overt act alleged against him. It is also to be mentioned that earlier, he wrongly identified accused No.18 as accused No.15, Shijin Mohan. It is the contention taken by the accused No.18 that he is falsely implicated in this case. PW.1 has identified him from the dock only on the basis of the instruction by the police and the prosecuting agency. The fact that, earlier he was pointed out as accused No.15 also probabilises the contention of accused No.18. Further, PW.3 has not identified him as a culprit, though he is a close neighbour of PW.3. Reckoning the said aspects I am of the considered view that the prosecution has not succeeded in proving the involvement of the accused No.18 in the alleged incident. The dock identification of accused No.18 by PW.1 is not reliable as he is not known to him earlier. Accordingly I find that the prosecution has miserably failed in proving the guilt of the accused No.18 beyond the reasonable doubt for the offences charged against him.

222. As far as the accused No.19 is concerned, he was not arrested during investigation and as such not subject to test identification parade. Out of PWs.1 and 2, PW.2 alone identified the accused No.19 from the dock and stated that accused No.19 was present at the courtyard of the house of Muhammed Kunhi and threatened by saying that ‘you have not studied a lesson even after killing one among you prior to 5-6 months’. It is the further version of PW.2 that when he himself and others stated that PW.1 and

Shukkoor are innocence and prayed for their release, accused No.19 further stated that both of them will be sent in boxes. It is the contention taken by the accused No.19 that he is falsely implicated in this case. PW.2 has identified him from the dock only on the basis of the instruction by the police and the prosecuting agency, by narrating his physical features. No attempt was made by the prosecution to identify him through PW.1. It is also to be mentioned that PW.2 during cross-examination admitted that he has not furnished the name of accused No.19 before any of the investigating officers and he has only furnished the physical features of accused No.19. It is his version that he only stated before the Circle Inspector that the accused No.19 is a tall and good looking person. It is also his version in cross-examination that he became aware about the name of accused No.19 only when he stated his name before Court at the time of his identification. It is also admitted by PW.2 that the accused No.19 is the tallest person among the accused persons, who were present in the dock. So, the contention of the accused No.19 that PW.2 identified accused No.19 on the instruction of others by saying that he is the tallest person is to be accepted. It is also to be mentioned that the name of accused No.19 was stated only before the CBI officer, but even that itself is denied by PW.2. The dock identification of accused No.19 by PW.2 is not reliable as he is not known to him earlier. Accordingly I find that the prosecution has miserably failed in proving the guilt of the accused No.19 beyond the reasonable doubt for the offences charged against him.

223. As far as the accused No.21 is concerned, the allegation by the prosecution is that he is also a member of unlawful assembly and joined in following PW.1 and others to the courtyard of the house of PW.3. As discussed earlier, he was subjected to test identification on 06.06.2012 and Ext.P104 is the report in respect of the test identification parade of accused No.21 and four others, the details of the same has already been discussed. In the test identification parade, PW.1 or other witnesses have not identified the accused No.21, as evident from Ext.P104 report. At the time of evidence PWs.1 and 2 identified accused No.21 as accused No.11, C.N. Mohanan. Therefore, it is evident that they were not able to identify the accused No.21 correctly. PWs.1 and 2 have no case that they mistakenly identified accused No.21 as accused No.11. The specific version of PW.1 and PW.2 is that the accused No.21 pointed out by them take down the phone numbers and address of PW.1 and others. There was no such allegation by the prosecution against accused No.21. For the above reason, I am of the considered view that the involvement of the accused No.21 in the alleged incident is not established by the prosecution beyond the reasonable doubt. Accordingly, I find that the prosecution has not succeeded in proving the guilt of the accused No.21 for the offences charged against him.

224. As far as the accused No.22 is concerned, the allegation by the prosecution is that he is also a member of unlawful assembly, who followed PW.1 and others and reached at the courtyard of the house of PW.3 and

subsequently participated in the incident. As discussed earlier, he was subjected to test identification, as per the test identification parade dated 06.06.2012 and Ext.P104 is the report in respect of the test identification parade of accused No.22 and four others, the details of the same has already been discussed. In the test identification parade, PW.1, PW.2 or other witnesses have not identified the accused No.22, as evident from Ext.P104 report. At the time of examination PW.1 and PW.2 identified the accused No.22 from the dock and stated that he was present at the courtyard of the house of PW.3 and PW.1 further deposed that he was present at the paddy field as well. The statement of PW.1 is a general statement that accused No.22 was present along with Naveen, Ajayakumar and others. Absolutely no overt act has been attributed against accused No.22 by PW.1. As stated earlier, the version of PW.2 is that he had seen accused No.22 at the courtyard of the house of Muhammed Kunhi with weapon. The nature of weapon possessed by the accused No.22 is not deposed to by PW.2. It is the contention of the accused No.22 that he has been falsely implicated in this case, he was shown to the witnesses from the police station after the test identification parade and his photographs were shown to the witnesses prior to their examination before Court. Since the accused No.22 was not identified by PW.1 and PW.2 during the test identification parade, the dock identification for the first time before Court is not reliable, particularly there is a specific contention by accused No.22 that his photographs were made

available to the witnesses prior to their examination. For the above reason, I am of the considered view that the involvement of the accused No.22 in the alleged incident is not established by the prosecution beyond the reasonable doubt. There is a reasonable doubt arose about the involvement of the accused No.22, for the non-identification of him during the test identification parade. I am of the view that the accused No.22 is entitled for the benefit of doubt. Accordingly, I find that the prosecution has not succeeded in proving the guilt of the accused No.22 for the offences charged against him.

225. As far as the accused No.23 is concerned, he was not arrested during investigation and as such not subject to test identification parade. Out of PWs.1 and 2, PW.1 alone identified the accused No.23 from the dock and stated that accused No.23 was present among the persons joined at the courtyard of the house of PW.3 and also at Chulliyottuvayal. His version before Court is only a general statement that the accused No.23 along with Naveen, Ajayakumar etc., were present among the persons who followed them from Valluvankadavu and also among the persons present at the house of Muhammed Kunhi and also among the persons who took them to Chulliyottuvayal and attacked. Absolutely, there is no specific overt act alleged against him. It is the contention taken by the accused No.23 that he is falsely implicated in this case. PW.1 has identified him from the dock only on the basis of the instruction by the police and the prosecuting agency. Further, PW.3 has not identified him as a culprit, though he is a close neighbour of

PW.3. Reckoning the said aspects I am of the considered view that the prosecution has not succeeded in proving the involvement of the accused No.23 in the alleged incident. The dock identification of accused No.23 by PW.1 for the first time is not reliable as he is not known to him earlier. Accordingly I find that the prosecution has miserably failed in proving the guilt of the accused No.23 beyond the reasonable doubt for the offences charged against him.

226. As far as the accused No.24 is concerned, the prosecution alleges that he was present among the group of persons, who followed PW.1 and others, assembled at the courtyard of the house of PW.3 and he was a member of unlawful assembly. No overt act is specifically alleged against him. He was not subjected to test identification parade, as he is known to the witnesses even prior to the incident. During trial PW.1 and PW.2 identified the accused No.24 from the dock. It is the version of PW.1 against accused No.24 that, he was present along with culprits, from the beginning and he was present through out while taking them to the paddy field and assaulting from there. No overt act is specifically alleged against the accused No.24 by PW.1. His version is only a general statement that the accused No.24 was present among the culprits along with Naveen, Ajayakumar etc. PW.2 testified that the accused No.24 Rajeevan was present at the courtyard of the house of Muhammed Kunhi along with weapon, the description of the same is not mentioned by him. It is the admitted case of PW.1 and PW.2 that the

accused No.24 was known to them earlier, even prior to the incident, that why no test identification parade was conducted in respect of him. It is relevant to mention that, though the accused No.24 was known to PW.1 and PW.2 even prior to the incident, PW.1 has not furnished the name of accused No.24 in the F.I statement or subsequent statements still the completion of the test identification parade. The contention of accused No.24 is that he has been falsely implicated in this case and he is residing at Ariyil, far away from Keezhara. After the alleged incident in connection with this case, the prawn field run by the accused No.24 was destroyed by the Muslim League activists, which resulted in sustaining huge loss to him and he has lodged a complaint before the police in respect of the said incident. So, only due to that reason he has been falsely implicated in this case at the instance of IUML leaders. If the accused No.24 was actually involved in the incident PW.1 and PW.2 could have furnished his name before the police either in F.I statement or in the statements recorded immediately thereafter. The name of accused No.24 was stated before the investigating officer only on 17.07.2012. Absolutely, there is no explanation by PW.1 for such delay in furnishing the name of accused No.24 before PW.39. The presence of accused No.24 at the scene of occurrence, as deposed to by PW.1 and PW.2 is not believable. Therefore, I find that the prosecution has not succeeded in proving his guilt for the offence charged against him.

227. The allegation against the accused No.25 is that he was a member of unlawful assembly, who assembled at the courtyard of the house of PW.3. The test identification parade was conducted in respect of accused No.25 on 15.05.2012 by PW.38 and Ext.P101 is the report in respect of the parade of accused No.25. During test identification parade, PW.1, PW.2, CW.3 and CW.4 identified the accused No.25 in all the three rounds. One Ummurul Farooq (CW.9) failed in identifying him. During trial PWs.1 and 2 identified accused No.25 from the dock. It is the version of PW.1 that, the accused No.25 V.V. Mohanan was present along with Naveen, Ajayakumar and others. All of them followed PW.1 and others from Valluvankadavu and were present through out the incident. The testimony of PW.2 regarding the involvement of accused No.25 is to the effect that he was present at the courtyard of the house of Muhammed Kunhi with weapon, the nature of weapon possessed by accused No.25 is not specifically deposed to by PW.2. The contention of the accused No.25 is that he is falsely implicated in this case at the instance of Muslim League/Congress leaders, he was falsely arrested and his photographs were taken before his production in the Court. His photographs were shown to the witnesses and only on the basis of the said photos, PW.1 and PW.2 identified him during test identification parade and also before Court. If he was actually involved in the incident, PW.3 could have identified him. The oral testimonies of PWs.1 and 2, connecting the accused No.25 is stated to be an omission and there was no such specific

statement by PW.1 and 2 before the investigating officers. It appears to me that the identification of accused No.25 by PW.1 and PW.2 before Court is reliable, as there is an earlier identification in test identification parade to corroborate the dock identification. The fact that the accused No.25 was armed with a weapon is specifically deposed to by PW.2, but as stated earlier, the nature of the weapon is not deposed by PW.2. It is also evident from the evidence on record that accused No.25 was a member of an unlawful assembly who committed rioting and criminal trespass to the courtyard of the house of PW.3. So, the involvement of the accused No.25 in the alleged incident is proved by the prosecution through the testimonies of PW.1 and PW.2. The vicarious liability of the accused No.25, in respect of the remaining offences can be discussed later.

228. The allegation against the accused No.26 is that he was a member of unlawful assembly, who followed PW.1 and others and assembled at the courtyard of the house of PW.3. The test identification parade was conducted in respect of accused No.26 on 06.06.2012 by PW.38 and Ext.P104 is the report in respect of the parade of accused No.26. During test identification parade, PW.1, PW.2 and CW.4 identified the accused No.26. PW.1 identified him only in the third round and PW.2 and CW.4 identified him in all the three rounds. During trial PWs.1 and 2 identified accused No.26 from the dock. It is the version of PW.1 that, the accused No.26, Purushothaman was present along with Naveen, Ajayakumar and

others. All of them followed PW.1 and others from Valluvankadavu and were present through out the incident. The testimony of PW.2 regarding the involvement of accused No.26 is to the effect that he was present among the persons who came from southern side and he was armed with weapon. The nature of weapon possessed by accused No.26 is not specifically deposed to by PW.2. The contention of the accused No.26 is that he is falsely implicated in this case at the instance of Muslim League/Congress leaders, he was falsely arrested and his photographs were taken before his production in the Court. His photographs were shown to the witnesses and only on the basis of the said photos, PW.1 and PW.2 identified him during test identification parade and also before Court. The oral testimonies of PWs.1 and 2, connecting the accused No.26 is stated to be an omission and there was no such specific statement by PW.1 and 2 before the investigating officers. It appears to me that the identification of accused No.26 by PW.1 and PW.2 before Court is reliable, as there is an earlier identification in test identification parade to corroborate the dock identification. The fact that the accused No.26 was armed with a weapon is specifically deposed to by PW.2, but as stated earlier, the nature of the weapon is not deposed by PW.2. It is also evident from the evidence on record that accused No.26 was a member of an unlawful assembly who committed rioting and criminal trespass to the courtyard of the house of PW.3. So, the involvement of the accused No.26 in the alleged incident is proved by the prosecution through the testimonies of

PW.1 and PW.2. The vicarious liability of the accused No.26 in respect of the remaining offences can be discussed later.

229. The allegation against the accused No.27 is that he was a member of unlawful assembly, who assembled at the courtyard of the house of PW.3. The test identification parade was conducted in respect of accused No.27 on 19.03.2012 by PW.38 and Ext.P99 is the report in respect of the parade of accused No.27. During test identification parade, PW.1, PW.2 and CW.3 identified the accused No.27. CW.4 failed to identify him in all the three rounds. During trial PWs.1 and 2 identified accused No.27 from the dock. It is the version of PW.1 that, the accused No.27, Purushothaman was present along with Naveen, Ajayakumar and others. All of them followed PW.1 and others from Valluvankadavu and were present through out the incident. The testimony of PW.2 regarding the involvement of accused No.27 is to the effect that the accused No.27 was present among the persons who came to the courtyard of the house of Muhammed Kunhi, he beat on the grills with a wooden stick demanding release of PW.1 and others from the house and criminally intimidated the witnesses and inmates of that house. The contention of the accused No.27 is that he is falsely implicated in this case at the instance of Muslim League/Congress leaders, he was falsely arrested and his photographs were taken before his production in the Court. Moreover, he is a drama actor, who acted in several dramas and his photos were exhibited in several flex boards in that locality. Moreover, he is having cat’s eye and the

said similarity were informed to the witnesses. His photographs were also shown to the witnesses and only on the basis of the said photos and description, PW.1 and PW.2 identified him during test identification parade and also before Court. On the date of the incident he was in Taliparamba. Though the call data records relating to his phone number was seized by PW.39, the same was not produced before Court. The oral testimonies of Pws.1 and 2, connecting the accused No.27 is stated to be an omission and there was no such specific statement by PW.1 and 2 before the investigating officers.

230. In order to prove the contention of accused No.27 that, he was in Taliparamba as on the date of the alleged incident, Dws.1 and 2 were examined on his side. DW.1 is his wife and DW.2 is the sister-in-law of DW.1. The version of DW.1 is to the effect that on 20.02.2012 at about 11.00 a.m., he along with accused No.27 went to Taliparamba Co-operative hospital to see DW.2, Bindu, she was admitted in the Gynecology ward. They reached the hospital around 01.00 p.m. and stayed there in the hospital upto 2.30 p.m. Later, they returned from there and reached home by 4.30 p.m. According to her also, the accused No.27 is a drama actor and his photographs were exhibited in the flex boards relating to the dramas. DW.2 deposed that she was admitted in the Co-operative Hospital, Taliparamba for delivery on 19.02.2012 and delivered the male baby on 22.02.2012. According to her also, the accused No.27 and his wife/DW.1 visited her on 20.02.2012, they

reached the hospital around 01.00 p.m. and they were there in the hospital for about 1- 1½ hours. Exts.D15 and D16 discharge card and baby card, relating to the admission of DW.2 birth of the baby on 22.02.2012 were marked through her.

231. Relying the evidence of DWs.1 and 2, the learned counsel appearing for accused No.27 argued that the accused No.27 has succeeded in proving his case that he was in Taliparamba, as on the date of the incident between 01.00 p.m to 2.20 p.m. Further, according to the learned counsel, the accused No.27 is having cat's eye and his photos were exhibited in flex boards relating to the advertisement of dramas and the identification by Pws.1 and 2 is only on the basis of the said identification features. The prosecution on the other hand, argued that the oral testimonies of DWs.1 and 2 can only be treated as the version of interested witnessed. Absolutely, there was no complaint preferred by accused No.27 against PW.39 or other police officers for the alleged false implication. Accused No.27 was correctly identified by PW.1 and PW.2 during test identification parade and also from the dock during trial. I have considered the submissions made by either side. It appears to me that the identification of accused No.27 by PW.1 and PW.2 before Court is reliable, as there is an earlier identification in test identification parade to corroborate the dock identification. The testimonies of DWs.1 and 2 can only be treated as interesting testimonies of wife and close relative and as such I am not inclined accept their testimonies. It is also

evident from the evidence on record that accused No.27 was a member of an unlawful assembly who committed rioting, armed with wooden stick, criminally trespassed into the courtyard of the house of PW.3 and intimidated the witnesses. So, the involvement of the accused No.27 in the alleged incident is proved by the prosecution through the testimonies of PW.1 and PW.2. The vicarious liability of the accused No.27 in respect of the remaining offences can be discussed later.

232. The allegation against the accused No.28 is that he was a member of unlawful assembly, who assembled at the courtyard of the house of PW.3. The test identification parade was conducted in respect of accused No.28 on 30.05.2012 by PW.38 and Ext.P103 is the report in respect of the parade of accused No.28. During test identification parade, PW.1 alone identified the accused No.28. PW.2, CW.3 and CW.4 failed in identifying the accused No.28. During trial PWs.1 and 2 identified accused No.28 from the dock. It is the version of PW.1 that, the accused No.28 Sureshan was present along with Naveen, Ajayakumar and others. All of them followed PW.1 and others from Valluvankadavu and were present through out the incident. The testimony of PW.2 regarding the involvement of accused No.28 is to the effect that he was present at the courtyard of the house of Muhammed Kunhi with weapon, the nature of weapon possessed by accused No.28 is not specifically deposed to by PW.2. The contention of the accused No.28 is that he is falsely implicated in this case at the instance of Muslim

League/Congress leaders, he was falsely arrested. He is known to PW.1 and only with the said knowledge and as instructed by the local leaders of Muslim League, PW.1 identified him during test identification parade and also before Court. If he was actually involved in the incident, PW.2, CW.3 and CW.4 could have identified him during the test identification parade. The oral testimonies of PWs.1 and 2, connecting the accused No.28 is stated to be an omission and there was no such specific statement by PW.1 and 2 before the investigating officers. It appears to me that the identification of accused No.28 by PW.1 before Court is reliable, as there is an earlier identification in test identification parade to corroborate the dock identification. Since PW.2 failed to identify accused No.28 during test identification parade, I am not inclined to accept the evidence of PW.2 regarding identification of accused No.28. However, the oral testimony of PW.1 regarding identification of accused No.28 is reliable. It is also evident from the evidence on record that accused No.28 was a member of an unlawful assembly who committed rioting and criminal trespass to the courtyard of the house of PW.3. So, the involvement of the accused No.28 in the alleged incident is proved by the prosecution through the testimony of PW.1. Section 120-B of IPC is also charged against accused No.28. As per finding in point No.vi, I have already found that the prosecution has not succeeded in proving its case of criminal conspiracy hatched by accused Nos.28 to 33. The vicarious liability of the accused No.28 in respect of the remaining offences can be discussed later.

233. As far as accused No.29 is concerned, the prosecution case is that he has also joined the unlawful assembly after the alleged conspiracy and participated in commission of the offence. It is also the case of the prosecution that, earlier CW.4 Abdul Salam contacted accused No.29 over phone and prayed for their rescue, the response of accused No.29 was not positive, while he recalled CW.4 over phone. It is the admitted case of PW.1 and PW.2 that, the accused No.29 is known to them earlier. Test identification parade was conducted, including him on 07.04.2012 and the report relating to the same is Ext.P100. Even at the time of test identification parade, PW.1 and PW.2 have stated before PW.38 that, accused No.29 is known to them. It is relevant to mention that the name of accused No.29 was not furnished by PW.1 in Ext.P1 F.I. statement or his subsequent statements till the conducting of test identification parade and the said fact is admitted by PW.39. Yet another aspect to be considered is that Crime No.232/2012 was registered by the Taliparamba police against accused No.6 and 29 herein and others for an alleged incident which took place on 20.02.2012 itself. Ext.P33 is the certified copy of the F.I.R and Ext.P34 is the certified copy of the F.I Statement in that crime. The said crime was registered on the basis of F.I. statement of one Jubair, with an allegation that the accused Nos.6 and 29 herein along with one Shaji, Vineesh, Sujin and others formed themselves into an unlawful assembly on 20.02.2012 at 2.15 p.m. near the K.M. Store at Ariyil and they also caused explosion by throwing bomb. In Ext.P34, Jubair

has specifically mentioned the names of the aforesaid five persons, including the accused Nos.6 and 29 herein. So, as per the said allegation, the accused No.29 was there at Ariyil on 20.02.2012 at 2.15 p.m. It is submitted that the accused No.6 and 29 were remanded to judicial custody for some period, for the said case. During trial the prosecution has produced Ext.P35, certified copy of a report dated 10.08.2012 which shows that the accused Nos.6 and 29 herein were deleted from the array of accused. It is also relevant to mention that the said report reached the JFCM Court, Taliparamba only on 19.10.2012, as evident from the seal and date of receipt therein, which is long after laying of the final report in this case. So it is contended that the said report is a subsequent creation, after filing of the final report in this case. Both PW.1 and PW.2 identified accused No.29 from the dock. Admittedly the accused No.29 is previously known to them. It is the version of PW.1 that while they were in the house of Muhammed Kunhi, CW.4 contacted accused No.29 over phone and informed their confinement in that house, to which the reply of accused No.29 was not positive. It was stated by him that CW.4 and others to suffer the consequence of their acts. PW.1 has no case in chief examination that accused No.29 subsequently reached the scene of occurrence. The version of PW.2 with regard to the involvement of accused No.29 is that, he had seen the accused No.29 standing at the courtyard of house of Muhammed Kunhi with weapon, while PW.2 and others were being taken forcibly to Chulliyottuvayal. The nature of the weapon used by the

accused No.29 is not deposed to by him. The case of the prosecution and testimony of PW.1 that, CW.4 Abdul Salam contacted accused No.29 over phone and subsequently, accused No.29 called back CW.4 is evident from Ext.P64 the call details record relating to accused No.29 and Ext.P89 the call details record relating to CW.4 Abdul Salam. As per the same, on 20.02.2012, at 13:20 hours, CW.4 has contacted accused No.29 and subsequently at 13:29 hours, accused No.29 called back CW.4. The tower location of the mobile number of accused No.29 at that time was at Manna and Trichambaram, near Taliparamba. Ext.P64 further shows the tower location of the mobile number of accused No.29 at Taliparamba, Bakkalam etc., and the tower location at 14:09 hours is shown as Ariyil. So, it is very hard to believe the version of PW.2 that he had seen the accused No.29 at the courtyard of the house of Muhammed Kunhi, while he along with others were taken to the Chulliyottuvayal. As stated earlier, PW.1 has not deposed to regarding the presence of accused No.29 at the scene of occurrence and his only version is that CW.4 contacted accused No.29 over phone. Section 120-B of IPC is also charged against accused No.29, as per finding in point No.vi, I have already found that the prosecution has not succeeded in proving its case of criminal conspiracy hatched by accused Nos.28 to 33. Accordingly, I find that the prosecution has not succeeded in proving the guilt of the accused No.29 beyond reasonable doubt for the offences charged against him.

234. The charge against the accused Nos.30, 32 and 33 is that, they hatched criminal conspiracy to commit the offence of murder and attempting to commit murder of Shukkoor and PW.1 respectively. As per finding in point No.vi, I have already found that the prosecution has not succeeded in proving its case of criminal conspiracy hatched by accused Nos.28 to 33. Accordingly, I find that the prosecution has not succeeded in proving the guilt of the accused Nos.30, 32 and 33 beyond reasonable doubt for the offences charged against them.

235. The prosecution also alleges commission of offences punishable U/Ss. 364, 450 and 109 of IPC also against the accused persons. It is the allegation by the prosecution that, the accused persons committed house trespass to the house of CW.6 Muhammed Kunhi for the purpose of forcibly taking PW.1, PW.2, CW.3, CW.4 and Shukkoor from that house, thereupon the accused persons abducted the aforesaid persons from the said house to the Chulliyottuvayal and it is further alleged that the accused persons abetted for commission of the offence of murder and other offences in prosecution of the common object of the unlawful assembly.

236. I have already found that the accused Nos.1, 3, 7, 9, 10, 12, 14, 15 and 25 to 28 were members of unlawful assembly and they have committed the offences as indicated earlier. The accused No.16 was not a member of unlawful assembly and the only allegation and finding against him is that he attempted to destroy the evidence by concealing MO.8 knife. The

testimonies of PWs.1 and 2 is to the effect that some of the culprits entered the house of Muhammed Kunhi and forcibly took them and CW.3, CW.4 and Abdul Shukkoor from the said house for the purpose of committing the offence. The alleged attack towards the said witnesses were not from the house and no offence punishable with imprisonment for life has been committed from that house. However, the trespass to the house of Muhammed Kunhi was with the preparation for causing hurt, wrongful restraint, criminal intimidation etc. It can be inferred from the conduct of the culprits that they entered the house of Muhammed Kunhi by making the aforesaid preparation in prosecution of the common object of the unlawful assembly. So, the accused Nos. 7, 9, 10, 12, 14, 15 and 25 to 28, the members of the unlawful assembly, are liable for the house trespass. Since no offence punishable with imprisonment for life has been committed from that house, the offence U/S. 450 IPC is not attracted, on the other hand, the offence U/s.452 of IPC is attracted against the members of the unlawful assembly. Since Section 452 IPC is a minor offence compared to Sec.450 of IPC, I am of the considered view that no alteration of charge is required. Accordingly, the accused Nos. 7, 9, 10, 12, 14, 15 and 25 to 28 are found guilty of the offence punishable U/Ss. 452 r/w 149 IPC. Likewise, they are also found guilty for the offence punishable U/S.447 IPC for the alleged criminal trespass to the courtyard of the house of CW.6 Muhammed Kunhi.

237. As stated earlier, the evidence of PW.1 and PW.2 reveal that the members of the unlawful assembly abducted PW.1, PW.2, CW.3, CW.4 and Abdul Shukkoor. Out of the said persons Shukkoor has been murdered from the Chulliyottuvayal. So, the abduction of Shukkoor was for the purpose of committing murder. Hence, the members of the unlawful assembly are liable for the offence punishable U/s. 364 r/w 149 IPC. Accordingly, the accused Nos.7, 9, 10, 12 and 15 are found guilty of the offences punishable U/Ss. 364 r/w 149 IPC. Further, the acts of the accused No.1 in voluntarily causing hurt to PW.1 and PW.2 and also committing murder of Abdul Shukkoor, the act of accused No.3 in voluntarily causing hurt to PW.1 by means of MO.7 knife and the related acts can only be in prosecution of the common object of the accused Nos. 1, 3, 7, 9, 10, 12 and 15, who are the members of the unlawful assembly. Hence, they are vicariously liable for the said offences.

238. The further allegation by the prosecution is that the accused persons abetted for committing the offences. I have already found that the members of the unlawful assembly shared common object to commit the respective offences referred to earlier and they are found guilty with the aid of section 149 IPC. With regard to the alleged abetment, the available evidence before Court is insufficient. On the other hand, as stated earlier, the members of the unlawful assembly were already found guilty of the offences committed with the aid of Section 149 IPC. Accordingly, I find that the prosecution has not succeeded in proving the guilt of the accused persons for

the offence punishable U/S. 109 of IPC. Accordingly, accused Nos.1, 3, 7, 9, 10, 12, 14, 15 and 25 to 28 are found not guilty of the offence punishable U/s. 109 IPC. They are also found not guilty of the offence punishable U/s.307 r/w 149 IPC, on the basis of the earlier finding that the act of the 3rd accused in inflicting injury to PW.1 was not with an intention to attempt murder of him. The acts of wrongful restraint by the culprits, criminal intimidation by accused No.27 and other members of the unlawful assembly can only be in prosecution of the common object of the unlawful assembly. Hence, the accused Nos. 7, 9, 10, 12, 14, 15 and 25 to 28 are found guilty of the offence punishable U/Ss. 341 and 506(1) r/w 149 IPC.

Finding

239. In view of the above findings, the accused Nos.2, 4 to 6, 8, 11, 13, 17 to 19, 21 to 24, 29, 30, 32 and 33 are found not guilty of the offences charged against them and they acquitted U/s.235(1) of Cr.P.C/258(1) of BNSS. The bail bonds executed by them stand cancelled and they are set at liberty forthwith.

240. The accused No.1 is found guilty of the offences punishable U/Ss. 143, 147, 148, 302, 341, 323 and 324 r/w 149 IPC and he is convicted there under.

241. The accused No.3 is found guilty of the offences punishable U/Ss. 143, 147, 148, 302, 341, 323 and 324 r/w 149 IPC and he is convicted there under. He is found not guilty of the offence punishable U/s.307 IPC.

242. The accused No.7 is found guilty of the offences punishable U/Ss. 143, 147, 447, 452, 506(1), 364, 302, 341, 323 and 324 r/w 149 IPC and he is convicted there under.

243. The accused No.9 is found guilty of the offences punishable U/Ss. 143, 147, 148, 447, 452, 506(1), 364, 302, 341, 323 and 324 r/w 149 IPC and he is convicted there under.

244. The accused No.10 is found guilty of the offences punishable U/Ss. 143, 147, 447, 452, 506(1), 364, 302, 341, 323 and 324 r/w 149 IPC and he is convicted there under.

245. The accused No.12 is found guilty of the offences punishable U/Ss. 143, 147, 447, 452, 506(1), 364, 302, 341, 323 and 324 r/w 149 IPC and he is convicted there under.

246. The accused No.14 is found guilty of the offences punishable U/Ss. 143, 147, 447, 452, 506(1) and 341 r/w 149 IPC and he is convicted there under.

247. The accused No.15 is found guilty of the offences punishable U/Ss. 143, 147, 447, 452, 506(1), 364, 302, 341, 323 and 324 r/w 149 IPC and he is convicted there under.

248. The accused No.16 is found guilty of the offences punishable U/Ss. 511 of 201 IPC and he is convicted there under.

249.The accused No.25 is found guilty of the offences punishable U/Ss. 143, 147, 447, 452, 506(1) and 341 r/w 149 IPC and he is convicted there under.

250. The accused No.26 is found guilty of the offences punishable U/Ss. 143, 147, 447, 452, 506(1), 341 r/w 149 IPC and he is convicted there under.

251. The accused No.27 is found guilty of the offences punishable U/Ss. 143, 147, 447, 452, 506(1) and 341 r/w 149 IPC and he is convicted there under.

252. The accused No.28 is found guilty of the offences punishable U/Ss. 143, 147, 447, 452, 506(1) and 341 r/w 149 IPC and he is convicted there under. He is found not guilty of the offence punishable U/s. 120-B IPC and acquitted for the said offence U/s. 235(1) Cr.P.C/258(1) BNSS for the said offence.

253. The accused Nos.1, 3, 7, 9, 10, 12, 14, 15 and 25 to 28 are found not guilty of the offence punishable U/s. 109 IPC, accused Nos.1, 3, 7, 9, 10, 12 and 15 also are found not guilty of the offence punishable U/s 307 r/w 149 IPC and A1 and A3 are also found not guilty of the offence punishable U/s.364 r/w. 149 IPC and acquitted for the said offences U/s 235(1)Cr.P.C/258(1) BNSS for the said offences.

254. Charge against A20 and A31 abated as they are no more.

Having regard to the nature and circumstances of the case and the manner in which the accused persons referred to above unleashed violence and committed acts of violence towards the witnesses, which resulted in death of Abdul Shukkoor and sustaining of bodily injury to PW.1 and PW.2, I am of the considered view that the aforesaid accused persons/convicts are not entitled to get the benefit of the benevolent provisions of Probation of Offenders Act. They deserve punishment. The prosecution and the convicts will be heard on the question of sentence and adequate sentence will be imposed on the convicts in accordance with law.

Dictated to the Confidential Assistant, transcribed and prepared by her in computer, corrected by me and pronounced in open Court on this the 19th day of November, 2026.

Sd/-
Sabarinathan.P
Special Judge, (SPE/CBI) – III
Ernakulam

254. Point No. xxiv:- Section 235(2) of Cr.P.C/258(2) of BNSS says that, if the accused is convicted, the Judge shall, unless he proceeds in accordance with the provisions of Section 360/401, hear the accused on the question of sentence, and then pass sentence on him according to law. Accordingly, the prosecution and the accused Nos.1, 3, 7, 9, 10, 12, 14, 15, 16 and 25 to 28/convicts and their counsel are heard on the question of sentence. It is submitted by the accused No.1 that he is aged 41 years, he has to lookafter his parents, wife and two children, they are depending on him. Hence he prays for leniency. According to accused No.3, he is aged 46 years, he has to lookafter his parents, wife and two children, they are depending on him. His parents are aged 78 and 70 years. Hence he prays for leniency. According to accused No.7, he is aged 60 years, he has to lookafter his wife, suffering asthma and solely depending on him. Hence he prays for leniency. He also prays to send him to the Jail at Kannur. According to accused No.9, he is aged 49 years, he has to lookafter his wife and two children, they are depending on him. He is a diabetic. Hence he prays for leniency. According to accused No.10, he is aged 54 years, he has to lookafter his mother, wife and three children, they are depending on him. He is suffering from the ailments of prostrate, thyroid and fatty liver. Hence he prays for leniency. He also prays to send him to the Jail at Kannur. According to accused No.12, he is aged 48 years, he has to lookafter his

mother, mother-in-law wife and daughter, they are depending on him. Hence he prays for leniency. According to accused No.14, he is aged 51 years, he has to lookafter his wife and son, they are depending on him. Hence he prays for leniency. According to accused No.15, he is aged 33 years, he has to lookafter his parents, wife and son, they are depending on him. Moreover, his father and brother/A25 and A10 are convicted in this case. Hence he prays for leniency. He also prays to send him to Jail at Kannur. According to accused No.16, he is aged 45 years, he has to lookafter his mother, wife and two children, they are depending on him. Hence he prays for leniency. According to accused No.25, he is aged 62 years, his brother and son/A10 and A15 are also convicted in this case, he has to lookafter his wife, daughter-in-law and grandchild, they are depending on him. Hence he prays for leniency. According to accused No.26, he is aged 59 years, he has to lookafter his wife and two children, they are depending on him. Hence he prays for leniency. According to accused No.27, he is aged 56 years, he has to lookafter his mother, wife and two daughters, they are depending on him. Hence he prays for leniency. According to accused No.28, he is aged 55 years, he has to lookafter his mother, wife and two children, they are depending on him. Hence he prays for leniency.

255. It is submitted by the learned Senior Public Prosecutor that a young man of 23 years, who is having future prospects was do away with by the accused No.1, in prosecution of the common object of the unlawful

assembly, that too due to some political enmity. He is left by his age old mother and siblings. Hence, according to the senior Public Prosecutor maximum sentence provided is to be given to the accused/convicts. The learned counsel appearing for the accused/convicts argued that this case cannot be considered as a “rarest of rare case” warranting capital punishment. He prays to pass appropriate sentence.

256. The main offence committed by the accused No.1/convict is the offence of murder, punishable U/S. 302 of IPC, with death or imprisonment for life and also with fine. The accused Nos. 3, 7, 9, 10, 12, and 15/ convicts are roped with the aid Sec.149 of IPC for the offence U/S. 302 of IPC. As stated earlier, the convicts were already heard on the question of sentence. Section 354(3) of Cr.P.C/393(3) of BNSS says that, when the conviction is for an offence punishable with death or in the alternative, with imprisonment for life or imprisonment for a term of years, the judgment shall state the reasons for the sentence awarded, and, in the case of sentence of death, the special reasons for such sentence. The Hon’ble Apex Court in the decision in Bachan Singh v. State of Punjab [(1980) 2 SCC 684] held that, “It is, therefore, imperative to voice the concern that courts, aided by the broad illustrative guidelines indicated by us, will discharge the onerous function with evermore scrupulous care and humane concern, directed along the highroad of legislative policy outlined in Section 354(3), viz, that for persons convicted of murder, life imprisonment is the rule and death sentence an exception. A

real and abiding concern for the dignity of human life postulates resistance to taking a life through law's instrumentality. That ought not to be done save in the rarest of rare cases when the alternative option is unquestionably foreclosed".

257. The Hon'ble High Court of Kerala in the decision in K.C. Ramachandran v. State of Kerala (2024 ICO 190) [T.P. Chandrasekaharan murder case] has also considered the aspect of sentencing policy in murder cases, relying the decisions of the Hon'ble Apex Court in Bachan Singh referred to above and subsequent decisions. The relevant paragraph is para 47, which read as follows:-

"47. In matters of sentencing, especially when called upon to consider sentences of death, imprisonment for life or imprisonment for a particular term of years, we are to be guided by the principles stated in Bachan Singh and later cases, which can be enumerated as follows:-

(i) The general legislative policy that underlines the structure of our criminal law, principally contained in the Indian Penal Code and the Criminal Procedure Code, is to define an offence with sufficient clarity and to prescribe only the maximum punishment therefor, and to allow a very wide discretion to the judge in the matter of fixing the degree of punishment.

(ii) No exhaustive enumeration of aggravating or mitigating circumstances, which should be considered when sentencing an offender, is possible.

(iii) The impossibility of laying down standards is at the very core of the criminal law as administered in India, which invests the judges with very wide discretion in the matter of fixing the degree of punishment.

(iv) The discretion in the matter of sentencing is to be exercised by the judge judicially after balancing all the aggravating and mitigating circumstances of the crime. This is because the exercise of judicial discretion on well-recognised principles is, in the final analysis, the safest possible safeguard for the accused.

(v) While considering the question of sentence to be imposed for the offence of murder under Section 302 of the IPC, the court must have regard to every relevant circumstance relating to the crime as well as the criminal. If the court finds, but not otherwise, that the offence is of an exceptionally depraved and heinous character and constitutes, on account of its design and manner of its execution, a source of grave danger to the society at large, the court may impose the death sentence.

(vi) Section 354 (3) of the Cr.PC now clarifies that the extreme penalty should be imposed only in extreme cases where the exceptional

reasons are founded on the exceptionally grave circumstances of the particular case relating to the crime as well as the criminal.

258. The facts of the aforesaid case decided by the Hon'ble High Court of Kerala is also a politically motivated crime and multiple injuries were caused to T.P. Chandrasekharan and he was hacked to death. This case is also a politically motivated case, according to the prosecution, but as found earlier, absolutely there is no evidence to prove the motive alleged by the prosecution. Having regard to the age of the accused/convicts, their family back grounds etc., and also considering the mitigating circumstances established by them, I am of the considered view that this case cannot be considered as a "rarest of rare case" so as to impose the death sentence on them. I am satisfied that imposition of the alternate sentence of imprisonment for life would strike the right balance between the conflicting interests of the accused and the public at large and go a long way towards sustaining public confidence in our legal system. Moderate sentence can be imposed for the remaining offences as well. Hence, the following sentence can be imposed on the convicted accused, to meet the ends of justice.

Sentence

i) The accused No.1/convict is sentenced to suffer imprisonment for life and to pay fine of ₹.1,00,000/- and in default of payment of fine to suffer rigorous imprisonment for two years U/s.302 IPC. He is also sentenced to suffer rigorous imprisonment for 3 months U/s.143 IPC, rigorous

imprisonment for 6 months U/s.147 IPC, rigorous imprisonment for one year U/s.148 IPC, rigorous imprisonment for 3 months U/s.323 IPC, rigorous imprisonment for one year U/s.324 IPC r/w. 149 IPC, simple imprisonment for 2 weeks U/s.341 r/w.149 IPC. The substantive sentences shall run concurrently. The detention undergone by him during the course of investigation from 01.06.2012 to 07.09.2012 can be considered for set off, while the appropriate Government passes orders of remission of the sentence of imprisonment for life U/S. 473 of BNSS, subject to the provisions in section 475 of BNSS.

ii) The accused No.3/convict is sentenced to suffer imprisonment for life and to pay fine of ₹.1,00,000/- and in default of payment of fine to suffer rigorous imprisonment for two years U/s.302 r/w.149 IPC. He is also sentenced to suffer rigorous imprisonment for 3 months U/s.143 IPC, rigorous imprisonment for 6 months U/s.147 IPC, rigorous imprisonment for one year U/s.148 IPC, rigorous imprisonment for 3 months U/s.323 r/w. 149 IPC, rigorous imprisonment for one year U/s.324 IPC, simple imprisonment for 2 weeks U/s.341 r/w.149 IPC. The substantive sentences shall run concurrently. The detention undergone by him during the course of investigation from 01.06.2012 to 07.09.2012 can be considered for set off, while the appropriate Government passes orders of remission of the sentence of imprisonment for life U/S. 473 of BNSS, subject to the provisions in section 475 of BNSS.

iii) The accused No.7/convict is sentenced to suffer imprisonment for life and to pay fine of ₹.1,00,000/- and in default of payment of fine to suffer rigorous imprisonment for two years U/s.302 r/w. 149 IPC. He is also sentenced to suffer rigorous imprisonment for 3 months U/s.143 IPC, rigorous imprisonment for 6 months U/s.147 IPC, rigorous imprisonment for 2 months U/s.447 r/w. 149 IPC, rigorous imprisonment for 6 months U/s.506(1) r/w. 149 IPC, rigorous imprisonment for 2 years and to pay fine of ₹.10,000/- and in default of payment of fine to suffer rigorous imprisonment for 3 months U/s.452 r/w.149 IPC, rigorous imprisonment for 4 years and to pay fine of ₹.25,000/- and in default of payment of fine to suffer rigorous imprisonment for one year U/s.364 r/w.149 IPC, simple imprisonment for 2 weeks U/s.341 r/w.149 IPC, rigorous imprisonment for 3 months U/s.323 r/w. 149 IPC, rigorous imprisonment for one year U/s.324 r/w. 149 IPC. The substantive sentences shall run concurrently. The detention undergone by him during the course of investigation from 29.03.2012 to 12.06.2012 can be considered for set off, while the appropriate Government passes orders of remission of the sentence of imprisonment for life U/S. 473 of BNSS, subject to the provisions in section 475 of BNSS.

iv) The accused No.9/convict is sentenced to suffer imprisonment for life and to pay fine of ₹.1,00,000/- and in default of payment of fine to suffer rigorous imprisonment for two years U/s.302 r/w. 149 IPC. He is also sentenced to suffer rigorous imprisonment for 3 months U/s.143 IPC,

rigorous imprisonment for 6 months U/s.147 IPC, rigorous imprisonment for one year U/s.148 IPC, rigorous imprisonment for 2 months U/s.447 r/w. 149 IPC, rigorous imprisonment for 6 months U/s.506(1) r/w. 149 IPC, rigorous imprisonment for 2 years and to pay fine of ₹.10,000/- and in default of payment of fine to suffer rigorous imprisonment for 3 months U/s.452 r/w.149 IPC, rigorous imprisonment for 4 years and to pay fine of ₹.25,000/- and in default of payment of fine to suffer rigorous imprisonment for one year U/s.364 r/w.149 IPC, simple imprisonment for 2 weeks U/s.341 r/w.149 IPC, rigorous imprisonment for 3 months U/s.323 r/w. 149 IPC, rigorous imprisonment for one year U/s.324 r/w. 149 IPC. The substantive sentences shall run concurrently. The detention undergone by him during the course of investigation from 29.03.2012 to 12.06.2012 can be considered for set off, while the appropriate Government passes orders of remission of the sentence of imprisonment for life U/S. 473 of BNSS, subject to the provisions in section 475 of BNSS.

v) The accused No.10/convict is sentenced to suffer imprisonment for life and to pay fine of ₹.1,00,000/- and in default of payment of fine to suffer rigorous imprisonment for two years U/s.302 r/w. 149 IPC. He is also sentenced to suffer rigorous imprisonment for 3 months U/s.143 IPC, rigorous imprisonment for 6 months U/s.147 IPC, rigorous imprisonment for 2 months U/s.447 r/w. 149 IPC, rigorous imprisonment for 6 months U/s.506(1) r/w. 149 IPC, rigorous imprisonment for 2 years and to pay fine of ₹.10,000/-

and in default of payment of fine to suffer rigorous imprisonment for 3 months U/s.452 r/w.149 IPC, rigorous imprisonment for 4 years and to pay fine of ₹.25,000/- and in default of payment of fine to suffer rigorous imprisonment for one year U/s.364 r/w.149 IPC, simple imprisonment for 2 weeks U/s.341 r/w.149 IPC, rigorous imprisonment for 3 months U/s.323 r/w. 149 IPC, rigorous imprisonment for one year U/s.324 r/w. 149 IPC. The substantive sentences shall run concurrently. The detention undergone by him during the course of investigation from 29.03.2012 to 23.06.2012 can be considered for set off, while the appropriate Government passes orders of remission of the sentence of imprisonment for life U/S. 473 of BNSS, subject to the provisions in section 475 of BNSS.

vi) The accused No.12/convict is sentenced to suffer imprisonment for life and to pay fine of ₹.1,00,000/- and in default of payment of fine to suffer rigorous imprisonment for two years U/S.302 r/w. 149 IPC. He is also sentenced to suffer rigorous imprisonment for 3 months U/s.143 IPC, rigorous imprisonment for 6 months U/s.147 IPC, rigorous imprisonment for 2 months U/s.447 r/w. 149 IPC, rigorous imprisonment for 6 months U/s.506(1) r/w. 149 IPC, rigorous imprisonment for 2 years and to pay fine of ₹.Rs.10,000/- and in default of payment of fine to suffer rigorous imprisonment for 3 months U/s.452 r/w.149 IPC, rigorous imprisonment for 4 years and to pay fine of ₹.25,000/- and in default of payment of fine to suffer rigorous imprisonment for one year U/s.364 r/w.149 IPC, simple imprisonment

for 2 weeks U/s.341 r/w.149 IPC, rigorous imprisonment for 3 months U/s.323 r/w. 149 IPC, rigorous imprisonment for one year U/s.324 r/w. 149 IPC. The substantive sentences shall run concurrently. The detention undergone by him during the course of investigation from 29.03.2012 to 12.06.2012 can be considered for set off, while the appropriate Government passes orders of remission of the sentence of imprisonment for life U/S. 473 of BNSS, subject to the provisions in section 475 of BNSS.

vii) The accused No.14/convict is sentenced to suffer rigorous imprisonment for 3 months U/s.143 IPC, rigorous imprisonment for 6 months U/s.147 IPC, rigorous imprisonment for 2 months U/s.447 r/w. 149 IPC, rigorous imprisonment for 6 months U/s.506(1) r/w. 149 IPC, rigorous imprisonment for 2 years and to pay fine of ₹.10,000/- and in default of payment of fine to suffer rigorous imprisonment for 3 months U/s.452 r/w.149 IPC and simple imprisonment for 2 weeks U/s.341 r/w.149 IPC. Set off is allowed U/s. 428 Cr.P.C/468 of BNSS in respect of the detention already undergone by him during the course of investigation from 13.05.2012 to 26.07.2012.

viii) The accused No.15/convict is sentenced to suffer imprisonment for life and to pay fine of ₹.1,00,000/- and in default of payment of fine to suffer rigorous imprisonment for two years U/s.302 r/w. 149 IPC. He is also sentenced to suffer rigorous imprisonment for 3 months U/s.143 IPC, rigorous imprisonment for 6 months U/s.147 IPC, rigorous imprisonment for 2

months U/s.447 r/w. 149 IPC, rigorous imprisonment for 6 months U/s.506(1) r/w. 149 IPC, rigorous imprisonment for 2 years and to pay fine of ₹.10,000/- and in default of payment of fine to suffer rigorous imprisonment for 3 months U/s.452 r/w.149 IPC, rigorous imprisonment for 4 years and to pay fine of ₹.25,000/- and in default of payment of fine to suffer rigorous imprisonment for one year U/s.364 r/w.149 IPC, simple imprisonment for 2 weeks U/s.341 r/w.149 IPC, rigorous imprisonment for 3 months U/s.323 r/w. 149 IPC, rigorous imprisonment for one year U/s.324 r/w. 149 IPC. The substantive sentences shall run concurrently. The detention undergone by him during the course of investigation from 29.05.2012 to 14.08.2012 can be considered for set off, while the appropriate Government passes orders of remission of the sentence of imprisonment for life U/S. 473 of BNSS, subject to the provisions in section 475 of BNSS.

ix) The accused No.16/convict is sentenced to suffer rigorous imprisonment for 2 years and to pay fine of ₹.10,000/- and in default of payment of fine to suffer rigorous imprisonment for 3 months under section 511 r/w.201 of IPC. Set off is allowed U/s. 428 Cr.P.C/468 of BNSS in respect of the detention already undergone by him during the course of investigation from 01.06.2012 to 07.09.2012.

x) The accused No.25/convict is sentenced to suffer rigorous imprisonment for 3 months U/s.143 IPC, rigorous imprisonment for 6 months U/s.147 IPC, rigorous imprisonment for 2 months U/s.447 r/w. 149 IPC,

rigorous imprisonment for 6 months U/s.506(1) r/w. 149 IPC, rigorous imprisonment for 2 years and to pay fine of ₹.10,000/- and in default of payment of fine to suffer rigorous imprisonment for 3 months U/s.452 r/w.149 IPC and simple imprisonment for 2 weeks U/s.341 r/w.149 IPC. The substantive sentences shall run concurrently. Set off is allowed U/s. 428 Cr.P.C/468 of BNSS in respect of the detention already undergone by him during the course of investigation from 28.04.2012 to 17.07.2012.

xi) The accused No.26/convict is sentenced to suffer rigorous imprisonment for 3 months U/s.143 IPC, rigorous imprisonment for 6 months U/s.147 IPC, rigorous imprisonment for 2 months U/s.447 r/w. 149 IPC, rigorous imprisonment for 6 months U/s.506(1) r/w. 149 IPC, rigorous imprisonment for 2 years and to pay fine of ₹.10,000/- and in default of payment of fine to suffer rigorous imprisonment for 3 months U/s.452 r/w.149 IPC and simple imprisonment for 2 weeks U/s.341 r/w.149 IPC. Set off is allowed U/s. 428 Cr.P.C/468 of BNSS in respect of the detention already undergone by him during the course of investigation from 25.05.2012 to 14.08.2012.

xii) The accused No.27/convict is sentenced to suffer rigorous imprisonment for 3 months U/s.143 IPC, rigorous imprisonment for 6 months U/s.147 IPC, rigorous imprisonment for 2 months U/s.447 r/w. 149 IPC, rigorous imprisonment for 6 months U/s.506(1) r/w. 149 IPC, rigorous imprisonment for 2 years and to pay fine of ₹.10,000/- and in default of

payment of fine to suffer rigorous imprisonment for 3 months U/s.452 r/w.149 IPC and simple imprisonment for 2 weeks U/s.341 r/w.149 IPC. The substantive sentences shall run concurrently. Set off is allowed U/s. 428 Cr.P.C/468 of BNSS in respect of the detention already undergone by him during the course of investigation from 29.02.2012 to 26.05.2012.

xiii) The accused No.28/convict is sentenced to suffer rigorous imprisonment for 3 months U/s.143 IPC, rigorous imprisonment for 6 months U/s.147 IPC, rigorous imprisonment for 2 months U/s.447 r/w. 149 IPC, rigorous imprisonment for 6 months U/s.506(1) r/w. 149 IPC, rigorous imprisonment for 2 years and to pay fine of ₹.10,000/- and in default of payment of fine to suffer rigorous imprisonment for 3 months U/s.452 r/w.149 IPC and simple imprisonment for 2 weeks U/s.341 r/w.149 IPC. The substantive sentences shall run concurrently. Set off is allowed U/s. 428 Cr.P.C/468 of BNSS in respect of the detention already undergone by him during the course of investigation from 18.05.2012 to 01.08.2012.

xiv) Out of the compensation amount, if realised, ₹.5,00,000/- shall be paid to CW25, Athika, the mother of the deceased, as compensation U/s 357(1)(b) of Cr.P.C/395(1)(b) of BNSS.

xv) Send the accused Nos.1, 3, 7, 9, 10, 12 and 15 to Central Prison, Kannur, through the Superintendent of Sub Jail, Ernakulam to suffer the sentence. The accused Nos. 14, 16 and 25 to 28 can be released on bail, if they offer bail.

xvi) Orders regarding disposal of Material Objects U/s.452 of Cr.P.C/498 of BNSS :- Destroy MO.1 to MO.5, MO.9 to MO.16, MO.18 and MO.19, being valueless (MO5 has become valueless due its old age and non user for the last 14 years). MO.6 to MO.8, MO.17 and MO.20 (with MO.8 knife) shall be confiscated and MO.21 can be released in favour of accused No.16. Disposal of MOs can be on expiry of appeal period or when an appeal is presented, after the disposal of the appeal. The motor cycles bearing Regn. Nos. KL-13-U-2973, KL-13-W-9804 and KL-13-V-3601 were already released in favour of accused Nos.16, 2 and 3 on bond, as per orders of the Hon'ble Court of Session, Thalassery and the said bonds are made absolute.

Dictated to the Confidential Assistant, transcribed and prepared by her in computer, corrected by me and pronounced in open Court on this the 19th day of November, 2026.

Sd/-
Sabarinathan.P
Special Judge, (SPE/CBI) – III
Ernakulam

A P P E N D I X

Prosecution witnesses

Prosecution witness No.	Name of witnesses	Description
PW1	Sakkaria	First informant, injured and occurrence witness
PW2	Ayoob	Injured and occurrence witness
PW3	Fathima	Occurrence witness

PW4	Poomangalath Chatti Sidhique	Witness for inquest
PW5	Muhammad Ashraf	Witness for inquest
PW6	P. Balaram	Witness to Ext.P4 Scene mahazar
PW7	Asif Ali	Witness to prove that, PW2 sustained injuries while playing cricket.
PW8	Chalil Nazeer	Independent witness, cited to prove the riding of A1 and A2 on a motorcycle to the scene of occurrence.
PW9	Narayanan	Police Officer, who recorded FI Statement and registered FIR.
PW10	Sreedharan	Police Officer and witness to Ext.P6, Seizure mahazar.
PW11	B. Sreekumar	Police driver, who went to the scene of occurrence with police party.
PW12	E.P. Suresan	Police Officer, who took PW2 to the hospital.
PW13	Ajeesh Jayan	Guarded the scene of occurrence and also a witness to Exts.P7 & P8 seizure mahazars.
PW14	Davood	Elder brother of the deceased
PW15	K. Radhakrishnan	Witness to Ext.P9, seizure mahazar regarding seizure of MO18 & MO19.
PW16	M.K. Manoharan	Reporter of Maktab Daily, cited to prove the conspiracy by A28 to A33.
PW17	D. Mohammed Iqbal	Former Councilor of Taliparamba Municipality, cited to prove the mobile number of A31, Babu.
PW18	K. Santhosh	Subscriber of the SIM card, allegedly used by A31.
PW19	Isham P.T.P	Witness to Ext.P10 and P11 mahazars.

PW20	Junaid K.T.P	Witness to Ext.P12 seizure mahazar.
PW21	Ihsan K.P.	Witness to Ext.P13 seizure mahazar.
PW22	Vijayan C	Witness to Ext.P14 seizure mahazar.
PW23	P. Padmanabhan	Village officer, Kannapuram, who issued Exts.P17 & P18.
PW24	P.K. Preman	Secretary of Kannapuram Grama Panchayat, who issued Ext.P19 Ownership Certificate.
PW25	Dr. S. Gopalakrishna Pillai	Police Surgeon, who conducted autopsy of the body of Abdul Shukkoor and issued Ext.P20, Postmortem Certificate.
PW26	Dr. E.K. Satheesh Kumar	Examined PW1 and issued Ext.P22 wound certificate.
PW27	P. Ramachandran	Police Officer, to prove Exts.P23 and P24, the certified copies of the FIR and FIS in Crime No.221/2012 of Taliparamba Police Station.
PW28	N.C. Dasan	Police Officer, to prove Exts.P25 and P26, the certified copies of the FIR and FIS in Crime No.228/2012 of Taliparamba Police Station.
PW29	M.P. Raveendran	Police Officer, to prove Exts.P27 to P34, the certified copies of the FIR and FIS in Crime No.229/2012, 230/2012, 231/2012 and 232/2012 of Taliparamba Police Station. Ext.P35 copy of the report was also proved through him.
PW30	K.T. Abootty	Witness to Ext.P36, scene mahazar.
PW31	K. Vasudevan	Nodal Officer of Bharati Airtel. Exts.P37 to P40 were proved

		through him.
PW32	K.C. Mohanan Nambiar	RTO, Kannur, to prove Exts.P41 to P43 RC particulars.
PW33	Anilkumar	Police Officer, to prove Ext.P35 report.
PW34	Dr. Joseph Benaven	Additional witness, cited to prove Exts.P44 and P45, as CW50 Dr. Muhammed Kunhi is reported no more.
PW35	Ramesh Raj	Nodal Officer of BSNL. Exts.P46 to P69 were proved through him.
PW36	Augustine Joseph	Nodal Officer of Vodafone India. Exts.P70 to P92 were proved through him.
PW37	Ajeesh Thekkadavan	Scientific Assistant, RFSL, Thrissur. Exts.P93 to P98 and C1 were proved through him.
PW38	Anil T.P.	Former JFCM-II, Kannur, who conducted Test Identification Parade in respect of the suspects in this case. Exts.P99 to P107 reports were proved through him. He also recorded the statement of PW1 under section 164 of Cr.PC.
PW39	U. Preman	Inspector of Police, Valapattanam, who conducted entire part of the investigation and submitted final report before Court. Exts.P108 to P236, P238 & P239 were proved through him.
PW40	Sallal A.N.	Inspector of Police, CBI, Thiruvananthapuram, who conducted further investigation. Ext.P237, FIR was marked through him.
PW41	Harikumar Y	Additional Superintendent of Police, CBI, Thiruvananthapuram, who conducted further

		investigation of the case and laid supplementary final report.

Defense witnesses :

Defense witness No.	Name of witnesses	Description
DW1	Premaja	Wife of accused No.27, to prove that accused No.27 was in Co-operative Hospital, Taliparamba on the dated of incident along with her.
DW2	Bindu	Sister in law of DW1, to prove that accused No.27 was in Co-operative Hospital, Taliparamba on the dated of incident along with DW1.

Court witnesses : Nil.

Prosecution side exhibits :

Exhibit No.	Description of the exhibits	Proved by/ Attested by
Ext.P1	F I Statement dated 20.02.2012.	PW1
Ext.P2	Seizure mahazar, in respect of seizure of Nokia Mobile Phone, dated 21.02.2012.	PW3
Ext.P3	Inquest report in respect of the body of Shukkur dated 21.02.2012.	PW5
Ext.P4	Scene mahazar dated 20.02.2012.	PW6
Ext.P5	FIR in Crime No.136/12 of Kannapuram Police Station.	PW9
Ext.P6	Seizure mahazar dated 20.02.2012, in respect of seizure of dresses (MO3, MO4 & MO16) and currency notes (MO17 series).	PW10
Ext.P7	Seizure mahazar dated 23.06.2012, in respect of Motor Cycle - KL-13-V-3601.	PW13
Ext.P8	Seizure mahazar dated 23.06.2012, in respect of Motor Cycle KL-13-W-9804.	PW13

Ext.P9	Seizure mahazar of blood stained cotton and blood stained grass (MO18 & MO19).	PW15
Ext.P10	Seizure mahazar dated 16.06.2012, in respect of seizure of MO7 knife.	PW19
Ext.P10(a)	Relevant portion of the disclosure statement of Accused No.3, Anoop.	PW39
Ext.P11	Observation mahazar dated 16.06.2012, regarding the place of alleged concealment of weapon by A1, Sumesh.	PW19
Ext.P12	Seizure mahazar dated 02.06.2012, in respect of seizure of MO8, MO20 & MO21 and the Motorcycle-KL-13-U-2973.	PW20
Ext.P12(a)	Relevant portion of the disclosure statement of Accused No.16, Sajith.	PW39
Ext.P13	Seizure mahazar dated 06.06.2012, in respect of seizure of MO6, knife.	PW21
Ext.P13(a)	Relevant portion of disclosure statement of Accused No.2, Ganesan.	PW39
Ext.P14	Seizure mahazar of case sheets relating to Accused Nos.32 & 33 (copies of case sheets are Exts.P15 & P16).	PW22
Ext.P15	Certified copy of case sheet of Co-operative Hospital in respect of P. Jayarajan, A32.	PW22
Ext.P16	Certified copy of case sheet of Co-operative Hospital in respect of T.V. Rajesh, A33.	PW22
Ext.P17	Site plan dated 30.03.2012.	PW23
Ext.P18	Possession certificate dated 22.08.2012.	PW23
Ext.P19	Ownership certificate in respect of House No.KP I/101 of Kannapuram Grama Panchayat.	PW24
Ext.P20	Postmortem certificate dated 22.02.2012, in respect of the Autopsy of the body of Shukkoor.	PW25
Ext.P21	Police Intimation, regarding the death of Shukkoor.	PW25
Ext.P22	Wound certificate dated 20.02.2012 in respect of Sakariya/PW1, issued from the St. Martin De Porres Hospital, Cherukunnu.	PW26
Ext.P23	Certified copy of FIR in Crime No.221/2012 of	PW27

	Taliparamba Police Station dated 19.02.2012.	
Ext.P24	Certified copy of FI Statement of K. Rajan, in Crime No.221/2012 of Taliparamba Police Station dated 19.02.2012.	PW27
Ext.P25	Certified copy of FIR in Crime No.228/12 of Taliparamba Police Station dated 20.02.2012.	PW28
Ext.P26	Certified copy of FI Statement of Sarith in Crime No.228/12 of Taliparamba Police Station dated 20.02.2012.	PW28
Ext.P27	Certified copy of FIR in Crime No.229/12 of Taliparamba Police Station dated 20.02.2012.	PW29
Ext.P28	Certified copy of FI Statement of P. Jayarajan in Crime No.229/12 of Taliparamba Police Station dated 20.02.2012.	PW29
Ext.P29	Certified copy of FIR in Crime No.230/12 of Taliparamba Police Station dated 20.02.2012.	PW29
Ext.P30	Certified copy of FI Statement of K. Balakrishnan in Crime No.230/12 of Taliparamba Police Station dated 20.02.2012.	PW29
Ext.P31	Certified copy of FIR in Crime No.231/12 of Taliparamba Police Station dated 20.02.2012.	PW29
Ext.P32	Certified copy of FI Statement of M. Shijith in Crime No.231/12 of Taliparamba Police Station dated 20.02.2012.	PW29
Ext.P33	Certified copy of FIR in Crime No.232/12 of Taliparamba Police Station dated 20.02.2012.	PW29
Ext.P34	Certified copy of FI Statement of Jubair K.K. in Crime No.232/12 of Taliparamba Police Station dated 20.02.2012.	PW29
Ext.P35	Certified copy of report dated 10.08.2012 in Crime No.232/12 of Taliparamba Police Station, to delete the names of Umesh @ Umeshan and K. Babu.	PW29
Ext.P36	Observation mahazar dated 06.06.2012, regarding visit of Room No.315 of Co-operative Hospital, Taliparamba.	PW30
Ext.P37	Letter dated 16.08.2012 of Nodal Officer Bharat	PW31

	Airtel to the District Police Chief, Kannur.	
Ext.P38	Seizure mahazar dated 18.08.2012, regarding seizure of Ext.P37.	PW31
Ext.P39	Call details of mobile number 9995028267 of Accused No.2, Ganeshan dated 20.02.2012.	PW31
Ext.P40	Seizure mahazar dated 18.08.2012, regarding seizure of Ext.P39.	PW31
Ext.P41	Registration particulars in respect of the Hero Honda Motor Cycle-KL-13-U-2973.	PW32
Ext.P42	Registration particulars in respect of the Bajaj Discover 150 Motorcycle-KL-13-W-9804.	PW32
Ext.P43	Registration particulars in respect of the Hero Honda Passion Pro Motor cycle-KL-13-V-3601.	PW32
Ext.P44	Wound certificate of Ayoob/PW2 dated 20.02.2012, issued from the Lourde Hospital, Taliparamba.	PW34
Ext.P45	Treatment certificate and discharge summary of Sakkaria/PW1 dated 22.08.2012, issued from the Lourde Hospital, Taliparamba.	PW34
Ext.P46	Call details relating the mobile number 9895285665.	PW35
Ext.P47	Certificate u/s. 65-B of Indian Evidence Act.	PW35
Ext.P48	Seizure mahazar dated 17.08.2012, regarding seizure of Ext.P46 & Ext.P47.	PW35
Ext.P49	Call details in respect of mobile No.9400582078 of Mohanan/A25.	PW35
Ext.P50	Certificate u/s.65-B of Indian Evidence Act.	PW35
Ext.P51	Copy of Customer Application Form.	PW35
Ext.P52	Copy of Election ID Card of C.N.Mohanan/A25.	PW35
Ext.P53	Seizure mahazar dated 17.08.2012 in respect of Ext.P49 and Ext.P50.	PW35
Ext.P54	Seizure mahazar dated 17.08.2012 in respect of Ext.P51 and Ext.P52.	PW35
Ext.P55	Call Details Records relating to the mobile number	PW35

	9400381004 of Bijumon/A12.	
Ext.P56	Certificate u/s 65-B of Evidence Act.	PW35
Ext.P57	Seizure mahazar dated 17.08.2012, in respect of Ext.P55 & 56.	PW35
Ext.P58	Call Details Records relating to the mobile number 9447647708 of Santhosh K/PW18.	PW35
Ext.P59	Certificate u/s. 65-B of Evidence Act.	PW35
Ext.P60	Copy of Customer Application Form.	PW35
Ext.P61	Copy of Election ID card of Santhosh K/PW18.	PW35
Ext.P62	Seizure mahazar dated 17.08.2012, in respect of Ext.P58 & 59.	PW35
Ext.P63	Seizure mahazar dated 17.08.2012, in respect of Ext.P60 & 61.	PW35
Ext.P64	Call Details Records relating to the mobile number 9656674189 of Babu K/A29.	PW35
Ext.P65	Certificate u/s. 65-B of Evidence Act.	PW35
Ext.P66	Seizure mahazar dated 17.08.2012, in respect of Ext.P64 & 65.	PW35
Ext.P67	Call Details Records relating to the mobile number 9847478825 of Sudhakaran/A17.	PW35
Ext.P68	Certificate u/s. 65-B of Evidence Act.	PW35
Ext.P69	Seizure mahazar dated 17.08.2012, in respect of Ext.P67 & 68.	PW35
Ext.P70	Call Data Records relating to mobile number 9846692074 of U.V. Venu/A30.	PW36
Ext.P71	Seizure mahazar dated 18.08.2012 regarding seizure of Ext.P70.	PW36
Ext.P72	Certificate u/s. 65-B of Evidence Act.	PW36
Ext.P73	Seizure mahazar dated 18.08.2012, in respect of	PW36

	Ext.P72.	
Ext.P74	Call Data Records relating to mobile number 9947720953 of Shyamjith/A19.	PW36
Ext.P75	Certificate u/s. 65-B of Evidence Act.	PW36
Ext.P76	Customer Application Form and ID proof of Shyamjith G.S/A19.	PW36
Ext.P77	Call Data Records relating to mobile number 9744569234 of Dineshan/A10.	PW36
Ext.P78	Certificate u/s. 65-B of Evidence Act.	PW36
Ext.P79	Customer Application Form and ID proof of Dineshan P/A10.	PW36
Ext.P80	Seizure mahazar dated 18.08.2012, in respect of Ext.P74 to P79.	PW36
Ext.P81	Call Data Records relating to mobile number 9947193926 of Vijesh/A4.	PW36
Ext.P82	Certificate u/s. 65-B of Evidence Act.	PW36
Ext.P83	Print-out of Customer Application Form of Vijesh/A4.	PW36
Ext.P84	Print-out of ID proof of Vijesh/A4.	PW36
Ext.P85	Call Data Records relating to mobile number 9656690383 of K.V. Anoop/A3.	PW36
Ext.P86	Certificate u/s. 65-B of Evidence Act.	PW36
Ext.P87	Common print-out of Customer Application Form and ID proof of K.V. Anoop/A3.	PW36
Ext.P88	Seizure mahazar dated 18.08.2012, in respect of Ext.P81 to P87.	PW36
Ext.P89	Call Data Records relating to mobile number 9744501196 of Abdul Salam/CW4.	PW36
Ext.P90	Certificate u/s. 65-B of Evidence Act.	PW36

Ext.P91	Common print-out of Customer Application Form and ID proof of Abdul Salam/CW4.	PW36
Ext.P92	Seizure mahazar dated 18.08.2012, in respect of Exts.P89 to P91.	PW36
Ext.P93	Report on the Examination of Scene of Occurrence dated 19.03.2012, by Scientific Assistant, RFSL, Kannur/PW37.	PW37
Ext.P94	Covering letter of Ext.P93 dated 20.03.2012.	PW37
Ext.P95	Report of Scientific Assistant, RFSL, Kannur/PW37 dated 30.06.2012.	PW37
Ext.P96	Covering letter of Ext.P95 dated 03.07.2012.	PW37
Ext.P97	Report of Scientific Assistant, RFSL, Kannur/PW37 dated 25.08.2012.	PW37
Ext.P98	Covering letter of Ext.P97 dated 10.09.2012.	PW37
Ext.P99	Report of Test Identification Parade dated 19.03.2012 in respect of Accused No.27 submitted by Anil T.P, JFCM-II, Kannur.	PW38
Ext.P100	Report of Test Identification Parade dated 10.04.2012 in respect of Accused Nos.17, 7, 6, 4, 29, 10, 12 & 9 submitted by Anil T.P, JFCM-II, Kannur.	PW38
Ext.P101	Report of Test Identification Parade dated 16.05.2012 in respect of Accused No.25 submitted by Anil T.P, JFCM-II, Kannur.	PW38
Ext.P102	Report of Test Identification Parade dated 23.05.2012 in respect of Accused No.14 submitted by Anil T.P, JFCM-II, Kannur.	PW38
Ext.P103	Report of Test Identification Parade dated 01.06.2012 in respect of Accused No.28 submitted by Anil T.P, JFCM-II, Kannur.	PW38
Ext.P104	Report of Test Identification Parade dated 07.06.2012 in respect of Accused Nos.8, 2, 6, 22 & 21 submitted by Anil T.P, JFCM-II, Kannur.	PW38

Ext.P105	Report of Test Identification Parade dated 14.06.2012 in respect of Accused Nos.15, 13 & 11 submitted by Anil T.P, JFCM-II, Kannur.	PW38
Ext.P106	Report of Test Identification Parade dated 14.06.2012 in respect of Accused Nos.1 & 3 submitted by Anil T.P, JFCM-II, Kannur.	PW38
Ext.P107	Report of Test Identification Parade dated 16.07.2012 in respect of Accused No.20 submitted by Anil T.P, JFCM-II, Kannur.	PW38
Ext.P108	Report to add S.302 IPC dated 20.02.2012.	PW39
Ext.P109	Seizure mahazar dated 20.02.2012, regarding seizure of dress of PW1, Sakkaria (MO1 & MO2).	PW39
Ext.P110	Report to keep the mobile phone (MO5) seized under mahazar in safe custody for investigation.	PW39
Ext.P111	Additional scene mahazar dated 21.02.2012.	PW39
Ext.P112	Report to keep the chappals seized under Scene Mahazar in safe custody for Investigation, dated 21.02.2012.	PW39
Ext.P113	List of property regarding pieces of calender sheets (MO11 & MO12) dated 24.02.2012.	PW39
Ext.P114	List of property regarding shirt, pant, blood stained grass and soil (MO1, MO2 & MO10) dated 24.02.2012.	PW39
Ext.P115	List of property related to shirt, currency (100x3) Baniyan and pant (MO3, MO17, MO16 & MO4) dated 24.02.2012.	PW39
Ext.P116	List of property regarding MO18 & MO19 dated 24.02.2012.	PW39
Ext.P117	List of property dated 27.02.2012 regarding Chappals (MO13, MO14, MO15 & MO9 and Mobile phone).	PW39
Ext.P118	Report dated 08.03.2012, to add Ajayan and 11 others in the array of suspects.	PW39

Ext.P119	Report dated 29.02.2012, to add S.109 IPC.	PW39
Ext.P120	Report to add the name of P.K. Ajith Kumar, A27.	PW39
Ext.P121	Remand report dated 29.02.2012 to add P.K. Ajith Kumar, A27.	PW39
Ext.P122	Arrest memo/Inspection memo dated 29.02.2012, in respect of P.K. Ajith Kumar, A27.	PW39
Ext.P123	Report dated 11.03.2012, to add P. Rajeevan, A24.	PW39
Ext.P124	Remand Report dated 12.03.2012, in respect of P. Rajeevan, A24.	PW39
Ext.P125	Arrest memo dated 11.03.2012, in respect of P. Rajeevan, A24.	PW39
Ext.P126	Inspection memo dated 11.03.2012, in respect of P. Rajeevan, A24.	PW39
Ext.P127	Observation mahazar dated 16.03.2012.	PW39
Ext.P128	Report dated 26.03.2012 mentioning the name and address of Ajayakumar and 18 others.	PW39
Ext.P129	Report dated 29.03.2012 for formal arrest of Sudhakaran & others.	PW39
Ext.P130	Report dated 09.04.2012, to issue production warrant against Sudhakaran & others.	PW39
Ext.P131	Report dated 09.04.2012, to get police custody of Sudhakaran & others.	PW39
Ext.P132	Affidavit dated 09.04.2012 for police custody of Sudhakaran & others.	PW39
Ext.P133	Report dated 10.04.2012, seeking permission to take photo of Ajith Kumar/A27 from jail.	PW39
Ext.P134	Report dated 13.04.2012 filed at the time of producing back of Sudhakaran & others from police custody.	PW39
Ext.P135	Report dated 28.04.2012, to add the names of Latheesh and others (A8 & others).	PW39
Ext.P136	Report dated 13.05.2012 to change the rank of E.P. Radhakrishnan from A30 to A29 (presently A14).	PW39

Ext.P137	Report dated 28.04.2012, showing the full address of V.V. Mohanan, A25.	PW39
Ext.P138	Remand report dated 28.04.2012, in respect of V.V. Mohanan, A25.	PW39
Ext.P139	Arrest memo of V.V. Mohanan-A25 dated 28.04.2012.	PW39
Ext.P140	Inspection memo of V.V. Mohanan-A25 dated 28.04.2012.	PW39
Ext.P141	Report dated 13.05.2012, showing full address of E.P. Radhakrishnan,A14.	PW39
Ext.P142	Remand report dated 14.05.2012, in respect of E.P. Radhakrishnan, A14.	PW39
Ext.P143	Arrest memo dated 13.05.2012, in respect of E.P. Radhakrishnan/A14.	PW39
Ext.P144	Inspection memo dated 13.05.2012 in respect of E.P. Radhakrishnan/A14.	PW39
Ext.P145	Report dated 19.05.2012, showing full address of Suresan P.P./A28.	PW39
Ext.P146	Remand report dated 19.05.2012, in respect of Suresan P.P/A28.	PW39
Ext.P147	Arrest memo dated 18.05.2012, in respect of Suresan P.P/A28.	PW39
Ext.P148	Inspection memo dated 18.05.2012, in respect of Suresan P.P/A28.	PW39
Ext.P149	Report dated 22.05.2012, to issue production warrant against E.P. Radhakrishnan/A14.	PW39
Ext.P150	Report dated 23.05.2012, for police custody of E.P. Radhakrishnan/A14.	PW39
Ext.P151	Affidavit dated 23.05.2012, for police custody of E.P. Radhakrishnan/A14.	PW39
Ext.P152	Report dated 27.05.2012, regarding producing back of E.P. Radhakrishnan from police custody.	PW39
Ext.P153	Report dated 25.05.2012 to add U.V. Venu/A30.	PW39
Ext.P154	Report dated 25.05.2012, seeking permission to	PW39

	interrogate and record the statement of Sudhakaran and others from Special Sub Jail, Kannur.	
Ext.P155	Report dated 25.05.2012, mentioning the full address of Purushothaman and others.	PW39
Ext.P156	Remand report dated 26.05.2012, in respect of Purushothaman and others.	PW39
Ext.P157	Arrest memo dated 25.05.2012, in respect of Purushothaman/A26.	PW39
Ext.P158	Inspection memo dated 25.05.2012, in respect of Purushothaman/A26.	PW39
Ext.P159	Arrest memo dated 25.05.2012, in respect of Prakashan/A22.	PW39
Ext.P160	Inspection memo dated 25.05.2012, in respect of Prakashan/A22.	PW39
Ext.P161	Arrest memo dated 25.05.2012, in respect of Shaji K.V./A21.	PW39
Ext.P162	Inspection memo dated 25.05.2012, in respect of Shaji K.V./A21.	PW39
Ext.P163	Arrest memo dated 25.05.2012, in respect of Venu-A30.	PW39
Ext.P164	Inspection memo dated 25.05.2012, in respect of Venu-A30.	PW39
Ext.P165	Custody memo dated 25.05.2012, in respect of Venu-A30.	PW39
Ext.P166	Report dated 27.05.2012, to add Ganesan, A2.	PW39
Ext.P167	Remand report dated 27.05.2012, in respect of Latheesh(A8) and Ganesan (A2).	PW39
Ext.P168	Arrest memo dated 26.05.2012, in respect of Latheesh/A8.	PW39
Ext.P169	Inspection memo dated 26.05.2012, in respect of Latheesh/A8.	PW39

Ext.P170	Custody memo dated 26.05.2012, in respect of Latheesh/A8.	PW39
Ext.P171	Arrest memo dated 26.05.2012, in respect of Ganesan, A2.	PW39
Ext.P172	Inspection memo dated 26.05.2012, in respect of Ganesan, A2.	PW39
Ext.P173	Custody memo dated 26.05.2012, in respect of Ganesan, A2.	PW39
Ext.P174	Report dated 30.05.2012, showing full name and address of Shijin, Nidhin & C.N. Mohanan/A15, A13 & A11.	PW39
Ext.P175	Remand report dated 30.05.2012, in respect of Shijin, Nidhin & C.N. Mohanan/A15, A13 & A11.	PW39
Ext.P176	Arrest memo dated 29.05.2012, in respect of Shijin/A15.	PW39
Ext.P177	Inspection memo dated 29.05.2012, in respect of Shijin/A15.	PW39
Ext.P178	Arrest memo dated 29.05.2012, in respect of Nidhin, A13.	PW39
Ext.P179	Inspection memo dated 29.05.2012, in respect of Nidhin, A13.	PW39
Ext.P180	Arrest memo dated 29.05.2012, in respect of Mohanan, A11.	PW39
Ext.P181	Inspection memo dated 29.05.2012, in respect of Mohanan, A11.	PW39
Ext.P182	Report dated 26.05.2012, to add S.120(B) of IPC for U.V. Venu-A30.	PW39
Ext.P183	Report dated 02.06.2012, to add K.V. Sumesh, Anoop & Sajith/A1, A3 & A16.	PW39
Ext.P184	Report dated 02.06.2012, seeking permission to keep the MO8, knife seized on 02.06.2012 in safe custody.	PW39
Ext.P185	Remand report dated 02.06.2012, in respect of	PW39

	Sumesh, Anoop & Sajith/A1, A3 & A16.	
Ext.P186	Custody memo dated 01.06.2012, in respect of Sumesh, A1.	PW39
Ext.P187	Arrest memo dated 01.06.2012, in respect of Sumesh, A1.	PW39
Ext.P188	Inspection memo dated 01.06.2012, in respect of Sumesh, A1.	PW39
Ext.P189	Custody memo dated 01.06.2012, in respect of Anoop, A3.	PW39
Ext.P190	Arrest memo dated 01.06.2012, in respect of Anoop, A3.	PW39
Ext.P191	Inspection memo dated 01.06.2012, in respect of Anoop, A3.	PW39
Ext.P192	Custody memo dated 01.06.2012, in respect of K.V. Sajith, A16.	PW39
Ext.P193	Arrest memo dated 01.06.2012, in respect of K.V. Sajith, A16.	PW39
Ext.P194	Inspection memo dated 01.06.2012, in respect of K.V. Sajith, A16.	PW39
Ext.P195	Extract of confession statement of Sumesh, A1 dated 01.06.2012.	PW39
Ext.P196	Report dated 02.06.2012, to issue production warrant against Latheesh and others.	PW39
Ext.P197	Report dated 04.06.2012, for police custody of Latheesh and others.	PW39
Ext.P198	Affidavit dated 04.06.2012, for police custody of Latheesh and others.	PW39
Ext.P199	Report dated 08.06.2012, seeking permission to keep the knife (MO6) in safe custody for the purpose of investigation.	PW39
Ext.P200	Report dated 08.06.2012, regarding producing back of Latheesh and others from police custody.	PW39
Ext.P201	Report dated 06.06.2012, for issuing production warrant against M.V. Purushothaman, Prakashan	PW39

	& K.V. Shaji.	
Ext.P202	Report dated 07.06.2012, for getting police custody of Purushothaman and others.	PW39
Ext.P203	Affidavit dated 07.06.2012, for police custody of Purushothaman and others.	PW39
Ext.P204	Report dated 08.06.2012, regarding producing back of Purushothaman and others from police custody.	PW39
Ext.P205	Property list dated 08.06.2012, regarding MO8, MO20, MO21 & motorcycle bearing registration No.KL-13-U-2973.	PW39
Ext.P206	Report dated 08.06.2012, seeking permission to keep the MO8, knife in safe custody.	PW39
Ext.P207	Notice dated 10.06.2012, issued to P. Jayarajan, A32 for appearance on 12.06.2012.	PW39
Ext.P208	Report dated 13.06.2012, to issue production warrant against Sumesh and Anoop/A1 & A3.	PW39
Ext.P209	Report dated 14.06.2012, to get police custody of Sumesh and Anoop (A1 & A3).	PW39
Ext.P210	Affidavit dated 14.06.2012, for police custody of Sumesh and Anoop (A1 & A3).	PW39
Ext.P211	Property list dated 15.06.2012, regarding MO6, Knife.	PW39
Ext.P212	Report dated 15.06.2012, regarding production of MO6, Knife.	PW39
Ext.P213	Report dated 16.06.2012, seeking permission to keep the MO7, knife seized as per statement of Anoop/A3 in safe custody of I.O.	PW39
Ext.P214	Report dated 16.06.2012, regarding producing back Sumesh and Anoop/A1 & A3 from Police custody.	PW39
Ext.P215	Report dated 21.06.2012, seeking permission to interrogate Ganesan/A2 & Anoop/A3.	PW39
Ext.P216	Report dated 21.06.2012, seeking permission to take photos and fingerprint of Shijin Mohan and 4	PW39

	others.	
Ext.P217	Property list dated 03.07.2012, regarding MO7, Knife.	PW39
Ext.P218	Report dated 04.07.2012, to add A.V. Babu and A. Sareesh (A31 & A20) in the array of the accused.	PW39
Ext.P219	Remand report dated 04.07.2012, in respect of A.V. Babu and A. Sareesh (A31 & A20)	PW39
Ext.P220	Custody memo dated 04.07.2012, in respect of A.V. Babu, A31.	PW39
Ext.P221	Custody memo dated 04.07.2012, in respect of A. Sareesh, A20.	PW39
Ext.P222	Arrest memo/Inspection memo dated 04.07.2012 , in respect of A.V. Babu, A31.	PW39
Ext.P223	Arrest memo/Inspection memo dated 04.07.2012, in respect of A. Sareesh, A20.	PW39
Ext.P224	Report dated 05.07.2012, to add Prakashan K/A5, in the array of the accused.	PW39
Ext.P225	Report dated 13.07.2012, to issue production warrant against A.V. Babu and Sareesh/A31 & A20.	PW39
Ext.P226	Report dated 16.07.2012, to get police custody of A.V. Babu and Sareesh/A31 & A20.	PW39
Ext.P227	Affidavit dated 16.07.2012, for police custody of A.V. Babu and Sareesh/A31 & A20.	PW39
Ext.P228	Report dated 18.07.2012, regarding producing back A.V. Babu and Sareesh/A31 & A20 from police custody.	PW39
Ext.P229	Copy of forwarding note dated 03.04.2012.	PW39
Ext.P230	Report dated 01.08.2012, to add S.118 of IPC and also to add P. Jayarajan and T.V. Rajesh.	PW39
Ext.P231	Remand report dated 01.08.2012, in respect of P. Jayarajan/A32.	PW39
Ext.P232	Arrest memo dated 01.08.2012, in respect of P. Jayarajan, A32.	PW39

Ext.P233	Inspection memo dated 01.08.2012, in respect of P. Jayarajan,A32.	PW39
Ext.P234	Report dated 23.08.2012, to add S.450, 201, 294(b) and 506(1) of IPC.	PW39
Ext.P235	Report dated 23.08.2012, to delete Baneesh, M.V. Sajeevan, Rameshan, Shaju, Biju & Mothanga Dinesan from the array of the accused.	PW39
Ext.P236	Report dated 23.08.2012, to re-arrange the rank of accused.	PW39
Ext.P237	FIR in RC/09(S)/2016/CBI/SCB/TVPM dated 14.06.2012.	PW39
Ext.P238	Wound certificate in respect of Sumesh, A1 dated 14.06.2012.	PW39
Ext.P239	Wound certificate in respect of Anoop, A3 dated 14.06.2012.	PW39

Defense Exhibits :

Exhibit No.	Marked through	Description
Ext.D1	PW1	Certified copy of remand report dated 21.01.2011 in Crime No.65/10 of Taliparamba Police Station.
Ext.D2	PW1	Certified copy of order in bail application - CMP 403/11 dated 24.01.2011 of JFCM Court, Taliparamba.
Ext.D3	PW14	Certified copy of Final Report in Crime No.267/2012 of Taliparamba Police Station.
Ext.D4	PW14	Certified copy of Final Report in Crime No.262/2012 of Taliparamba Police Station.
Ext.D5	PW29	Certified copy of arrest memo dated 07.04.2012 in Crime No.232/12 of Taliparamba Police Station, in respect of A6 & A29 herein.

Ext.D6	PW29	Certified copy of Final Report in Crime No.271/12 of Taliparamba Police Station.
Ext.D7	PW39	Certified copy of statement of Sumesh, A1 dated 14.06.2012 recorded by JFCM-I, Kannur.
Ext.D7(a)	PW39	Certified legible copy of Ext.D7.
Ext.D8	PW39	Certified copy of statement of Anoop dated 13.07.2012, recorded by JFCM-I, Kannur.
Ext.D9	PW39	Certified copy of statement of Sajith K.V. dated 13.07.2012, recorded by JFCM-I, Kannur.
Ext.D10	PW39	Certified copy of Crl.M.P.4385/19 in CC 1132/2012 dated 27.06.2019, filed by P. Sukumaran.
Ext.D11	PW39	Certified copy of order in CMP 4385/19 in CC 1132/12 of JFCM-II, Kannur dated 05.08.2019.
Ext.D12	PW39	Certified copy of Court charge dated 08.01.2020 in CC 1132/12 of JFCM-II, Kannur.
Ext.D13	PW39	Certified copy of order No.G.O.(Rt) No.2180/2012/Home dated 20.07.2012 of Government of Kerala, Thiruvananthapuram, regarding appointment of Shri. C.K. Sreedharan, Advocate as Special Public Prosecutor in crime No,136/12 of Kannapuram Police Station.
Ext.D14	PW39	Certified coy of order Crl.MC 2173/2013 dated 05.08.2014 of the Hon’ble High Court of Kerala.
Ext.D15	DW2	Discharge card issued from Taliparamba Co-operative Hospital Society in the name of Bindu, OP No.637853, IP No.83709.
Ext.D16	DW2	Baby card issued from Taliparamba Co-operative Hospital in the name of

		baby of Bindu.

Court Exhibits :

Exhibit No.	Marked through	Description
Ext.C1	PW37	Copy of letter of JFCM-I, Kannur dated 10.04.2012 regarding forwarding of material objects along with forwarding note to the RFSL, Kannur.
Ext.C2	PW39	Order in CMP 2121/12 dated 08.06.2012, of JFCM-I, Kannur in Crime No.136/12 of Valapattanam Police Station.

Third Party Exhibits

Exhibit No.	Marked through	Description
X1 Series	--	Statement filed by alternate Nodal Officer, Vi, Kerala Circle and accompanying subscriber details of Mobile No.9846843679. (Six sheets)

Material Objects :

Serial No.	Marked through	Description
MO1	PW1	Shirt of PW1.
MO2	PW1	Pants of PW1.
MO3	PW1	Shirt of Shukkoor (the deceased)
MO4	PW1	Pants of Shukkoor (the deceased)
MO5	PW1	Mobile phone of Shukkoor (the deceased)
MO6	PW1	Knife with green and red coloured handle
MO7	PW1	Knife with black coloured handle.

MO8	PW1	Folding knife.
MO9	PW2	A pair of Green colour Hawai chappal.
MO10	PW6	Blood stained grass and soil.
MO11	PW6	A piece of calendar page bearing the name Kannapuram Special Grade Bank and the print January 2012.
MO12	PW6	A piece of calender with an image of coconut tree.
MO13	PW6	A pair of chappals with black strap.
MO14	PW6	A pair of black colour VKC company chappals.
MO15	PW6	A black colour chappal.
MO16	PW10	Baniyan of Shukkoor (the deceased)
MO17	PW10	Blood stained currency note of the denomination ₹100/- bearing No.9CG-849926.
MO17(a)	PW10	Blood stained currency note of the denomination ₹100/- bearing No.4MD-J90298.
MO17(b)	PW10	Blood stained currency note of the denomination ₹100/- bearing No.5FA-585500.
MO18	PW15	A packet containing blood stains collected on cotton.
MO19	PW15	Packet containing blood stained grass.
MO20	PW20	Cover of MO8 knife.
MO21	PW20	Key with key chain of the motorcycle KL-13-U-2973.

Sd/-
SABARINATHAN. P
Special Judge, (SPE/CBI)-III

STATEMENT UNDER RULE 132 OF THE CRIMINAL RULES OF PRACTICE

1. Serial Number	:	SC 421/2020
2. Name of Police Station	:	Inspector of Police, Valapattanam Police Station, Kannur. & Central Bureau of Investigation, Special Crime Branch, Thiruvananthapuram.

DESCRIPTION OF THE ACCUSED

3. Name of the accused	:	1. Sumesh. K.V, S/o. Chandran, aged 41 years, Kizhakkevalappil House, Poomalakkavu, Cherukunnu Ambalam Road, Kannapuram. 2. Ganesan. P, S/o. Balan Nair, aged 49 years, Parayil House, Raj Quarters, China Clay Road, Kannupuram. 3. Anoop, S/o. Balan, aged 46 years, Kaniyarathvalappil House, Kannupuram, Idakkepuram. 4. Vijesh @ Babbotty, S/o. Krishnan, aged 41 years, Thaiyyil House, Morazha. 5. Prakasan. K, S/o. Sreedharan, aged 46 years, Pappinisserikkaran Kannoth House, Panthottam, Near K.K.N. Smaraka Vayanasala, Morazha. 6. Umesan.V, S/o. Gopalan, aged 46 years, Pattuvam Ariyil, Dharmakinnar. 7. Pavithran. P, S/o. Kunjappa, aged 52 years, Porayil House, Karakkunnu Road, Keezhara, Kannur.

8. Latheesh. C, S/o. Kunjambu, aged 43 years, Chalil House, Muthuvani, Morazha.

9. Manoharan. P.V, S/o. Late Kunjiraman, aged 48 years, Palangottuvalappil House, Kannapuram, Keezhara, Valluvankadavu.

10. N.P. Dinesan @ Maina Dinesan, S/o. Kunjiraman, aged 54 years, Naduvilepurayil House, Kannapuram, Keezhara, Valluvankadavu.

11. C.N.Mohanan, S/o. Govindan, aged 52 years, Chevan Naroth House, Morazha,
Near Grameena Vayanasala.

12. Bijumon, S/o. Vady Ravi, aged 46 years, Vady House, C.H. Nagar, Morazha.

13. N. Nidhin, S/o. Narayanan, aged 37 years, Naduvilepurayil House, Kannapuram, Keezhara, Valluvankadavu.

14. E.P. Radhakrishnan, S/o.Kunjiraman, aged 51 years, Eliyanpola House, Valluvankadavu, Keezhara, Kannapuram.

15. Shijin Mohan @ Shijin, S/o.Mohanan, aged 35 years, Naduvilepurayil House, Kannapuram, Keezhara, Valluvankadavu.

16. K.V. Sajith, S/o. Chandran, aged 44 years, Kizhakkevalappil House, Kannapuram, Idakkepuram.

17. Sudhakaran @ Conductor

Sudhakaran, S/o. Kannan, aged 52 years, Moolayil House, Morazha.

18. Naveen. N.P, S/o. Narayanan, Naduvilepurayil House, Kannapuram, Keezhara, Valluvankadavu.

19. Syamjith, S/o.Govindan, Syamala Nivas, Mottamayal, Morazha.

20. Sareesh. A, S/o. Narayanan, aged 41 years, Aachali House, Koranpeedika, Morazha. **(No more)**

21. Shaji.K.V, S/o. Kunjiraman, aged 48 years, Koolothvalappil House, Periyadavu, Vellakkeel, Morazha.

22. Prakasan Muthuvany, S/o. Kappadan Kannan, aged 51 years, Kappadan House, Muthuvany, Morazha Colony Road.

23. Ajayakumar.N. P @ Ajayan, S/o. Kumaran, aged 55 years, Naduvilepuram, Kannapuram, Keezhara, Valluvankadavu.

24. Rajeevan. P, S/o. Narayanan, aged 56 years, Poyil House, Pattuvam, Ariyil.

25. V.V. Mohanan, S/o. Balan, aged 62 years, Naduvilepurayil House, Kannapuram, Keezhara, Valluvankadavu.

26. Purushothaman.M.V @ Purushu, S/o. Koran, aged 58 years, Melothvalappil House, Kannapuram, Keezhara, Valluvankadavu.

27. P. K.Ajithkumar, S/o. Raveendran Nambiyar, aged 56 years, Konath House, Morazha, Panneri.

28. P.P. Suresan, S/o. Narayanan, aged 55 years, Padinjarepurayil House, Pattuvam, Idamudavu, Kaichanthadam.

29. K. Babu, S/o. Balan, aged 53 years, Karangadan House, Pattuvam, Ariyil, Dharmakkinar.

30. U.V. Venu, S/o.Kunjiraman, aged 63 years, Ubravalappil House, Mulloor, Pattuvam.

31. A.V. Babu, S/o. Krishnan, aged 51 years, Anthoorveettil House, Vellikkeel, Morazha. **(No more)**

32. P. Jayarajan, S/o. Kunjiraman, aged 69 years, Kairali House, Pookkode, Koothuparambu.

33. T.V. Rajesh, S/o. Chanthukkutty, aged 52 years, Athrakkal House, Kulappuram, Cheruthadam.

DATE OF

4. Occurrence : 20.02.2012

5. Complaint : 23.08.2012

6. Apprehension : A1 – 01.06.2012
A2 – 26.05.2012

A3 – 01.06.2012

A4 – 29.03.2012

A5 – 09.11.2012

A6 - 29.03.2012

A7 - 29.03.2012

A8 – 26.05.2012

A9 - 29.03.2012

A10 - 29.03.2012

A11 – 29.05.2012

A12 - 29.03.2012

A13 - 29.05.2012

A14 – 13.05.2012

A15 – 29.05.2012

A16 – 01.06.2012

A17 - 29.03.2012

A18 – 22.08.2015

A19 – 16.10.2012

A20 – 04.07.2012

A21 – 25.05.2012

A22 - 25.05.2012

A23 – 04.12.2019

A24 – 11.03.2012

A25 – 28.04.2012

A26 - 25.05.2012

A27 – 29.02.2012

A28 – 18.05.2012

A29 - 29.03.2012

A30 – 25.05.2012

A31 – 04.07.2012

A32 – 01.08.2012

A33 – 13.08.2012

7. Release on bail : A1 – 07.09.2012

A2 – 07.09.2012

A3 - 07.09.2012

A4 – 12.06.2012

A5 – 18.12.2012

A6 – 12.06.2012

A7 – 12.06.2012

A8 – 14.08.2012

A9 – 12.06.2012

A10 – 23.06.2012

A11 – 14.08.2012

A12 – 12.06.2012

A13 – 14.08.2012

A14 – 26.07.2012

A15 – 14.08.2012

A16 – 07.09.2012

A17 – 12.06.2012

A18 – 22.08.2015

A19 – 16.10.2012

A20 – 13.09.2012

A21 – 14.08.2012

A22 – 14.08.2012

A23 – 04.12.2019

A24 – 08.06.2012

A25 – 17.07.2012

A26 – 14.08.2012

A27 – 26.05.2012
A28 – 01.08.2012
A29 – 12.06.2012
A30 – 07.09.2012
A31 – 13.09.2012
A32 – 27.08.2012
A33 – 22.08.2012

8. Commitment : 06.03.2020

9 . Commencement of trial : 18.10.2024

10. Close of trial : 16.11.2026

11. Sentence or Order : 19.11.2026

12. Service of copy of Judgment : 19.11.2026

13. Explanation of delay : ---

Sd/-
SABARINATHAN.P
SPECIAL JUDGE, (SPE/CBI)-III,
ERNAKULAM

//True copy//

Typed by : Sl.
Comd. by : Ma.

JUDGMENT
in
S.C 421/2020

Dated 19.11.2026