



CRL.A Nos. 601/2023, 598/2023, 602/2023,
604/2023, 661/2023, 676/2023, CRA(V) No. 27/2024

:1:

2026:KER:35892

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

&

THE HONOURABLE MR. JUSTICE K. V. JAYAKUMAR

MONDAY, THE 25TH DAY OF MAY 2026 / 4TH JYAISHTA, 1948

CRL.A NO. 601 OF 2023

CRIME NO.87/2018 OF Agali Police Station, Palakkad

AGAINST THE JUDGMENT DATED 04.04.2023 IN SC NO.265 OF 2018 OF
SPECIAL COURT-TRIAL OF OFFENCE UNDER SC/ST(POA)ACT, 1989,
MANNARKKAD

APPELLANT/ACCUSED NO.1:

HUSSAIN
AGED 62 YEARS
S/O. MUHAMMED MECHERIYIL HOUSE, THAVALAM.P.O,
PAKKULAM, PALAKKAD DISTRICT, PIN - 678582

BY ADVS.
SHRI.T.SHAJITH
SRI.S.K.SAJU
SHRI.M.ASOKAN

RESPONDENTS/COMPLAINANT:

1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - 682031

2 MALLI
AGED 61 YEARS
W/O MALLAN, CHINDAKKI, PAZHAYOORU, CHINDAKKI P O, MUKKALI,
ATTAPADY, PALAKADU DISTRICT
(ADDL. R2. IMPEADED AS PER ORDER DATED 26.02.2024 IN
CRL.MA. NO. 4/2023)

BY ADVS.



CRL.A Nos. 601/2023, 598/2023, 602/2023,
604/2023, 661/2023, 676/2023, CRA(V)No. 27/2024

:2:

2026:KER:35892

SHRI.C.K.RADHAKRISHNAN (CHALIL)

SHRI.P.V.JEEVESH, SPECIAL PUBLIC PROSECUTOR

THIS CRIMINAL APPEAL HAVING COME UP FOR FINAL HEARING ON
25.05.2026, ALONG WITH CRL.A.598/2023, 602/2023 AND CONNECTED
CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



CRL.A Nos. 601/2023, 598/2023, 602/2023,
604/2023, 661/2023, 676/2023, CRA(V) No. 27/2024

:3:

2026:KER:35892

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V
&
THE HONOURABLE MR. JUSTICE K. V. JAYAKUMAR
MONDAY, THE 25TH DAY OF MAY 2026 / 4TH JYAISHTA, 1948

CRL.A NO. 598 OF 2023

AGAINST THE JUDGMENT DATED 04.04.2023 IN SC NO.265 OF 2018 OF
SPECIAL COURT-TRIAL OF OFFENCE UNDER SC/ST(POA)ACT, 1989,
MANNARKKAD

APPELLANTS/ACCUSED NOS.3,6 & 8 TO 10:

- 1 SHAMSUDHEEN
AGED 37 YEARS
S/O MUHAMMED, POTHUVACHOLA (H), MUKKALI (P.O), KALLAMALA,
PALAKKAD (DIST.), PIN - 678598
- 2 ABOOBACKER @ BACKER
AGED 35 YEARS
S/O MUHAMMED, POTHUVACHOLA (H), PALLIPPADI,
THENKARA P.O, ANAMOOI PALAKKAD (DIST.),
PIN - 678598
- 3 UBAID
AGED 29 YEARS
S/O UMMAR, THOTTIYIL (H), MUKKALI (P.O),
KALLAMALA, PALAKKAD (DIST.), PIN - 678598
- 4 NAJEEB
AGED 37 YEARS
S/O LATHEEF VIRUTHIYIL (H),
MUKKALI P.O, KALLAMALA PALAKKAD (DIST.),
PIN - 678582
- 5 JAIJUMON
AGED 48 YEARS
S/O AYYAPPANKUTTY, MANNAMPATTA (H), MUKKALI P.O KALLAMALA
PALAKKAD (DIST.), PIN - 678582



CRL.A Nos. 601/2023, 598/2023, 602/2023,
604/2023, 661/2023, 676/2023, CRA(V)No. 27/2024

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2026:KER:35892

BY ADVS.
SRI.ANIL K.MUHAMED
SRI. P. VIJAYABHANU
SRI.V.S.MANSOOR
SHRI.KRISHNAKUMAR G.
SHRI.AJIN SALAM

RESPONDENTS/COMPLAINANT:

- 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - 682031

- 2 MALLI
AGED 61 YEARS
W/O MALLAN, CHINDAKKI, PAZHAYOORU, CHINDAKKI P O, MUKKALI,
ATTAPADY, PALAKADU DISTRICT PIN 678582
(ADDL R2 IMPEADED AS PER ORDER DATED 26.02.2024 IN
CRL.M.A.2/2023)

BY ADVS.

SHRI.C.K.RADHAKRISHNAN (CHALIL)

SHRI.P.V.JEEVESH, SPECIAL PUBLIC PROSECUTOR

THIS CRIMINAL APPEAL HAVING COME UP FOR FINAL HEARING ON
25.05.2026, ALONG WITH CRL.A.601/2023 AND CONNECTED CASES, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



CRL.A Nos. 601/2023, 598/2023, 602/2023,
604/2023, 661/2023, 676/2023, CRA(V)No. 27/2024

:5:

2026:KER:35892

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V
&
THE HONOURABLE MR. JUSTICE K. V. JAYAKUMAR
MONDAY, THE 25TH DAY OF MAY 2026 / 4TH JYAISHTA, 1948

CRL.A NO. 602 OF 2023

AGAINST THE JUDGMENT DATED IN SC NO.265 OF 2018 OF SPECIAL
COURT-TRIAL OF OFFENCE UNDER SC/ST(POA) ACT 1989, MANNARKKAD

APPELLANTS/ACCUSED NOS.2 & 5:

- 1 MARAKKAR
AGED 37 YEARS
S/O UNNEEN, KILAYIL, MUKKALI POST, KALLAMALA,
PALAKKAD, PIN - 678582
- 2 RADHAKRISHNAN
AGED 38 YEARS
S/O BALAN, THAZHUSERRY HOUSE, MUKKALI,
KALLAMALA, PALAKKAD, PIN - 678582

BY ADVS.
SRI.S.RAJEEV
SRI.V.VINAY
SRI.M.S.ANEER
SHRI.SARATH K.P.
SHRI.PRERITH PHILIP JOSEPH
SHRI.ANILKUMAR C.R.
SRI.P.BABU KARTHIKEYAN.

RESPONDENTS/STATE:

- 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - 682031
- 2 MALLI
AGED 61 YEARS
W/O MALLAN, CHINDAKKI, PAZHAYOORU, CHINDAKKI P O, MUKKALI,



CRL.A Nos. 601/2023, 598/2023, 602/2023,
604/2023, 661/2023, 676/2023, CRA(V)No. 27/2024

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2026:KER:35892

**ATTAPADY, PALAKADU DISTRICT
(ADDL R2 IMPEADED AS PER ORDER DATED 26.02.2024 IN C.R.L.
MA NO.1/2023)**

BY ADVS.

**SHRI.C.K.RADHAKRISHNAN (CHALIL)
SHRI.P.V.JEEVESH, SPECIAL PUBLIC PROSECUTOR**

**THIS CRIMINAL APPEAL HAVING COME UP FOR FINAL HEARING ON
25.05.2026, ALONG WITH CRL.A.601/2023 AND CONNECTED CASES, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**



CRL.A Nos. 601/2023, 598/2023, 602/2023,
604/2023, 661/2023, 676/2023, CRA(V)No. 27/2024

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2026:KER:35892

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

&

THE HONOURABLE MR. JUSTICE K. V. JAYAKUMAR

MONDAY, THE 25TH DAY OF MAY 2026 / 4TH JYAISHTA, 1948

CRL.A NO. 604 OF 2023

AGAINST THE JUDGMENT DATED 04.04.2023 IN SC NO.265 OF 2018 OF
SPECIAL COURT-TRIAL OF OFFENCE UNDER SC/ST(POA) ACT 1989,
MANNARKKAD

APPELLANTS/ACCUSED NOS. 7,12,13,14 & 15:

- 1 SIDHIQUE
AGED 42 YEARS
S/O. SAIDH, PADINJARE PALLA KURIKKAL HOUSE,
MUKKALI POST, KALLAMALA, PALAKKAD DISTRICT.,
PIN - 673308
- 2 SAJEEV
AGED 34 YEARS
S/O. RAVEENDRANATH, PUTHENPURAKKAL HOUSE, KOTTIYURKUNNU,
MUKKALI POST, KALLAMALA, PALAKKAD DISTRICT.,
PIN - 673308
- 3 SATHEESH
AGED 43 YEARS
S/O. GOVINDAN, MURIYKKADA HOUSE, MUKKALI POST, KALLAMALA,
PALAKKAD DISTRICT, PIN - 673308
- 4 HAREESH
AGED 38 YEARS
S/O. SIVARAMAN, CHERIVIL HOUSE, MUKKALI POST, KALLAMALA,
PALAKKAD DISTRICT, PIN - 673308
- 5 BIJU
AGED 45 YEARS
S/O. SIVARAMAN, CHERIVIL HOUSE, MUKKALI POST, KALLAMALA,
PALAKKAD DISTRICT, PIN - 673308



CRL.A Nos. 601/2023, 598/2023, 602/2023,
604/2023, 661/2023, 676/2023, CRA(V)No. 27/2024

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2026:KER:35892

BY ADVS.
SRI.NIREESH MATHEW
SRI.M.B.SANDEEP
SRI.S.K.ADHITHYAN
SRI.P.K.VARGHESE
SRI.VIVEK VENUGOPAL
SRI.BABU JOSE
SRI.SEBIN SEBASTIAN
SHRI.GAJENDRA SINGH RAJPUROHIT
SHRI.DEVAN N.R
SHRI.MATHEW JACOB
SHRI.GEORGE V. PAUL
SHRI.M.T.SAMEER
SHRI.DHANESH V.MADHAVAN
SRI.K.R.ARUN KRISHNAN
SHRI.JERRY MATHEW
SHRI.REGHU SREEDHARAN
SHRI.RAMEEZ M. AZEEZ
SMT.K.P.SREEJA
SMT.ASWATHY JAYARAJ
SHRI.VISHNU K.K.
SHRI.V.N.HARIDAS

RESPONDENTS/COMPLAINANT-STATE:

- 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - 682031
- 2 MALLI
AGED 61 YEARS
W/O MALLAN, CHINDAKKI, PAZHAYOORU, CHINDAKKI P.O., MUKKALI,
ATTAPADY, PALAKADU DISTRICT
(ADDL R2 IMPEADED AS PER ORDER DATED 26.02.2024 IN
CRL M.A NO.2/2023)

BY ADVS.

SHRI.P.V.JEEVESH, SPECIAL PUBLIC PROSECUTOR
SHRI.C.K.RADHAKRISHNAN (CHALIL)

THIS CRIMINAL APPEAL HAVING COME UP FOR FINAL HEARING ON
25.05.2026, ALONG WITH CRL.A.601/2023 AND CONNECTED CASES, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



CRL.A Nos. 601/2023, 598/2023, 602/2023,
604/2023, 661/2023, 676/2023, CRA(V)No. 27/2024

:9:

2026:KER:35892

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V
&
THE HONOURABLE MR. JUSTICE K. V. JAYAKUMAR
MONDAY, THE 25TH DAY OF MAY 2026 / 4TH JYAISHTA, 1948

CRL.A NO. 661 OF 2023

AGAINST THE JUDGMENT DATED 04.04.2023 IN SC NO.265 OF 2018 OF
SPECIAL COURT-TRIAL OF OFFENCE UNDER SC/ST(POA) ACT 1989,
MANNARKKAD

APPELLANT/COMPLAINANT:

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - 682031

BY ADVS.

SHRI.P.V.JEEVESH, SPECIAL PUBLIC PROSECUTOR

RESPONDENTS/ACCUSED:

- 1 HUSSAIN
AGED 37 YEARS
S/O MUHAMMED,MECHERIYIL(H), THAVALAM POST, PAKKULAM, PALAKKAD
DIST, PIN - 678582
- 2 MARAKKAR
AGED 37 YEARS
S/O UNNEEN, KILAYIL (H) MUKKALI POST, KALLAMALA,
PALAKKAD DIST, PIN - 678582
- 3 SHAMSUDHEEN
AGED 37 YEARS,
S/O. MUHAMMED, POTHUVACHOLA(H),
MUKKALI POST, KALLAMALA,
PALAKKAD DIST, PIN - 678582



CRL.A Nos. 601/2023, 598/2023, 602/2023,
604/2023, 661/2023, 676/2023, CRA(V)No. 27/2024

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2026:KER:35892

- 4 ANEESH
AGED 34 YEARS
S/O RAJAGOPALAN, KUNNATH (H), KAKKUPPADI,
KALKANDI POST, KALLAMALA,
PALAKKAD DIST, PIN - 678582
- 5 RADHAKRISHNAN
AGED 38 YEARS
S/O BALAN, THAZHUSSEY (H),
MUKKALI POST, KALLAMALA, PALAKKAD,
PIN - 678582
- 6 ABOOBACKER@BACKER
AGED 35 YEARS
S/O MUHAMMED, POTHUVACHOLA (H),
PALLIPPADI, THENKARA POST,
ANAMOOI, PALAKKAD, PIN - 678582
- 7 SIDHIQUE
AGED 42 YEARS
S/O SAIDH, PADINJARE PALLA,
KURIKKAL (H), MUKKALI POST, KALLAMALA,
PALAKKAD DIST, PIN - 678582
- 8 UBAID
AGED 29 YEARS
S/O UMMAR, THOTTIYIL (H),
MUKKALI POST, KALLAMALA,
PALAKKAD, PIN - 678582
- 9 NAJEEB
AGED 37 YEARS
S/O LATHEEF, VIRUTHIYIL (H), MUKKALI POST, KALLAMAL,
PALAKKAD, PIN - 678582
- 10 JAIJUMON
AGED 48 YEARS
S/O AYYAPPANKUTTY, MANNAMPATTA (H),
MUKKALI POST, KALLAMALA, PALAKKAD,
PIN - 678582
- 11 ABDUL KAREEM
AGED 52 YEARS
S/O THAJUDHEEN, CHOLAYIL (H), MUKKALI POST, KALLAMALA,
PALAKKAD, PIN - 678582
- 12 SAJEEV



- AGED 34 YEARS
S/O RAVEENDRANATH, PUTHANPURAKKAL (H) ,
KOTTIYURKUNNU, MUKKALI POST, KALLAMALA,
PALAKKAD, PIN - 678582
- 13 SATHEESH
AGED 43 YEARS
S/O GOVINDAN, MURIYKKADA (H) , MUKKALI POST, KALLAMALA, PALAKKAD,
PIN - 678582
- 14 HAREESH
AGED 38 YEARS
S/O SIVARAMAN, CHERIVIL (H) , MUKKALI POST, KALLAMALA, PALAKKAD,
PIN - 678582
- 15 BIJU
AGED 45 YEARS
S/O SIVARAMAN, CHERIVIL (H) , MUKKALI POST,
KALLAMALA, PALAKKAD DIST, PIN - 678582
- 16 MUNEER
AGED 32 YEARS
S/O LATHEEF, VIRUTHIYIL (H) , MUKKALI POST,
KALLAMALA, PALAKKAD, PIN - 678582
- 17 SADANANDAN.V.K (STRANGER)
S/O KOCHUKUNJU, JANAKI BHAVAN, KANNIMEL CHERRY, KAVANADU PO
KOLLAM, PIN-691003.

BY ADVS.
SHRI.T.SHAJITH
SRI.S.RAJEEV
SRI.ANIL K.MUHAMED
SRI.NIREESH MATHEW
SRI.S.K.ADHITHYAN
SRI.C.RAJENDRAN
SRI.V.VINAY
SRI.M.S.ANEER
SHRI.SARATH K.P.
SHRI.PRERITH PHILIP JOSEPH
SHRI.ANILKUMAR C.R.
SHRI.K.S.KIRAN KRISHNAN
SRI.V.S.MANSOOR
SHRI.KRISHNAKUMAR G.
SHRI.AJIN SALAM
SRI.M.B.SANDEEP
SMT.ASWATHY JAYARAJ



CRL.A Nos. 601/2023, 598/2023, 602/2023,
604/2023, 661/2023, 676/2023, CRA(V)No. 27/2024

:12:

2026:KER:35892

SHRI.VISHNU K.K.
SMT.K.P.SREEJA
SMT.SHAHINA NOUSHAD
SHRI.REUBEN CHARLY
SHRI.NAJAH EBRAHIM V.P.

THIS CRIMINAL APPEAL HAVING COME UP FOR FINAL HEARING ON
25.05.2026, ALONG WITH CRL.A.601/2023 AND CONNECTED CASES, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

&

THE HONOURABLE MR. JUSTICE K. V. JAYAKUMAR

MONDAY, THE 25TH DAY OF MAY 2026 / 4TH JYAISHTA, 1948

CRL.A NO. 676 OF 2023

AGAINST THE JUDGMENT DATED 04.04.2023 IN SC NO.265 OF 2018 OF
SPECIAL COURT-TRIAL OF OFFENCE UNDER SC/ST(POA) ACT 1989,
MANNARKKAD

APPELLANT/ACCUSED NO.16:

MUNEER, AGED 37 YEARS
S/O LATHEEF VIRUTHIYIL (H) MUKKALI P.O,
KALLAMALA PALAKKAD (DIST.), PIN - 678582

BY ADVS.
SHRI.LEO GEORGE
SRI.P.VIJAYA BHANU (SR.)

RESPONDENT/COMPLAINANT:

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - 682031

BY ADVS.

SHRI.P.V.JEEVESH, SPECIAL PUBLIC PROSECUTOR

THIS CRIMINAL APPEAL HAVING COME UP FOR FINAL HEARING ON
25.05.2026, ALONG WITH CRL.A.601/2023 AND CONNECTED CASES, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



CRL.A Nos. 601/2023, 598/2023, 602/2023,
604/2023, 661/2023, 676/2023, CRA(V) No. 27/2024

:14:

2026:KER:35892

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

&

THE HONOURABLE MR. JUSTICE K. V. JAYAKUMAR

MONDAY, THE 25TH DAY OF MAY 2026 / 4TH JYAISHTA, 1948

CRA(V) NO. 27 OF 2024

AGAINST THE JUDGMENT DATED 04.04.2023 IN SC NO.265 OF 2018 OF
SPECIAL COURT-TRIAL OF OFFENCE UNDER SC/ST(POA)ACT 1989,
MANNARKKAD

APPELLANT/DEFACTO COMPLAINANT:

MALLI
AGED 61 YEARS
W/O MALLAN, CHINDAKKI, PAZHAYOORU,
CHINDAKKI P.O, MUKKALI, ATTAPADY, PALAKADU DISTRICT,
PIN - 678582

BY ADVS.
SHRI.C.K.RADHAKRISHNAN (CHALIL)
SHRI.RAJESH M.

RESPONDENTS/STATE/COMPLAINANT & ACCUSED NOS.1 TO 16:

- 1 STATE OF KERALA
THROUGH THE SPECIAL PUBLIC PROSECUTOR,
HIGH COURT OF KERALA AT ERANAKULAM, PIN - 682031
- 2 DEPUTY SUPERINTENDENT OF POLICE
SMS & AGALI SUBDIVISION, AGALI, PALAKKAD,
PIN - 678581
- 3 HUSSAIN
AGED 62 YEARS
S/O MUHAMMED, MECHERIYIL HOUSE, THAVALAM P .O, PAKKULAM,
PALAKKAD DISTRICT, PIN - 678598



CRL.A Nos. 601/2023, 598/2023, 602/2023,
604/2023, 661/2023, 676/2023, CRA(V)No. 27/2024

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2026:KER:35892

- 4 **MARAKKAR**
AGED 37 YEARS
S/O UNNEEN, KILAYIL HOUSE, MUKKALI POST, KALLAMALA, PALAKKAD
DISTRICT, PIN - 678598
- 5 **SHAMSUDHEEN**
AGED 37 YEARS
S/O MUHAMMED, POTHUVACHOLA HOUSE, MUKKALI P.O, KALLAMALA,
PALAKKAD DISTRICT, PIN - 678598
- 6 **ANEESH**
AGED 34 YEARS
S/O RAJAGOPALAN, KUNNATH POST, KALLAMALA, PALAKKAD DISTRICT,
PIN - 678598
- 7 **RADHAKRISHNAN**
AGED 38 YEARS
S/O BALAN, THAZHUSRRY HOUSE, MUKKALI POST, KALLAMALA,
PALAKKAD DISTRICT, PIN - 678598
- 8 **ABOObAKER @ BAKER**
AGED 35 YEARS
S/O MUHAMED, POTHUVACHOLA, PALLIPADY, THENKARA P.O, ANAMOOLI,
PALAKKAD DISTRICT, PIN - 678598
- 9 **SIDHIQUE**
AGED 35 YEARS
S/O SAIDH, PADINJARE PALLA KURIKKAL HOUSE, MUKKALI POST,
KALLAMALA, PALAKKAD DISTRICT, PIN - 678582
- 10 **UBAID**
AGED 29 YEARS
S/O UMMAR, THOTTIYIL HOUSE, MUKKALI P O, KALLAMALA, PALAKKAD
DISTRICT, PIN - 678598
- 11 **NAJEEB**
AGED 37 YEARS
S/O LATHEEF, VIRUTHIYIL HOUSE, MUKKALI P O,
KALLAMALA, PALAKKAD DISTRICT, PIN - 678598
- 12 **JAIJUMON**
AGED 48 YEARS
S/O AYYAPPANKUTTY, MANNAMPATA HOUSE, MUKKALI P O, KALLAMALA,
PALAKKAD DISTRICT, PIN - 678598
- 13 **ABDUL KAREEM**
AGED 52 YEARS



S/O THAJUDHEEN, CHOLAYIL HOUSE, MUKKALI P.O,
KALLAMALA, PALAKKAD DISTRICT, PIN - 678598

- 14 SAJEEV
AGED 34 YEARS
S/O RAVEENDRANATH, PUTHENPURAKKAL HOUSE, KOTTIYOORKUNNU,
MUKKALI POST, KALLAMALA,
PALAKKAD DISTRICT, PIN - 678582
- 15 SATHEESH
AGED 43 YEARS
S/O GOVINDAN, MURIYKADA HOUSE, MUKKALI P O, KALLAMALA,
PALAKKAD DISTRICT, PIN - 678598
- 16 HAREESH
AGED 38 YEARS
S/O SIVARAMAN, CHERIVIL HOUSE, MUKKALI P O, KALLAMALA,
PALAKKAD DISTRICT, PIN - 678598
- 17 BIJU
AGED 45 YEARS
S/O SIVARAMAN, AGED 38 YEARS, CHERIVIL HOUSE,
MUKKALI P O, KALLAMALA, PALAKAD DISTRICT, PIN - 678598
- 18 MUNEER
AGED 33 YEARS
S/O LATHEEF, VIRUTHIYIL HOUSE, MUKKALI POST, KALLAMALA,
PALAKKAD DISTRICT, PIN - 678598

BY ADVS.

SHRI.P.V.JEEVESH, SPECIAL PUBLIC PROSECUTOR
SHRI.T.SHAJITH
SRI.ANIL K.MUHAMED
SRI.NIREESH MATHEW
SRI.M.B.SANDEEP
SRI.V.S.MANSOOR
SHRI.KRISHNAKUMAR G.
SHRI.AJIN SALAM
SHRI.MUHAMMED AFRIN NUHMAN T.T.
SHRI.NAJAH EBRAHIM V.P.
SMT.K.P.SREEJA
SMT.AMALOO RAMACHANDRAN

THIS CRL.A BY DEFACTO COMPLAINANT/VICTIM HAVING COME UP FOR FINAL HEARING ON 25.05.2026, ALONG WITH CRL.A.601/2023 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



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“CR”

COMMON JUDGMENT

[CRL.A Nos. 601/2023, 598/2023, 602/2023, 604/2023,
661/2023, 676/2023 & CRA(V) No.27/2024]

Raja Vijayaraghavan, J.

1. Prologue:

The Preamble of the Constitution of India holds out two solemn promises among others: Justice — social, economic and political — and Equality of status and of opportunity. These were not merely aspirational words. They were a declaration of intent by a nation that had seen, across centuries, what the organised denial of justice and equality could do to the human spirit. They were words written, in no small measure, for the emancipation of the downtrodden who had been humiliated, excluded, and shamed by deliberate social design.

1.2. On the 25th of November, 1949, Dr. B.R. Ambedkar, the principal architect of our Constitution, stood up before the Constituent Assembly and stated what can only be described as a warning to posterity. (See Constituent Assembly Debates, Volume X, Page 979)

“On the 26th of January 1950, we are going to enter into a life of contradictions. In politics we will have equality and in social and economic life we will have inequality. In politics we will be recognizing the principle of one man one vote and one vote one value. In our social and economic life, we shall, by reason of our social and economic structure, continue to deny the principle of one man one value. How long shall we continue to



live this life of contradictions? How long shall we continue to deny equality in our social and economic life? If we continue to deny it for long, we will do so only by putting our political democracy in peril. We must remove this contradiction at the earliest possible moment or else those who suffer from inequality will blow up the structure of political democracy which this Assembly has so laboriously built up."

The conflict that Sri. B.R. Ambedkar described between political equality and social and economic inequality is still alive in Indian public life today. If any proof is required, one only needs to look at the facts of this case. The distance between the solemn promise in the Preamble and the facts of this case is a verdict not merely on the accused, but on "*We the People*".

2. The Death of Madhu:

2.1. These Appeals concern the brutal assault and death of Madhu, a 27-year-old tribal man, who, if the prosecution version is believed, was publicly beaten, stripped, paraded in a semi-naked condition, humiliated on social media, and subjected to sustained violence before succumbing to his injuries. The incident occurred in broad daylight, involved multiple accused persons, and was recorded on digital devices.

2.2. The alleged perpetrators of the crime, according to the prosecution, are 16 individuals, all residents of Mannarkkad and its surrounding areas. They stood trial before the Additional Sessions Court, Mannarkkad, in S.C.No. 265 of 2018 and were charged under Sections 143, 147, 323, 324, 326, 294(b), 342, 352, 364, 367, 368, and 302 r/w. Section 149 of the Indian Penal Code, and additionally under Sections 3(1)(d), 3(1)(r), 3(2)(v) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention



of Atrocities) Act, 1989 ["SC/ST (PoA) Act"].

2.3. The trial court, by the impugned judgment, acquitted a few and convicted the rest for lesser offences. Accused Nos. 4 and 11 were acquitted of all charges framed against them. Insofar as the remaining 14 accused is concerned, though the court did not find them guilty of the offence under Section 302 of the IPC, they were found guilty, convicted and sentenced for several of the other offences, the details of which are set out in the chart below:

| Accused | Name | Section 304 Part II r/w. Section 149 of the IPC | Section 326 r/w 149 of the IPC | Section 367 r/w section 149 of the IPC | Section 3(1)(d) SC/ST(PoA) Act | Other offences |
|---------|---------------|---|--------------------------------|--|--------------------------------|--|
| A1 | Hussain | 7 yrs RI + Rs.1,00,000 | acquitted | acquitted | acquitted | S.143: 6 months + Rs. 1000; S.147: 2 yrs+ Rs.2000; S.323: 1 yr +Rs. 1000; S.342: 1 yr + Rs. 1000. (all r/w. S.149) |
| A2 | Marakkar | 7 yrs RI + Rs.1,00,000 | 7 yrs RI + Rs.5,000 | 5 yrs RI + Rs.2,000 | 3 yrs RI + Rs.5,000 | S.143: 6 months + Rs. 1000 ; S.147: 2 yrs + Rs. 2000; S.323: 1 yr + Rs. 1000; S.324: 2 yrs + Rs. 1000; S.342: 1 yr + Rs. 1000. (all r/w. S.149) |
| A3 | Shamsudheen | 7 yrs RI + Rs.1,00,000 | 7 yrs RI + Rs.5,000 | 5 yrs RI + Rs.2,000 | 3 yrs RI + Rs.5,000 | S.143: 6 months + Rs. 1000 ; S.147: 2 yrs + Rs. 2000; S.323: 1 yr + Rs. 1000; S.324: 2 yrs + Rs. 1000; S.342: 1 yr + Rs. 1000. (all r/w. S.149) |
| A5 | Radhakrishnan | 7 yrs RI + Rs.1,00,000 | 7 yrs RI + Rs.5,000 | 5 yrs RI + Rs.2,000 | 3 yrs RI + Rs.5,000 | S.143: 6 months + Rs. 1000 ; S.147: 2 yrs + Rs. 2000; S.323: 1 yr + Rs. 1000; |



| Accused | Name | Section 304 Part II r/w. Section 149 of the IPC | Section 326 r/w 149 of the IPC | Section 367 r/w section 149 of the IPC | Section 3(1)(d) SC/ST(PoA) Act | Other offenses |
|---------|------------|---|--------------------------------|--|--------------------------------|--|
| | | | | | | S.324: 2 yrs + Rs. 1000; S.342: 1 yr + Rs. 1000. (all r/w. S.149) |
| A6 | Aboobacker | 7 yrs RI + Rs.1,00,000 | 7 yrs RI + Rs.5,000 | 5 yrs RI + Rs.2,000 | 3 yrs RI + Rs.5,000 | S.143: 6 months + Rs. 1000 ; S.147: 2 yrs + Rs. 2000; S.323: 1 yr + Rs. 1000; S.324: 2 yrs + Rs. 1000; S.342: 1 yr + Rs. 1000. (all r/w. S.149) |
| A7 | Sidhique | 7 yrs RI + Rs.1,00,000 | 7 yrs RI + Rs.5,000 | 5 yrs RI + Rs.2,000 | 3 yrs RI + Rs.5,000 | S.143: 6 months + Rs. 1000 ; S.147: 2 yrs + Rs. 2000; S.323: 1 yr + Rs. 1000; S.324: 2 yrs + Rs. 1000; S.342: 1 yr + Rs. 1000. (all r/w. S.149) |
| A8 | Ubaid | 7 yrs RI + Rs.1,00,000 | 7 yrs RI + Rs.5,000 | 5 yrs RI + Rs.2,000 | 3 yrs RI + Rs.5,000 | S.143: 6 months + Rs. 1000 ; S.147: 2 yrs + Rs. 2000; S.323: 1 yr + Rs. 1000; S.324: 2 yrs + Rs. 1000; S.342: 1 yr + Rs. 1000. (all r/w. S.149) |
| A9 | Najeeb | 7 yrs RI + Rs.1,00,000 | 7 yrs RI + Rs.5,000 | 5 yrs RI + Rs.2,000 | 3 yrs RI + Rs.5,000 | S.143: 6 months + Rs. 1000 ; S.147: 2 yrs + Rs. 2000; S.323: 1 yr + Rs. 1000; S.324: 2 yrs + Rs. 1000; S.342: 1 yr + Rs. 1000. (all r/w. S.149) |
| A10 | Jaijumon | 7 yrs RI + Rs.1,00,000 | 7 yrs RI + Rs.5,000 | 5 yrs RI + Rs.2,000 | 3 yrs RI + Rs.5,000 | S.143: 6 months + Rs. 1000 ; S.147: 2 yrs + Rs. 2000; S.323: 1 yr + Rs. 1000; S.324: 2 yrs + Rs. 1000; S.342: 1 yr + Rs. 1000. (all r/w. S.149) |
| A12 | Sajeev | 7 yrs RI + Rs.1,00,000 | 7 yrs RI + Rs.5,000 | 5 yrs RI + Rs.2,000 | 3 yrs RI + Rs.5,000 | S.143: 6 months + Rs. 1000 ; S.147: 2 yrs + Rs. 2000; |



| Accused | Name | Section 304 Part II r/w. Section 149 of the IPC | Section 326 r/w 149 of the IPC | Section 367 r/w section 149 of the IPC | Section 3(1)(d) SC/ST(PoA) Act | Other offenses |
|---------|----------|---|--------------------------------|--|--------------------------------|--|
| | | | | | | S.323: 1 yr + Rs. 1000; S.324: 2 yrs + Rs. 1000; S.342: 1 yr + Rs. 1000. (all r/w. S.149) |
| A13 | Satheesh | 7 yrs RI + Rs.1,00,000 | 7 yrs RI + Rs.5,000 | 5 yrs RI + Rs.2,000 | 3 yrs RI + Rs.5,000 | S.143: 6 months + Rs. 1000 ; S.147: 2 yrs + Rs. 2000; S.323: 1 yr + Rs. 1000; S.324: 2 yrs + Rs. 1000; S.342: 1 yr + Rs. 1000. (all r/w. S.149) |
| A14 | Hareesh | 7 yrs RI + Rs.1,00,000 | 7 yrs RI + Rs.5,000 | 5 yrs RI + Rs.2,000 | 3 yrs RI + Rs.5,000 | S.143: 6 months + Rs. 1000 ; S.147: 2 yrs + Rs. 2000; S.323: 1 yr + Rs. 1000; S.324: 2 yrs + Rs. 1000; S.342: 1 yr + Rs. 1000. (all r/w. S.149) |
| A15 | Biju | 7 yrs RI + Rs.1,00,000 | 7 yrs RI + Rs.5,000 | 5 yrs RI + Rs.2,000 | 3 yrs RI + Rs.5,000 | S.143: 6 months + Rs. 1000 ; S.147: 2 yrs + Rs. 2000; S.323: 1 yr + Rs. 1000; S.324: 2 yrs + Rs. 1000; S.342: 1 yr + Rs. 1000. (all r/w. S.149) |
| A16 | Muneer | acquitted | acquitted | acquitted | acquitted | S.352 IPC: 3 months SI + Rs.500 fine. |

3. The Nature and Scope of the present Appeals:

3.1. The following appeals have been preferred before this Court, assailing the finding of guilt, conviction and sentence.

- a) Crl. A. No. 601 of 2023 is filed by the 1st accused;
- b) Crl. A. No. 602 of 2023 is filed by accused Nos. 2 and 5;



CRL.A Nos. 601/2023, 598/2023, 602/2023,
604/2023, 661/2023, 676/2023, CRA(V)No. 27/2024

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- c) Crl. A. No. 598 of 2023 is filed by accused Nos. 3, 6, & 8 to 10;
- d) Crl. A. No. 604 of 2023 is filed by accused Nos. 7, 12, 13, 14 and 15;
- e) Crl. A No. 676 of 2023 is filed by the 16th accused;
- f) Crl. A. No. 661 of 2023 is the appeal preferred by the State; and
- g) CRA(V) No. 27 of 2024 is the appeal filed by the mother of the deceased, being the victim.

3.2. While the accused seek acquittal on all charges, the State and the victim challenge the acquittal of accused Nos. 4 and 11 and seek conviction of all the accused under Section 302 of the IPC and Sections 3(2)(v) and 3(2)(va) of the SC/ST (PoA) Act. The scope of appellate reappreciation in such a case, where both acquittal and conviction are under challenge, is well settled. The Appellate Court has full power to review, reappreciate, and reconsider the entire evidence, both on facts and law, and may arrive at its own conclusions, as held in **Chandrappa v. State Of Karnataka**¹. However, this power must be exercised with caution, particularly when dealing with an order of acquittal, which carries a double presumption of innocence in favour of the accused.

4. The Prosecution Case: A synopsis:

4.1. Madhu, son of Mallan, was a resident of Chindakki Ooru, Makkali. He was a member of the Mudugar community, a Scheduled Tribe. He suffered from a mild mental illness and led a nomadic life, and used to reside in the Silent Valley Reserved

¹ [2007 INSC 142]



Forest area away from his family. From time to time, he would come down from the forest and take food and other items from shops at Mukkali without the permission of the shop owners. This irked the accused, who were residents of Mukkali and the nearby areas, and they wanted to teach him a lesson.

4.2. On 22nd of February 2018, at around 12.15 p.m., the 2nd accused received information from CW19 that Madhu had been spotted in the Ajmudi forest area within the Vandikkadavu Teak Plantation. He conveyed the said information to the 9th accused over the mobile phone. The 9th accused informed the 3rd accused, who then passed the information to the remaining accused persons. This passing of information ignited a chain of events. Accused Nos. 3, 5, 6, 7, 8, and 12 arrived in an autorickshaw bearing Registration No. KL-50-D-2908 owned by the 10th accused in front of the shop of the 9th accused. Around the same time, Accused No. 13 arrived on his motorcycle and conferred with the 9th accused. The prosecution alleged that by approximately 12.30 p.m., this group had assembled and formed an unlawful assembly, with the common object of abducting Madhu from the forest, causing him grievous injuries, and ultimately causing his death.

4.3. Acting in furtherance of their common object, at about 12.40 p.m., Accused Nos. 3, 5, 6, 7, 8, 9, 10, and 12 travelled to the Vandikkadavu Teak Plantation in a Marshal Jeep belonging to the ninth accused, while Accused No. 13 followed on his motorcycle. After parking their vehicles, they joined the 2nd accused and unlawfully entered the reserved forest. The group trekked nearly two kilometres through the forest terrain along the Bhavani River, within Padavayal Village of Mannarkkad Taluk, beneath



Ajmudi Hill. At about 1.10 p.m., they reached a rocky outcrop known as Andiyallachaal, where they spotted Madhu.

4.4. The prosecution alleged that the accused, after forcibly apprehending Madhu, stripped him of his clothing, tied his hands behind his back using his own dhoti, and began to assault him. They are alleged to have punched and kicked him repeatedly on his face and back, while preventing him from escaping. Accused Nos. 5, 7, 8, and 9 recorded the capture and subsequent abuse on their mobile phones, and the 8th accused deliberately circulated these videos on social media platforms with the clear intention of garnering views of Madhu's public humiliation. To further immobilise him, the 3rd accused tied his right hand with a zip cord taken from a bag. The 10th accused then placed a heavy sack containing rice and other items on Madhu's shoulders. Throughout this ordeal, the accused persons hurled continuous verbal abuse at Madhu, branding him a thief. The 2nd accused held the zip cord restraining his hands while the 7th accused gripped his left hand, forcing him to walk forward as the degrading abuse continued without pause through the mountainous terrain. In the meantime, the 3rd accused contacted Accused No. 14 and informed him of the capture and the movements of the group. On receiving the above information, Accused No. 14 drove to the Vandikkadavu area and unlawfully entered the forest and joined the group. Accused No. 15 also arrived at the scene and joined the assembly and they were having full and conscious knowledge of its violent purpose. Accused No. 14 allegedly assaulted Madhu by beating him on his back and recorded videos of the assault. Accused Nos. 2, 6, 7, 9, and 10 continued to punch repeatedly. The 3rd accused struck him on the back with a wooden stick causing the fracture of one of his ribs. The accused thereafter brought



Madhu out of the forest to the shed at Vandikkadavu, from where they forced him, half-naked, bound, and visibly injured to walk nearly three kilometres along the public road to Mukkali Junction.

4.5. At about 2:30 p.m., Madhu was brought in front of Sreerag Bakery Cool Bar at Mukkali Junction. Here, Accused Nos. 4, 11, and 16 are alleged to have joined the unlawful assembly. The 11th accused loudly abused Madhu in public, calling him a thief, while the 16th accused assaulted him by delivering a knee blow to his back. Accused Nos. 4 and 8 once again recorded videos of the incident and circulated them on social media. The accused then forced Madhu to sit near the hundi (offering box) of Ponmala Dharmasastha Temple, situated close to the northern wall near the bakery premises. Accused No. 15 continued to restrain Madhu by holding the zip cord tied to his hand and punched him on the shoulder.

4.6. Meanwhile, the 1st accused arrived at the scene in his vehicle, fully aware of the ongoing assault and knowingly joined the unlawful assembly. It was alleged that the 1st accused was motivated by a personal grievance against Madhu owing to alleged thefts from his shop. The 1st accused is alleged to have stamped forcefully on Madhu's chest as he sat against the temple wall. The impact caused Madhu's head to strike the wall violently, inflicting grievous injuries which ultimately proved fatal.

4.7. In the meantime, the police reached Mukkali at about 3:00 p.m., and took Madhu into custody. While on the way to Mele Thavalam, Madhu became unwell. The Jeep was stopped briefly to enable Madhu to vomit. Madhu then became



unresponsive. The police jeep reached Agali Community Health Centre (CHC) at about 4:15 pm. The duty doctor, Dr. Lima Francis, examined Madhu and "declared him brought dead".

5. Registration of the Crime, Investigation and Filing of Chargesheet:

5.1. PW83, the then Sub Inspector of Agali Police Station, registered Crime No. 87 of 2018 under Section 174 of the Cr.P.C. at 5.15 p.m., on 22 February 2018. Due to a power failure at the Police Station at the time, Ext. P81 FIR was manually registered. Ext. P80 FIS was based on the notes taken by PW83 at Mukkali, where he had noted the names and addresses of seven persons present there who had informed him about the incident.

5.2. After shifting Madhu's body to the mortuary, the Sub Collector of Ottapalam (PW67) conducted an inquest on the body of Madhu at Agali CHC and prepared Ext.P1 Inquest Report. As part of the inquest, the Sub Collector recorded statements of five persons. The MO26 series clothes of Madhu were seized at the time of the inquest. The body was then sent for postmortem examination.

5.3. The postmortem examination was conducted on 24 February 2018 at the Government Medical College Hospital, Thrissur, by PW86, Professor of Forensic Medicine and Police Surgeon, who also accompanied the Sub Collector. The postmortem examination revealed that the death was a case of homicide. The entire postmortem was video-recorded by PW103 (DCRB photographer) and the same was saved in Ext.P167 SD Card. The biological materials collected during postmortem were



subsequently seized by the Investigating Officer as per Ext.P56 seizure mahazar on 25.02.2018. Ext.P82 is the Postmortem Certificate.

5.4. PW97, the then Deputy Superintendent of Police, SMS & Agali Sub-Division, Agali, took over the investigation on 23.02.2018 as per the direction of the Inspector General of Police. He seized MO26 series clothes worn by Madhu at the time of his death as per Ext.P61 seizure mahazar. These dresses had been collected by the Sub-Divisional Magistrate at the time of the inquest. Scientific Officer, Rini Thomas, (PW64) of DCRB, Thrissur, collected food articles, remnants of vomit and faeces from the police jeep bearing Registration No. KL-01-BW-5724 in which Madhu was brought from Mukkali. She also collected food materials from the forest at Aandiyallachaal. These samples were packed, sealed, labelled, and seized.

5.5. The Investigating Officer then prepared the scene mahazar of the place of occurrence at Mukkali junction. The sack and material objects that were in the police jeep during custody were seized as MO3 series, sack and items inside — MO16, MO31, MO20, MO34, MO18, MO21, MO36, MO37, MO12 and MO2 zip used to tie Madhu's hands, were produced as Ext.P99 property list.

5.6. At about 4.00 p.m., the Investigating Officer, along with his team and Scientific Officer Rini Thomas, visited the Aandiyallachaal Reserved Forest, where Madhu was allegedly apprehended by the accused. The Investigating Officer was accompanied by PW62, the Section Officer of Mukkali Forest Station, along with forest watchers Perumal and Panali. They seized food articles, spices, a big shopper bag, and a range of material objects and the same were produced as Ext.P100 property list.



5.7. On 24.02.2018, all 16 accused were formally arrested as per Ext.P101 series to P103 series arrest memos, arrest intimations, and inspection memos. The Investigating Officer then prepared a section alteration report on 24.02.2018, incorporating penal provisions into what had previously been registered as an unnatural death under Section 174 of the Cr.P.C. On 24.02.2018, the Investigating Officer filed a report requesting the Sub Divisional Magistrate, Ottapalam to transfer the records of the case to the Sessions Court. He also filed a report on the same day furnishing the complete addresses of all accused.

5.8. On 25.02.2018, the accused persons were produced before court along with Ext.P112 remand report.

5.9. Materials collected by the Doctor during postmortem were seized by the Investigating Officer on 25.02.2018, and the same were produced as per Ext.P113 property list. Blood samples of all 16 accused were collected by the Nursing Assistant of Tribal Speciality Hospital, Kottathara (PW61).

5.10. Vehicle bearing registration No.KL-32-B-5259 (Mahindra Xylo used by Accused No. 1) was seized as per Ext.P28 seizure mahazar; KL-11-H-8559 (Marshal Jeep used by Accused No. 9) was seized as per Ext.P29 seizure mahazar, and the same were produced as Ext.P116 property list.

5.11. Manual GD (Ext.P85) of Agali Police Station seized on 25.02.2018 as per Ext.P119 seizure mahazar.



5.12. On 26.2.2018, the Investigating Officer, with the assistance of Vinu, CPO from District Cyber Cell, Palakkad, examined the CCTV footage of Sreerag Bakery. The DVR (MO28) and adapter [MO28(a)] were seized as per Ext.P120 seizure mahazar.

5.13. Photographs of all accused were taken at Lamiya Studio (Ext.P30 series), by PW38 and the same were seized as per Ext.P69 seizure mahazar.

5.14. The caste certificates of the accused persons and Ext.P39 caste certificate of the deceased Madhu were collected through PW51 Tahsildar, Mannarkkad.

5.15. The Investigating Officer seized multiple mobile phones from the accused persons, each seizure being duly recorded through separate seizure mahazars. MO27(d) was seized from Accused No. 4 (Aneesh), as per Ext.P66 and produced under Ext.P104 property list. MO27, along with MO27(e) memory card, was seized from Accused No. 7 (Sidhique), under Ext.P62 and produced as Ext.P105. MO27(a) was recovered from Accused No. 5 (Radhakrishnan), as per Ext.P63 and produced under Ext.P106. MO27(b) was seized from Accused No. 9 (Najeeb), under Ext.P64 and produced as Ext.P107 dated 05.03.2018, while MO27(c) was seized from Accused No. 8 (Ubaid), under Ext.P65 and produced as Ext.P108 of the same date. Further, MO25, belonging to Accused No. 14 (Hareesh), was produced by his relative Aanand and seized in accordance with Ext.P58, and subsequently included in Ext.P137. The contents of all these mobile phones, comprising photographs and videos relating to the assault and of Madhu, were extracted and stored in Ext.P92(a) pen drive, accompanied by a certificate under Section 65B of the Evidence Act issued by the Cyber Forensic authority.



5.16. The CCTV footage of Ponniyammal Gurukulam, which was contained in DVR (MO29) and adapter [MO29(a)] were seized as per Ext.P31 seizure mahazar and produced as per Ext.P128 property list.

5.17. The call data records of the accused were also obtained and seized as per Ext.P59 seizure mahazar.

5.18. On 4.3.2018, the Xylo Car bearing Registration No. KL-32-B-5959, used by Accused No. 15 was seized as per Ext.P15 and the same was produced as Ext.P130 property list. The Motorcycle bearing Registration No. KL-05-AJ-498 used by Accused No. 13 was seized as per Ext.P32 seizure mahazar and the same was produced as per Ext.P131 property list.

5.19. The recovery of MO24, the wooden stick allegedly used in the assault of Madhu, was effected pursuant to the confession statement of Accused No. 3 (Shamsudheen), marked as Ext.P132. Acting on this disclosure, the Investigating Officer recovered the said weapon in the presence of witnesses. The recovered article was subsequently produced and included in the property list as Ext.P133. Further, the autorickshaw bearing registration No. KL-50-D-2908, allegedly connected with the incident, was seized under Ext.P70 seizure mahazar and produced as Ext.P134 property list.

5.20. On 05.03.2018, the Investigating Officer seized the CCTV footage from the Anavai Forest Station, including the DVR (MO23) and its adapter [MO23(a)], as per Ext.P44 seizure mahazar, and the same were produced under Ext.P127 property list.



PW56, a Forest Department official, was a signatory to the said mahazar. The relevant CCTV visuals from various sources, including Sreerag Bakery, Ponniyammal Gurukulam, and Anavai Forest Station, were subsequently extracted by PW72 Vinu, Cyber Cell Expert of the District Cyber Cell, Palakkad, and stored in a DVD (MO30), as recorded in Ext.P72 seizure mahazar. Further, Ext.P34 comprises the sketch and scene plan of the reserved forest, while Ext.P45 contains details regarding the layout of the forest area. The registration particulars of all vehicles involved in the incident were obtained from the Joint RTO, Mannarkkad, and are marked as Ext.P47 series. Additionally, the medical treatment records of Madhu from institutions including the Mental Health Centre, Kozhikode, and the Government Tribal Specialty Hospital, Kottathara, were seized as per Ext.P67 seizure mahazar and produced under Ext.P145 property list.

5.21. On 17.03.2018, the Investigating Officer seized the Facebook and WhatsApp visuals that had been circulated by the accused persons in the WhatsApp group titled "Voice of Attappadi" and on Facebook, as recorded in Ext.P76 seizure mahazar. Screenshots of these visuals, marked as Ext.P35, Ext.P38, and Ext.P143 series, were produced through CW63 (Nikhul) and included in Ext.P144 property list. Further, the Internet Protocol Detail Records (IPDR) evidencing the usage of Facebook by Accused No. 8 (Ubaid) and Accused No. 4 (Aneesh), were seized under Ext.P74 seizure mahazar. The corresponding Facebook business records, along with the certificate under Section 65B of the Evidence Act, were produced as Ext.P68 series, Ext.P91, and Ext.P91(a), and collectively included in Ext.P157 Form 15.



5.22. The Investigating Officer (PW97) filed the final report on 22.05.2018 before the Special Court For SC/ST (PoA) Act Cases/Additional Sessions Court, Mannarkkad, against all 16 accused persons, alleging commission of offences punishable under Sections 143, 147, 148, 294(b), 323, 324, 326, 302, 342, 352, 364, 367 and 368 r/w. Section 149 of the Indian Penal Code, as well as under Sections 3(1)(d), 3(1)(r), 3(2)(v) and 3(2)(va) of the SC/ST (PoA) Act. Along with the final report, the Investigating Officer submitted Ext.P155 report seeking incorporation of Section 352 of the IPC and Ext.P156 report for deletion of Section 27(1)(e)(iv) of the Kerala Forest Act. The Investigating Officer also filed Ext.P158 report detailing the mobile phones used by the accused persons and Ext.P110 report requesting the Sub-Divisional Magistrate, Ottapalam, to transmit the case records to the Sessions Court.

6. The Course of Trial:

6.1. The learned Sessions Court took cognizance of the offence and on the appearance of the accused, the charges were framed by following the procedure. The charges were read over and explained to the accused to which they pleaded not guilty.

6.2. In the trial which followed, the prosecution examined PW1 to PW103 to prove its case. Exts. P1 to P168 were exhibited and marked. MO1 to MO37 (a) were also produced and identified. Upon closure of the prosecution evidence, the accused were examined under Section 313 of the Code of Criminal Procedure. During such examination, the accused denied all incriminating circumstances and allegations appearing in the evidence against them. Thereafter, the matter was considered under Section 232 of the Cr.P.C. As the Court found that the case was not fit for passing an



order of acquittal at that stage, the accused were called upon to adduce defence evidence. Accordingly, DW1 to DW8 were examined on behalf of the defence and Exts. D1 to D30 were marked.

7. Summary of the Judgment assailed in these Appeals:

7.1. The trial court, after an elaborate appreciation of evidence, recorded the following findings:

a) The identity of Madhu as a member of a Scheduled Tribe stood clearly proved. The caste certificates marked as Ext.P39 and Ext.P163, issued by competent authorities, established that Madhu belonged to the Hindu-Mudugar Scheduled Tribe. The court held that the bare denial by the accused was wholly insufficient to rebut the statutory presumption under Section 114 of the Evidence Act.

b) With respect to electronic evidence, the court found the same to be admissible and reliable. The CCTV footage, mobile phone videos, and other digital records were produced in original through PW95, an expert from the State Cyber Forensic Laboratory, along with certificates under Section 65B of the Evidence Act. In the absence of any material indicating tampering, the court admitted the evidence, placing reliance on the principles laid down in **Mukesh & Ors. v. State for NCT of Delhi & Ors**² and **Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal**³.

² [AIR 2017 SC 2161].

³ [2020 SCC OnLine SC 571]



c) The learned Sessions Judge profusely relied on CCTV footage from Mukkali Junction, which visually captured the presence of Madhu in a restrained condition, the gathering of accused persons, the physical positioning near the temple hundi area and the sequence of events immediately preceding Madhu's collapse. The Court accepted the footage to establish the presence and conduct of the accused at the crime scene.

d) The trial court after evaluation of the evidence noticed that as almost all eyewitnesses turned hostile, the prosecution case had to be evaluated on the basis of electronic evidence, namely, the CCTV footage and mobile phone video recordings. The court relied on the CCTV footage from Sreerag Bakery (Q2 file), Anavai Forest Station (Q1 file), and Ponniammal Gurukulam (Q3 file), as well as the photos and videos in the mobile phones marked as Q5, Q6, and Q7 stored in Ext.P92(a) pen-drive, to attribute specific overt acts to the accused.

e) In respect of Accused No. 1, the court concluded that the relevant incident was captured between 3.36.10 and 3.36.13 in Camera 1 and Camera 3 of the Sreerag Bakery CCTV footage (Q2 file). The oral evidence of PW8 (Suresh) and PW19 (Manikandan), who claimed to have witnessed the act, was discarded, as according to the learned Sessions Judge, the CCTV clearly showed that both witnesses were not present at the scene at the relevant time. PW8 had moved towards Keeripaara road at 3.35.05 p.m. and returned only at 3.52.05 p.m., while PW19 was positioned near Joly's shop, about 50–100 meters away, and had already left in an autorickshaw. The CCTV footage revealed that the 1st accused entered the gathering at 3.35.15 p.m., and within



a minute, between 3.36.10 and 3.36.13 seconds, a sudden and noticeable disturbance occurred within the crowd, clearly visible in Camera 3. At the same moment, the 7th accused, who was standing in front of Madhu, is seen abruptly rising and raising his hands towards the 1st accused, a spontaneous reaction treated as relevant under Section 6 of the Evidence Act. Immediately thereafter, nearby persons, including Accused No. 14, rushed towards the spot, and once the 1st accused moved away, those present were seen looking in his direction. From these cumulative circumstances, the court concluded that the act of stamping by the 1st accused stood conclusively established, treating the CCTV as an independent and silent witness.

f) With respect to Accused Nos. 2, 3, 5 to 10, and 12 to 15, the court relied extensively on the mobile phone recordings. The Q7 file, which contained audio-visual recordings primarily from the mobile phone of Accused No. 9, revealed that a substantial portion of the assault had taken place in the Aandiyallachaal forest itself, as evidenced by both the visual content and the accompanying voice recordings. The Q6 file, consisting of photographs extracted from the mobile phone of Accused No. 5 [MO27(a)], showed the initial apprehension of Madhu in the forest between 1.00 p.m and 1.23 p.m, which was found to corroborate the timeline of events. The Q5 file, retrieved from the mobile phone of Accused No. 8 [MO27(c)], depicted multiple instances of the accused surrounding and assaulting Madhu, tying his hands first with his own dhoti and later with MO2 (black zip), placing a sack on his shoulders, and parading him through the forest and along the Silent Valley road to Mukkali. This sequence was further corroborated by the CCTV footage from Anavai Forest Station (Q1 file) and Ponniyammal Gurukulam (Q3 file), which showed the group walking along the



public road with Madhu in a semi-nude condition. Additionally, MO24, the wooden stick used in the assault, was recovered from Accused No. 3 pursuant to a confession statement, as recorded in Ext.P52 recovery mahazar. The medical evidence confirmed that this weapon could have caused Injury No. 12, which was a rib fracture found on the body of the deceased.

g) The trial court placed substantial reliance on the medical evidence of PW86, the Professor of Forensic Medicine, Government Medical College, Thrissur, to determine the nature and cause of death. The postmortem revealed a total of 44 ante-mortem injuries on the body of Madhu. The court further concluded that the death of Madhu was homicidal. Of these, injuries Nos. 1 to 15 were identified as the cause of death, with injuries Nos. 1, 2, 3, and 12 being categorised as serious, while the remaining injuries (Nos. 4–11 and 13–44) were largely minor contusions and abrasions. The crucial medical opinion was that no single injury, taken in isolation, was sufficient to cause death. Rather, it was the cumulative or conjoint effect of all these injuries that resulted in death. The Doctor further deposed that even after sustaining these injuries, the victim could have continued to behave normally. He could have stood, walked and consumed food and carried out such activities. It was concluded on the basis of the Doctor's evidence that death would occur only after brain edema progressed over a period of 2–3 hours leading to unconsciousness and death.

h) The defence contention alleging custodial torture by the police was rejected. The argument that PW83, PW84, and PW89 had caused the death of Madhu either in the police jeep or at the Agali Police Station was the principal defence raised by



all the accused. No material was brought on record to establish that the injuries were inflicted by the police. The theory of custodial torture was thus completely disbelieved. The time when Madhu was picked up by the police and the time of death at the CHC coupled with the evidence of PW86 to the effect that death would occur only after brain edema progressed over a period of 2–3 hours was used to rule out police torture as contended by the defence.

i) The motive for the occurrence was held to be established. Evidence of PW28 to PW31 and PW91 disclosed a series of thefts involving food and minor articles from shops in Mukkali and surrounding areas, and the belief among the accused that Madhu was responsible for the same. Though the court did not characterise Madhu as a habitual thief, it held that this belief constituted a relevant and established motive forming part of the chain of circumstances.

j) The court held that the prosecution failed to establish the charge under Section 302 of the IPC but found sufficient material to conclude that the accused had acted collectively, that they had restrained Madhu, that they repeatedly assaulted the deceased, and jointly contributed to the sequence of violence. Holding so, they were convicted for the offences under Sections 143, 147, 323, 324, 326, 342 and 304 Part II r/w. Section 149 of the IPC. The Court held that the common object of the unlawful assembly was not to murder Madhu, but rather to apprehend him and hand him over to the police. This conclusion was based on multiple factors, including the conduct of the accused in taking Madhu to Mukkali, informing the police in advance, and not causing any single fatal injury. The death, according to the court, resulted from the cumulative



effect of the injuries inflicted, and not from any premeditated intention to murder. Consequently, the accused were found to have committed the offence of culpable homicide not amounting to murder under Section 304 Part II of the IPC.

k) Similarly, the charge under Section 364 of the IPC was not attracted as, according to the Court, the purpose of the abduction was not to kill. The charge under Section 368 of the IPC was also found not proved since Madhu was not concealed but taken through public spaces and handed over openly to the police. The Court further acquitted Accused Nos.2 to 15 under Section 352 of the IPC, noting that their actions constituted graver offences involving actual hurt, making the provision inapplicable.

l) Likewise, the offence under Section 368 of the IPC was found not made out, as Madhu was not concealed but was in fact publicly paraded and ultimately handed over to the police, with prior intimation having been given by the 3rd accused.

m) Though most of the witnesses had turned hostile, the learned Sessions Judge relied on their evidence to hold that Madhu was wrongfully confined at Mukkali Junction near the temple hundi, that the accused were present at the scene, and that the 1st accused had stamped upon the chest of the deceased.

n) The court also held that there is reliable evidence to conclude that the accused had formed an unlawful assembly, first in the forest area and later at Mukkali Junction, and acted in furtherance of a shared common object to assault, restrain, and humiliate Madhu.



o) Insofar as Accused No. 4 was concerned, the only allegation was that he had photographed Madhu and circulated the visuals. The court held that taking photographs was not part of the common object of the unlawful assembly, which was confined to apprehending and assaulting Madhu. In the absence of any overt act causing bodily injury or participation in the assault, vicarious liability under Section 149 of the IPC could not be fastened on him.

p) With respect to the charge under Section 3(1)(r) of the SC/ST (PoA) Act, no witness testified that Accused No. 4 had posted the visuals on social media, and the Investigating Officer's opinion in that regard was held to be insufficient in law. Consequently, Accused No. 4 was acquitted under Section 235(1) of the Cr.P.C.

q) With respect to Accused No. 11, the learned Sessions Judge went on to hold that other than being seen in the CCTV footage at Mukkali as part of the crowd, no overt act had been proved. There was no evidence of assault, wrongful confinement, or verbal abuse. The allegation that he had called Madhu a thief was not supported by any oral testimony, and the CCTV footage contained no audio. Relying on settled precedents, the court held that a passive bystander who joins a gathering out of curiosity, without sharing the common object, cannot be made vicariously liable under Section 149 of the IPC. He too was acquitted under Section 235(1) of the Cr.P.C.

r) Insofar as Accused No. 16 is concerned, the learned Sessions Judge held that the evidence did not establish that he was part of the unlawful assembly at the time of commission of the principal offences, that he had no knowledge or participation in its common object, and had committed only a single, isolated act of minimal force.



Consequently, it was held that the accused could not be held vicariously liable under Section 149 of the IPC or for any graver offences, and his act was reduced to mere criminal force punishable under Section 352 of the IPC.

s) The Court also held that the offence Section 294(b) of the IPC was not made out. Though certain words were discernible in the Q7 file, the court found that the utterances were not made in a public setting in the presence of others, and the specific abusive words were not clearly set out in the final report.

t) The charge under Section 3(1)(r) of the SC/ST (PoA) Act, relating to circulation of visuals to humiliate, was also found not proved. Despite the production of Facebook business records and WhatsApp screenshots, no witness identified any particular accused as having posted the content. The administrator of the WhatsApp group was not examined, and given that several persons had recorded videos at the scene, the identity of the person who uploaded the visuals remained unestablished. The court held that the Investigating Officer's opinion alone was insufficient to sustain a conviction.

u) Finally, the enhanced punishment provisions under Sections 3(2)(v) and 3(2)(va) of the SC/ST(Prevention of Atrocities) Act were held inapplicable. The court found no evidence to establish that the accused had knowledge of Madhu's caste at the time of the incident. The motive, as found earlier, was based on the belief that Madhu had committed theft, and not on his caste identity. The court held that such knowledge is a personal and specific fact that cannot be inferred from video footage or general circumstances, and in the absence of oral evidence establishing such knowledge, the



ingredients of these provisions were not satisfied. All the accused were accordingly acquitted of these charges as well.

8. Submissions on behalf of the State and the Victim:

8.1. Sri. Jeevesh, the learned Special Public Prosecutor and Sri.C.K.Radhakrishnan (Chalil), the learned counsel appearing for the victim, advanced elaborate submissions assailing the findings of the Trial Court. The learned counsel would take pains to highlight the fundamental character of what happened on 22nd February 2018. According to the learned counsel, a mentally ill tribal man — homeless, malnourished, wandering in the forests of Attappadi — was hunted down by an organised mob of shopkeepers, dragged from the forest, stripped, tied, beaten with a wooden stick, paraded half-naked for 3 kms through a public road, filmed for social media circulation, assaulted again at a crowded junction, and died within hours. They pointed out that every bit of the above gruesome act was captured by the perpetrators themselves on mobile phones and on the CCTV cameras placed by the forest department and some shop keepers. The evidence of the brutal violence was permanently recorded across 44 wounds on the body of Madhu. According to the learned counsel, though the Sessions Court found the charge against the accused proved beyond reasonable doubt, it proceeded to hold only 14 of the 16 accused guilty. The court then proceeded to hold that this was not murder but only culpable homicide not amounting to murder. The Court also acquitted Accused No. 4, who participated actively and filmed the entire spectacle and Accused No.11, who stood throughout and called Madhu a thief of all offences. A fleabite sentence was awarded to Accused No. 16



against whom there was convincing evidence to show that he had kicked a tied, helpless, dying man. The Court also refused to convict any of the accused under the graver provisions of the SC/ST (PoA) Act, notwithstanding that the prosecution has let in convincing evidence that Madhu was a tribal man which fact was known to all the accused. It is against these specific findings — the acquittals of Accused Nos. 4 and 11, the lesser conviction of Accused No. 16, the downgrading of the offence from Section 302 to Section 304 Part II of the IPC, and the failure to apply the SC/ST (PoA) Act, that the State and the victim have advanced their arguments before this Court.

8.2. Against the Acquittal of Accused No. 4 (Aneesh):

a. The CCTV footage from Q2 file (Sreerag Bakery) and the forensic report (Ext.P92) conclusively establish the physical presence of Accused No.4 at Mukkali junction throughout the relevant period. Accused No.4 was specifically and deliberately at the location where Madhu was being held, and he was engaged in an act of filming which required him to consciously direct his phone at the victim and operate it.

b. The learned Sessions Judge acquitted Accused No.4 primarily on the ground that the common object of the unlawful assembly was to apprehend and beat Madhu, and that taking photographs fell outside the scope of that common object. This reasoning is fundamentally flawed according to the learned counsel. Section 149 of the IPC does not require that every specific act committed by each member of an unlawful assembly be individually enumerated in the common object. The section fastens liability on every member for every act done in prosecution of the common object, or which the members knew was likely to be committed in prosecution of that object. The common



object, as found by the Sessions Judge himself, included the public humiliation, public degradation, and public insult of Madhu.

c. It was argued that the photography of a bound, stripped, and brutalised man in the midst of an ongoing mob attack is not a neutral or extraneous act. The mobile phone of Accused No. 4 contained three photographs and one video of Madhu taken during the incident and the EXIF metadata confirmed by PW95 establishes the time and device. It is further submitted that the learned Sessions Judge found the social media posting charge unproved against Accused No.4 because no witness specifically identified him as the person who posted the images online. However, Ext.P68(a) is the Facebook business record associated with the account of the 4th accused which was accompanied by a certificate under Section 65B of the Indian Evidence Act. Ext.P91 is the certified copy of the IPDR (Internet Protocol Detail Record) establishing A4's specific internet usage from his device at the relevant time on 22 February 2018. The mobile phone Q4 itself contained photographs of Madhu captured during the incident. The photographs were communicated through WhatsApp, as the file naming convention in the EXIF data makes clear. The combination of the account record, internet usage record, and device content creates a closed evidentiary circle. In these circumstances, Section 106 of the Evidence Act would squarely apply. It was the burden of Accused No.4 to explain how the images from his phone found their way into social media circulation, and he offered not a word of explanation. The Sessions Court identified this silence but did not draw the consequential adverse inference.



d. The Supreme Court in **Mizaji v. State of UP**⁴ has held that active participation in any form, including acts that further the collective enterprise, can constitute membership of an unlawful assembly. The capturing of these photographs, in context, is precisely such an act. It does not require Accused No.4 to have struck a blow. What it requires is that he did something, while a member of the assembly, that advanced the common object.

e. Section 3(1)(r) of the SC/ST (PoA) Act specifically criminalises the recording and circulation of images with intent to humiliate a member of a Scheduled Tribe. The Sessions Judge acquitted Accused No.4 on this charge for want of proof of posting. But the act of recording itself with the intent to humiliate is established on the evidence.

8.3. **Against the Acquittal of Accused No. 11 (Abdul Kareem):**

a. A11 was a shopkeeper at Mukkali, which area was the target of a series of thefts attributed to Madhu. The CCTV footage from Q2 establishes that A11 was present at Mukkali junction from the time Madhu was made to sit in front of the treasury box to the time the police arrived and took him away. His was a continuous presence in the immediate vicinity of an ongoing assault on a tied, helpless man. Relying on the observations of the Apex Court in **Lalji And Others v. State Of U.P.**⁵, it was urged that prolonged presence at the scene of an unlawful assembly, without any attempt at dissociation, is itself sufficient to infer membership of that assembly. It is not necessary in every case to prove an overt act of physical violence. What is required is presence

⁴ [AIR 1959 SC 572]

⁵ [(1989) 1 SCC 437]



with knowledge of the common object and the absence of any effort to separate oneself from the group committing the violence.

b. The learned Sessions Judge, while acquitting the 11th accused, has concluded that there is no evidence of the said accused calling Madhu a thief in public, and that the CCTV footage carried no audio. This finding is erroneous as the prosecution had established that the witnesses who were cited to prove this fact had turned adverse to the prosecution to give the accused a clean chit. The Sessions Judge has wrongly taken the view that Accused No. 11 might have been an innocent onlooker. As a matter of fact, Accused No. 11 was specifically named in the Ext. P80 FIS recorded within hours of the incident, and he was identified in the CCTV footage.

8.4. Against the conviction of Accused No. 16 (Muneer) for a lesser offence under Section 352 of the IPC:

a. Accused No. 16 is the son of PW31, a shopkeeper who had filed the theft case against Madhu in Crime No. 524/2016 in Agali Police Station. Accused No. 16 was cited as CW2 in that said case. He knew exactly who Madhu was. He knew why the mob had brought Madhu to Mukkali. The video evidence shows Accused No. 16 deliberately walking up behind Madhu and kicking him on the back with his leg. This was a deliberate act against Madhu. The Sessions Judge characterised the act of Accused No. 16 as a "stray assault", which is an erroneous finding. Accused No. 16 was fully aware of what was happening and his act was an act of deliberate violence against a helpless person. A person with that level of personal knowledge and personal connection to the events cannot be treated as an innocent curious spectator who happened to



wander into the situation. Accused No. 16 arrived at Mukkali with full awareness and motive.

b. The learned Sessions Judge declined to apply Section 323 of the IPC to A16's act on the basis that Madhu's facial expression in the video showed "annoyance rather than pain." This, according to the learned counsel, is an entirely unsound basis for an acquittal for the offence under Section 323 of the IPC. By the time Accused No.16 struck Madhu, Madhu had already sustained forty-four injuries. He was mentally ill, severely weakened, and had his hands tied. His capacity to register or visibly display pain was profoundly compromised by his ailment and because of the fact that he was cornered by a large group of people. The definition of "hurt" under Section 319 of the IPC requires only that bodily pain be caused and sets no threshold of severity, no requirement of visible expression, and no minimum duration. A blow with a leg to a person's back would necessarily cause some bodily pain. The threshold of Section 319 or 323 of the IPC is deliberately low because the legislative intent was to protect the bodily integrity of every person from every form of intentional physical contact that causes pain.

c. Accused No. 16 joined the assembly at Mukkali with knowledge of its common object. He was present at the assembly and he participated by striking Madhu. These facts, taken together, establish that Accused No. 16 was a knowing participant in the unlawful assembly and not a stranger who happened to commit an impulsive, isolated act. If Accused No. 16 was a member of the unlawful assembly, then Section 149 of the IPC applies to him as it applies to the other members, and he becomes liable



for all the offences committed by the assembly in prosecution of its common object including the offence under Section 304 Part II of the IPC.

8.5. Section 302 of the IPC vs Section 304 Part II of the IPC:

a. The learned Sessions Judge evaluated the entire evidence through the subjective lens of the purported objectives of the accused. The Court erroneously concluded that all that the accused wanted was to hand over Madhu to the police for which purpose they had called the Sub Inspector of Police beforehand. They also filmed the entire transaction openly. He concluded that if the intention was to murder they could have pushed him down from the forest down the cliffs. From these post-event inferences, he concluded there was no murderous intent. According to the learned counsel, by applying the law in **Virsa Singh v. State of Punjab**⁶, what the court had to consider was whether it has been proven that (a) a bodily injury was caused; (b) the injury was intentionally inflicted; and (c) the injury was, objectively assessed, sufficient in the ordinary course of nature to cause death. The question is not what the accused subjectively intended to achieve. The question is only whether the injury was deliberately inflicted and judged by medical science and common understanding, was sufficient in the ordinary course of nature to cause death. Reliance is placed on the Postmortem Certificate and the evidence of PW86 and it is urged that the injury Nos. 1 and 2, together with uncal grooving (injury No. 3), had caused Madhu's death. No amount of reasoning about what the accused "could have done differently" changes the character of those acts or the nature of those injuries. The said reasoning is nothing but

⁶ [AIR 1958 SC 465]



speculation and purely hypothetical and was entirely irrelevant to the legal analysis of the actual violence that was committed.

b. The question of application of Clause fourthly of Section 300 of the IPC was not considered. The Supreme Court in **State of Andhra Pradesh v. Rayavarapu Punnayya**⁷ drew the distinction between Section 302 and Section 304 of the IPC in terms of degree of probability. When the act is so imminently dangerous that death is not merely a possibility but a near-inevitable consequence, clause fourthly of Section 300 of the IPC is attracted. The threshold was crossed in this case. A mentally ill, malnourished, tribal man was subjected to sustained mob violence over several hours, and he was inflicted with forty-four injuries leading to severe head injuries and fractured ribs. He was then paraded for three kilometres in the heat, his hands tied, without any medical attention, in a weakened and deteriorating condition and he was made to carry a heavy sack. By the time Accused No.1 stamped him at Mukkali, Madhu was already in a state of serious neurological deterioration from the brain edema that had been building for two to three hours. The accused chose to deny Madhu medical care, and continued to subject him to physical abuse and the same contributed to his death. In those circumstances, death was not merely probable but was inevitable.

c. The learned Sessions Judge has erred in taking a view that all accused persons cannot be attributed with intent to commit murder but merely to hand Madhu over to the police. It was the 3rd accused who had called PW91, the police officer. The criminal liability of the rest of the accused who caused serious physical injuries must be

⁷ ((1976) 4 SCC 382)



assessed on the basis of what they did and not on the basis of what one of them said on the phone to a police officer. Under Section 149 of the IPC, each member is independently liable for their own acts as well as for the acts of others in the assembly. Just calling the police after committing serious violence is not a legal exculpation of that violence. The moral and legal quality of each violent act must be assessed at the moment of commission, not retroactively modified by subsequent conduct. The Sessions Court conflated post-event conduct with the intent at the time of the act, which is erroneous.

8.6. Sentence and Compensation:

a. The Sessions Judge found that the conjoint effect of all injuries formed a vicious cycle causing Madhu's death, and that all the accused who contributed to this vicious cycle are members of the same unlawful assembly. The learned Sessions Judge then assessed the murder question by looking at the individual act of each of the accused in isolation and finally holding that no single act was sufficient in the ordinary course of nature to cause death. If the cause of death is the conjoint effect of all injuries, and if all the accused who caused those injuries are members of the same unlawful assembly, then the proper question under Section 149 of the IPC is whether the cumulative act of the entire assembly satisfies the requirements of Section 300 of the IPC.

8.7. Acquittal for the offences under Sections 3(2)(v) and 3(2)(va) of the SC/ST (PoA) Act:



a. Section 8 of the Scheduled Castes and Scheduled Tribes (PoA) Act, as amended in 2016, provides that when the prosecution establishes that an offence under the Act has been committed against a member of a Scheduled Tribe, the court shall presume that the accused had the requisite knowledge of the victim's caste or tribal identity unless the contrary is proved by the accused. The learned Sessions Judge, however, found the accused guilty under Section 3(1)(d) of the Act for parading a member of the Scheduled Tribe in a semi-naked condition through a public place. None of the accused offered any evidence to rebut the presumption. In those circumstances, the charges under Sections 3(2)(v) and 3(2)(va) ought to have been held proved.

b. The accused were long-term residents and traders in Mukkali, a town located within one of the most well-known Scheduled Tribe-dominant areas in Kerala. They had been conducting their businesses in that area for years. Several of them had prior encounters with Madhu himself and some of them had even lodged complaints of theft. In these circumstances, an inference of knowledge of Madhu's tribal identity does not require any elaborate evidentiary foundation. It follows as a matter of common sense and common observation from the context in which the accused lived and operated.

c. Accused No. 3 called PW91, Sub Inspector of Police (Subin) and informed him that a person found in "Aandiyallachaal forest" was being brought to Mukkali. Nothing more is required to establish A3's clear knowledge of Madhu's tribal identity made in the course of the commission of the offence.



d. In Crime No. 524 of 2016 (Ext.P89), the theft case filed by PW31, Madhu was the accused. In the investigation of that case, Accused No. 16 (PW31's son) was cited as CW2. It has come out that he had identified Madhu in CCTV footage in connection with that theft. He had formally participated in a criminal investigation as an identifying witness in a case where Madhu's identity was specifically at issue. That knowledge is evidence of the group's collective awareness of Madhu's identity.

e. The motive of the group was the belief entertained by the accused that Madhu was a thief and he committed thefts. The WhatsApp group messages referred to in the electronic evidence described in terms that include his community. The very characterisation used in the group message, according to the evidence, singled Madhu out as a person connected to the tribal community. The accused targeted this specific person, in this specific location, in this specific manner and the prior interactions all point to an awareness of his tribal identity that cannot be disentangled from the targeting itself.

8.8. The sentences imposed do not reflect the gravity of the offence. Even accepting the Section 304 Part II of the IPC finding at its face, the sentence of seven years rigorous imprisonment imposed uniformly on 13 accused for the killing of a mentally ill tribal man and for filming and circulating the same, is manifestly inadequate. The maximum punishment under Section 304 Part II of the IPC is ten years. The sentencing norm in cases of this gravity must be calibrated to the seriousness of the offence, the vulnerability of the victim, and the deliberate, organised, collective nature of the violence.



8.9. The compensation awarded under Section 357 of the Cr.P.C is on the lower side. The Sessions Court directed that 75% of the fine be paid as compensation to the legal heirs of Madhu and also addressed the District Legal Services Authority for victim compensation. It is submitted that the compensation awarded is inadequate, having regard to the direction of the Apex Court in **Ankush Shivaji Gaikwad v. State of Maharashtra**⁸ and in **Sangeet v. State of Haryana**⁹ that courts must consider compensation under Section 357 of the Cr.P.C. in every case, mandate it where appropriate, and record specific reasons if it is not awarded adequately. This Court, in exercising its appellate powers under Section 386 of the Cr.P.C., has the power to enhance compensation independently of the fine, and the victim presses for that relief.

8.10. **The peculiar facts and character of this case demands the full rigour of the law.**

It is pointed out that the Sessions Court had observed that "this is the first mob lynching case in God's Own Country. Let it be the last." An organised, mob killing of a mentally ill tribal man, which was documented by the perpetrators themselves and circulated in a WhatsApp group named for the tribal belt in which it occurred, is precisely the kind of case for which the SC/ST (PoA) Act was enacted and for which the penal provisions of the IPC must be applied in their full force. A conviction under Section 304 Part II of the IPC with a sentence of seven years, with acquittals for those who photographed and watched, and three months for one who kicked, is not the message

⁸ [(2013) 6 SCC 770]

⁹ [(2013) 2 SCC 452]



that the law sends in a case like this, and it is not the message this Court should permit to stand.

9. Common submissions advanced by the defence:

a. The learned counsel appearing for the accused argued that since most material witnesses had turned hostile and the CCTV did not cover the injuries allegedly inflicted inside the forest area, no specific overt act attributable to any individual accused was proved.

b. The main defence that was taken by all 16 accused was that the death of Madhu while in the custody of the police was due to police brutality and not due to their acts. It was contended that Madhu was alive and uninjured when the accused handed him to the police at Mukkali at approximately 3:30 p.m., and the 44 injuries found on his body at the postmortem, which was conducted two days later, were inflicted by police personnel, either in the police jeep during transit or at Agali Police Station.

c. The defence came out with a detailed, layered attack on every procedural step taken by the police from the moment Madhu was taken into custody. It was contended that the failure on the part of the police to comply with the procedure was not an innocent lapse but an attempt to conceal the culpability of the police.

d. It was forcefully urged that the police officers who took Madhu into custody at Mukkali at approximately 3.30 p.m. violated each of the formalities that are to be complied with by the police as laid down in **D.K Basu v. State Of West**



Bengal¹⁰. No arrest memo was prepared by PW83, Sub Inspector of Police (Prasad Varkky), the arresting officer, at the time of arrest as mandated under law. Had the police prepared an inspection memo at Mukkali at 3.30 p.m. recording Madhu's physical condition as observed at that point, there would have been a baseline against which the 44 postmortem injuries could be assessed. It was contended that the injuries found on the body of Madhu were inflicted in the 45-minute window between 3.30 p.m. and 4.15 p.m., during which Madhu was entirely under police control.

e. It is pointed out that the CCTNS entry made at Agali Police Station on 22.02.2018 was recorded at 5:02 p.m. by the GD charge officer Rejimon and it is stated therein that Madhu had died "while being brought to Agali Police Station" in the police jeep. This would throw serious doubts on the case set up by the prosecution.

f. It is contended that when PW83 received information at Mukkali that a person had been injured by a mob and was being brought to the police, he was duty-bound under Section 154 of the Cr.P.C. to register a First Information Report incorporating cognizable offences in view of the law laid down in **Lalita Kumari v. Government of Uttar Pradesh**¹¹. Instead, PW83 registered only an unnatural death report under Section 174 of the Cr.P.C. at 5.15 p.m. By that time, Madhu had already died, and the body had been shifted to the mortuary. It is urged that registering an FIR under Section 154 with penal provisions would have: (a) triggered mandatory investigation procedures, (b) required formal documentation of the accused persons named in the FIS, and (c) created a contemporaneous record of police receipt of a

¹⁰ [AIR 1997 SC 610]

¹¹ [(2008) 3 SCC (Cri) 17]



seriously injured person.

g. In the FIS (Ext.P80) itself, PW83, who recorded the same, wrote that Madhu himself told him the names and phone numbers of seven persons who had attacked him. This was impossible as a dying, mentally ill man with brain edema could not have stated the phone numbers of the assailants. Nothing more was required to show that the FIS was a fabricated document to create a version of events in which information about the attackers came from Madhu himself rather than from the police's own knowledge acquired through other means.

h. Curiously, the FIR (Ext.P81) was registered manually at 5.15 p.m. The contention advanced by the prosecution was that this was on account of a power failure at Agali Police Station at the relevant time and the CCTNS computer system was not working. The evidence let in by the defence by examining DW2 (Assistant Engineer of KSEB, Agali Section) and DW3 (Assistant Engineer, 11 KV Sub Station, Mannarkkad) would reveal that such an assertion was false. Reliance was also placed on Exts.D14 (complaint register of KSEB Agali dated 22.02.2018), D15 (LT interruption register), D16 (HT interruption register), D17 (interruption register of 33 KV Sub Station, Agali), and D18 (operators' daily register of 33 KV Sub Station, Agali dated 22.02.2018) and it was argued that at point of time was a complaint registered with KSEB regarding power failure at Agali Police Station on the relevant date

i. CCTV cameras were installed at the Agali Police Station, if that be the case, the investigating officer was obligated to verify the CCTV footage at the Station to determine whether Madhu was brought into the station, and if so, in what condition.



The failure to produce the said document would only reveal that the attempt was to conceal the incident of custodial torture.

j. The case of the prosecution specifically is that Madhu vomited at Mele Thavalam, which is located approximately 10 km from Mukkali on the road to Agali. The police jeep was stopped briefly and thereafter continued to Agali CHC, which was situated about 8 km away. Between Mukkali and Agali, several private hospitals were available and there is no reason why Madhu was not admitted in those hospitals for treatment.

k. DW1, the Senior Nursing Officer of Agali CHC, produced the OP register (Ext.D12) and the injection register (Ext.D13) for the relevant period. In Ext.D13, the time of admission of Madhu had been changed from 4:25 p.m. to 4:15 p.m. This was a clear attempt to manipulate the police records to create a shorter window between police custody and death, thereby making it appear there was less time for police to have inflicted injuries.

l. No external injuries were noted by the police at the time of custody but when the postmortem was conducted by a team of doctors 44 injuries were found on various parts of the body which include fractured ribs, head contusions causing brain edema, tramline contusions, and internal haematomas.

m. Dr. Lima Francis (PW56), the duty doctor at Agali CHC, was influenced by senior police officials to record a clinical note that portrayed a different picture of the injuries on Madhu's body. The certificate prepared by her was also manipulated.



n. The learned Sessions Judge has committed a grave error in conducting its own visual identification of the accused without any scientific methodology. In the case on hand, the prosecution examined PW38, a photographer, who took photos of the accused persons after their arrest in a neutral background and those photographs were marked as 'S' series photographs. Thereafter, PW95, the scientific expert, compared the photographs with video footage of the accused and identified the accused in Ext.P92 report. The court also relied on the evidence of PW2, PW27 and PW97 to pin the accused as the persons in the video footage. This manner of analysis cannot be relied upon to identify the accused in a case of this nature.

9.1. Arguments advanced by the Sri. T. Shajith, the learned counsel appearing for accused No. 1 :

a. According to the learned counsel, PW83, the Officer who recorded the FIS, has falsely included the name of Accused No.1 with a view to persuade him to become a witness for the prosecution at the trial stage. According to the learned counsel, except A1 and A11, none of the persons named in the FI Statement have been arrayed as accused in the final report. This would reveal that the implication of A1 and the other accused are merely an afterthought to give a clean chit to the police officers in whose custody Madhu had sustained injuries.

b. According to the learned counsel, Accused No. 1 had come to Mukkali as he was informed that his granddaughter had eloped with a boy. He had come along with his son (Riyas- DW8/PW45), younger brother (Abdu Rahiman- DW6), and son-in-law (Nasar- DW5) to his daughter's house at Mukkali to sort out this matter. In



order to substantiate his contention, he examined DW5, DW6, DW7 (K.V. Salam-Secretary of the Jama Ath), and DW8 as witnesses. Their version is unchallenged and there was no reason for the learned Sessions Judge to conclude that it was as informed by the rest of the accused that the 1st accused had come to Mukkali to wreck his vengeance.

c. It has come out in evidence that hundreds of persons had gathered at Mukkali, and not all of them have been arrayed as accused in the case. The presence of the accused at the scene has also been explained by examining credible witnesses. In that view of the matter, the mere presence of A1 in and around Mukkali is no reason to conclude that the 1st accused had also shared the common object of the rest of the accused. Reliance was placed on the judgments rendered by the Apex Court in **Subal Ghorai and Ors. v. Govt. of West Bengal and Ors.**¹², **Muthu Naicker and Ors. v. State of Tamil Nadu**¹³, **Baladin and Ors. v. State of U.P.**¹⁴ to substantiate his contention.

d. It was brought out during the cross-examination of PW2 that the Aandiyallachaal area and the area near the treasure box were rocky, and that while walking through a rocky area, one might naturally lift one's leg. Going by the evidence of PW2, all that he had seen was the 1st accused lifting his leg and nothing more. According to the learned counsel, Accused No.1 lifted his leg to navigate rocks, and not for stamping Madhu.

¹² [(2013) 2 SCC (Cri) 530]

¹³ [(1979 SCC (Cri) 14]

¹⁴ [1956 KHC 391]



e. The learned counsel submitted that the learned Sessions Judge has rightly held that PW8 and PW19 are planted witnesses and they had no occasion to witness the stamping of the deceased by the 1st accused. The learned counsel has invited the attention of this Court to the CCTV footage and timeline relied on by the prosecution to show that PW8 (Suresh) was not within the capturing area of the camera at 3.36.10–13 seconds and that he had moved towards Keeripaara road at 3.35.05 p.m. and returned only at 3.52.05 p.m. It was also emphatically submitted that PW19 was near Joly's shop (50–100 metres away) and had left in an autorickshaw before 3.36 p.m.

f. The learned counsel submitted that the learned Sessions Judge has seriously erred in relying on the CCTV footage and in concluding that the disturbance in the crowd, A7's reaction, the rushing of bystanders were enough to prove the alleged act of stamping. No such finding was warranted even if the footage is meticulously evaluated, contended the learned counsel.

g. The learned Sessions Judge, after disbelieving the evidence of PWs 8 and 19, who were cited to prove the incident, went on to watch the CCTV footage and based on the same came to the conclusion that the act of A7 raising his hands and the disturbance among the people who were standing around Madhu revealed that A1 had stamped Madhu. According to the learned counsel, the observation by the learned Trial Judge is his personal observation and no opportunity was given to the 1st accused to challenge the res gestae evidence. It is also pointed out that if the same was an incriminating circumstance, an opportunity ought to have been granted to the 1st accused to explain the same, the same was not done. Relying on the observations in



Pritam Singh and Another v. State of Punjab¹⁵, it is argued that the observations and findings arrived at by the learned Sessions Judge after viewing the CCTV footage without granting an opportunity to the defence to explain the same is illegal.

h. It is submitted that even if it is held that the 1st accused had stamped on the deceased without admitting the same, his action would only attract offence under Section 323 of the IPC. Reliance is placed on **Thomas v. State of Kerala**¹⁶ to substantiate his contention.

i. It was argued by the learned counsel that the 1st accused never went to the forest, had no connection with the plans of the other accused, and was merely a casual observer at Mukkali who came for a family purpose.

9.2. **Sri. S. Rajeev, the learned counsel appearing for Accused Nos.2 and 5, advanced the following submissions:**

a. There was no oral evidence and no CCTV footage showing Accused No.2 or Accused No.5 individually committing any specific violent act against Madhu. The eyewitnesses who might have deposed to such acts had all turned hostile. In those circumstances, Section 149 of the IPC cannot be invoked to convict them for injuries they were not individually proved to have inflicted.

b. The learned counsel contended that PW10 and PW11, both serving as forest watchers, are the primary witnesses relied upon by the prosecution to establish

¹⁵ [1956 KHC 423]

¹⁶ [1991 KHC 392]



the presence of the 2nd accused in the forest. However, it was pointed out that PW11, during the initial stage of his examination, did not support the case of the prosecution. Subsequently, he appeared before the office of the Public Prosecutor, participated in witness protection proceedings conducted at the District Judge level, and was thereafter recalled. In the second stage of his examination, he reneged from his earlier stance and supported the prosecution. A similar pattern, according to the learned counsel, is evident in the testimony of PW10. In his examination-in-chief at the first stage, PW10 stated that he had seen "some persons" walking through the forest at a distance of approximately 10 - 70 metres, and that he identified one among them as the 2nd accused (Marakkar). However, during cross-examination at that stage, the defence elicited statements suggesting that the witness was observing from a distance ranging between 500 metres and 1 kilometre—a range from which, it was argued, identification would be humanly impossible. When recalled for further examination, PW10 once again supported the prosecution and reaffirmed that he had seen and identified Accused No.2. In light of these inconsistencies across different stages of their testimony, the learned counsel submitted that both witnesses have given materially conflicting versions, thereby rendering their evidence unreliable for the purpose of identification. It was therefore argued that their testimony cannot be safely relied upon for sustaining a conviction. In support of this contention, reliance was placed on **Munshi Singh Gautam v. State of Madhya Pradesh**¹⁷ and **Malkhansingh v. State of Madhya Pradesh**¹⁸, wherein it has been held that identification evidence must be approached with caution, particularly in circumstances where there exists a possibility of the witness

¹⁷ AIR 2005 SC 402

¹⁸ (2003) 5 SCC 746



being influenced.

c. According to the learned counsel, accused Nos. 2 and 5 were not present in the forest at the relevant time. It was submitted that the trial court nevertheless proceeded to rely upon CCTV footage to accept the prosecution's version regarding the role allegedly played by the said accused. The learned counsel contended that the method and manner in which the CCTV footage was relied upon is contrary to the prescribed procedure, and, on that ground alone, no reliance ought to have been placed on such material. It was further urged that no Test Identification Parade (TIP) was conducted in the present case. Instead, the witnesses are stated to have identified the accused after being shown photographs and video footage by the police. According to the learned counsel, such identification is inherently tainted and lacks evidentiary value, as it carries a serious risk of suggestion and influence, thereby rendering the identification unsafe to be relied upon.

d. The mobile phone bearing SIM No. 9961268715, from which the three calls to Accused No.9 (Najeeb) were made at 12.17 p.m., 12.21 p.m., and 12.22 p.m. by the 2nd accused, was never seized by the Investigating Officer. Accused No.2 was not holding his mobile phone at the time of his arrest on 24.02.2018. According to the learned counsel, the CDR (Ext.P42 series) cannot be attributed to Accused No.2. Any person could have been using the said SIM on that day.

e. There is no evidence that either Accused No.2 or Accused No.5 carried any weapons to the forest. Section 148 of the IPC requires proof that the person was armed. The inference that each accused was armed is not supported by the evidence.



f. The learned counsel submitted that the word parading is not defined anywhere, and if that be the case, the learned Sessions Judge has erred in finding the accused guilty for the offences under Section 3(1)(d) of the IPC.

g. Insofar as Ext.P80 (FI statement) is concerned, the names of either Accused No.2 or Accused No.5 do not find a place therein. It was much later, to conceal the police atrocity that the names of the appellants were included and they were framed in the case.

h. Data from the phone of Accused No. 5 [MO27(a)], including GPS coordinates and photographs, were extensively used by the prosecution to prove the incident which took place in the forest. The FSL report shows that MO27(a) was received at the State Forensic Science Laboratory along with other items only on 27.03.2018, about 32 days after the incident. The seizure mahazar (Ext.P63) of the phone reveals that the phone was seized from the custody of the 5th accused. The chain of custody has not been proved, and there is every chance that the data, or GPS location data could have been accessed or tampered with during this period.

i. The private laptop of PW72 was used during the trial to view the footage. This is an erroneous procedure.

j. The learned counsel submitted that Section 106 of the Evidence Act, 1872 was wrongly applied by the learned Sessions Judge to the disadvantage of the accused. It was urged that Section 106 is an exception intended for truly exceptional situations where the prosecution cannot, without disproportionate difficulty, prove facts



peculiarly within the knowledge of the accused. Extending it beyond that would undermine the foundational principle that the prosecution bears the burden of proving guilt.

9.3. Sri. Anil Mohammed, the learned counsel appearing for the accused Nos. 3, 6, and 8 to 10, has advanced the following submissions:

a. The learned counsel submitted that the electronic evidence was analysed by PW95, an expert from the forensic science Lab who is not a notified examiner of electronic evidence as defined under Section 79A of the Information Technology Act. It is submitted that only the evidence of an examiner under Section 79A of the Act can be considered as relevant and accepted as admissible.

b. It is urged that if the prosecution version that Madhu had sustained 44 injuries, including a rib fracture, is believed as such, he could not have behaved normally in the CCTV footage, which is profusely relied on by the prosecution. He submitted that the deceased can be seen sitting, appearing alert, and reacting to stimuli. According to the learned counsel, nothing more was required to conclude that the injuries were inflicted by police and not by the accused.

c. It is further urged that the recovery of MO24 (wooden stick) on the basis of the alleged confessional statement of Accused No.3 as per Ext.P52 recovery mahazar ought to have been rejected on multiple grounds. The recovery was not proven in accordance with law and the alleged recovery of an ordinary stick was from an open place accessible to all. No evidence was adduced to establish the presence of Madhu's



blood, tissue, or DNA on MO 24. However, without carrying out such an exercise, the prosecution has linked the rib injury found on the body of Madhu to an infliction of injury by Accused No. 3 using MO24.

d. The learned counsel submitted that Accused No. 3 called PW91, Sub Inspector of Police (Subin) once before reaching Mukkali, informing him of the apprehension of Madhu and once after reaching Mukkali about the fact that Madhu had reached Mukkali. This, according to the learned counsel, would reveal that A3 did not nurse any intent to harm Madhu. The conduct of Accused No.3 negates the knowledge element required for Section 304 Part II of the IPC and this aspect of the matter was not considered by the learned Sessions Judge.

e. Insofar as Accused No.6 is concerned, the only overt acts attributed to him is the alleged fisting of Madhu on his dorsum area. However, the prosecution has not placed on record any video or photograph specifically showing Accused No. 6 individually committing an act of violence. In order to hold that the 6th accused liable under Section 304 Part II of the IPC with the aid of Section 149 of the IPC, it needs to be established that Accused No. 6 knew, as a member of the assembly, that the collective acts were likely to cause death. That threshold has not been crossed.

f. The prosecution has attempted to establish the presence of Accused No. 6 through CCTV (from Ponniyammal Gurukulam in Q3 file from 12:41:15 pm onwards) and the inference drawn from the Q7 video. It is submitted that the name of the 6th accused does not appear in any CCTV identification report of PW95, and no weapon or mobile phone was seized from him. In other words, the prosecution at the most has



established only his presence and not his membership of the unlawful assembly.

g. The learned counsel submitted that the contention of the defence that the electronic evidence had been tampered with was not properly considered by the Sessions Court. It is also submitted that the prosecution has not been able to establish that the mobile phones seized from the individual accused in fact belonged to them. It is submitted that though Accused No. 8 was arrested on 24.02.2018, his mobile phone MO27(c) was seized only on 05.03.2018, as is evident from the property list (Ext.P108). The authorship of the photos and media in the phone cannot, therefore, be placed on Accused No. 8.

h. The learned counsel submitted that the specific identified acts of Accused No.8 are that he had taken photographs and video of Madhu (Q5 file content from his phone), and that he was present in the forest and at Mukkali. It is submitted that the prosecution has not let in any evidence to establish that Accused No.8 had caused any injury by physically assaulting Madhu. A person whose own device records the incident but who is not himself seen in any video or photograph personally assaulting the victim occupies a qualitatively different position from those who physically struck Madhu.

i. Insofar as Accused No. 9 is concerned, the allegation is that Accused No.9 provided his Marshal Jeep (KL-11-H-8559) for the group's journey to Vandikkadavu. According to the learned counsel, providing a vehicle for a journey does not establish that Accused No.9 shared the common object of causing grievous hurt to Madhu.



j. The finding against Accused No.10 is that his autorickshaw with Registration No. KL-50-D-2908 was used to transport the core group. It was also found that it was Accused No.10 who had placed the sack containing rice and stolen items on Madhu's shoulders, as is visible from Q7 video file. The prosecution further alleges that Accused No. 10 fisted Madhu on the dorsum at the forest stage and Vandikkadavu. According to the learned counsel, the mere fact that A10's autorickshaw was used by the group does not establish that he was a member of the unlawful assembly.

k. The accused were convicted under Section 3(1)(d) of the SC/ST (PoA) Act r/w. Section 149 of the IPC for parading Madhu semi-nakedly through the public road. The caste of each accused to establish that they were not members of SC/ST community was not individually proven for any of them through independent evidence.

l. The accused were convicted under Section 367 r/w. Section 149 of the IPC after entering upon a finding that they had abducted Madhu for the purpose of causing grievous hurt. According to the learned counsel, even if the prosecution case is admitted as such the common object of the assembly was to apprehend Madhu and to hand him over to the police. In that view of the matter, the necessary ingredient of Section 367 of the IPC that Madhu was abducted for the purpose of causing grievous hurt will be caused.

9.4. **Sri. P.Vijayabhanu, the learned Senior Counsel appearing for A8, A9 and A16 advanced the following submissions:**

a. No evidence was let in by the prosecution to establish that the 8th



accused had assaulted Madhu. One of the main allegations is that the mobile phone of A8, which was marked as MO27(c), contained 7 photographs and videos of Madhu along with the accused and that the said videograph contained the footage of Accused No.6 striking a blow with his knee on Madhu's back. According to the learned counsel, the integrity of MO27(c) has not been verified and the same could not have been relied upon.

b. It is further submitted that Accused No.8 was arrested on 24.02.2018 but his mobile phone was seized only on 05.03.2018 as is evident from Ext.P108 property list. The contents of the phone cannot, therefore, be used to implicate Accused No.8 in the crime.

c. The learned Sessions Judge has rightly acquitted Accused No.8 of the offences punishable under Section 3(1)(r) of the SC/ST (PoA) Act on the ground that the prosecution has not succeeded in proving that Accused No. 8 had posted on social media certain videographs showing the capture of Madhu and assault. After having acquitted the accused for the said offence, there was no justification in imposing the maximum sentence awarded to the other accused to A8.

d. Insofar as Accused No.9 is concerned, it was argued by the learned counsel that the mere fact that he had provided the Marshal Jeep bearing Reg. No. KL-11-H 8559 to the other accused will not establish that Accused No.9 shared the common object of the unlawful assembly. The finding of the court that Accused No. 9 was the organizer of the group was not based on legal evidence.



e. The Court failed to note that none of the videos, Q7 file in particular, produced by the prosecution before the court showed the presence of Accused No.9. Instead of holding that Accused No.9 was not present, the learned Sessions Judge concluded that Accused No.9 was capturing the videographs. This, according to the learned counsel, is an erroneous finding.

f. The learned counsel further contended that the mere production of certain call records from the mobile service provider would not mean that certain calls have been made or calls received in the mobile phone of Accused No. 9.

g. The prosecution has not placed before the court any oral evidence or video evidence to establish the fact that Accused No.9 had assaulted Madhu either in the forest or at Mukkali. If that be the case, there was no justification in imposing the maximum sentence on Accused No.9 as in the case of the accused against whom there was evidence to establish the commission of overt acts.

h. Insofar as Accused No. 16 is concerned, who is none other than the son of Accused No. 9, the court concluded that the said accused did not join the unlawful assembly and found him guilty only of the offences punishable under section 352 of the IPC. Different standards were applied for Accused No. 9.

i. The learned counsel submitted that the trial court had erred in coming to the conclusion that it was Accused No. 16 who had delivered a kick on the backside of Madhu. According to the learned counsel, the trial court has assumed the role of a witness and has identified Accused No. 16 as the person pictured in photograph S8,



from the 'S' series photographs taken by PW38.

j. The learned Sessions Judge has laid much emphasis on the motive of Accused No. 16 that he, being the son of PW39 and being a witness in the theft case involving Madhu, had every reason to assault him. It is submitted that motive has to be specifically proved and cannot be inferred from family relationships.

k. The learned Sessions Judge has erred in coming to a conclusion that A16 did a thrust from behind causing annoyance to Madhu, and thereby holding that the offence under Section 352 of the IPC was made out. The said finding is erroneous.

9.5. Sri. Nireesh Mathew, the learned Counsel appearing for A7 & A12, advanced the following submissions:

a. The learned counsel contends that the learned Sessions Judge has erred in relying on the contents of MO27 mobile phone to attribute a role to the 7th accused.

b. It is further submitted that the learned Sessions Judge applied the principle of res gestae and went on to hold that rising of Accused No. 7 from the place he was sitting and pointing his fingers at 3.36.10 Seconds as discernible from Q2 CCTV footage could be considered as a contemporaneous act corroborating the stamping of Accused No.1 at that moment. According to the learned counsel, the reliance placed by the court on the body language of Accused No. 7 as corroborative of the stamping of Accused No. 1 is a judicial inference from a three-second CCTV image and not a direct



proof of any act by Accused No. 7.

c. The prime allegation against the 7th accused is that he had held Madhu's left hand while they were coming down from the forest, for which purpose profuse reliance was placed on Q7 video extracted from the phone of Accused No. 9. According to the learned counsel, even a very careful perusal of the video footage will not reveal this fact. All that can be seen from the footage is that of several persons surrounding Madhu during the march.

d. Insofar as Accused No. 12 is concerned, the learned counsel submitted that there is no legal evidence adduced by the prosecution to show his involvement in the crime. The evidence let in does not reveal that any mobile phone or weapon was seized from or at the instance of Accused No. 12. No witness spoke about his involvement, and even the video footage does not show that Accused No. 12 had committed any acts of violence. His conviction rests entirely on Section 149 of the IPC as a member of the unlawful assembly whose group committed the proved offences.

9.6. **Sri. S.K. Adityan, the learned counsel, advanced the following submissions on behalf of the 13th accused:**

a. As far as the conviction of Accused No. 13 is concerned, the Court proceeded to believe the prosecution version that Accused No. 13 arrived at Mukkali in his motorcycle bearing registration No. KL-05-AJ-498. However, no evidence was let in to establish that the 13th accused had driven the bike. With the above evidence, the Court could not have come to the conclusion that the 13th accused was a member of the



unlawful assembly and he had committed any overt act in prosecution of the common object.

b. In order to establish that the motor vehicle bearing No. KL-05-AJ-498 was possessed by the 13th accused, the prosecution examined PW44, an auto consultant, whose evidence was thoroughly insufficient to prove the said fact. Furthermore, the RC particulars of the vehicle revealed that the registration stood in the name of Sri. Alfin Mathew, who was not cited as a witness or examined. Relying on the law laid down in **Faisal U.K. v State of Kerala**¹⁹, it was urged that the failure of the investigating officer to examine material witnesses will create serious doubt on the fairness and credibility of investigation.

c. It is further submitted that the only other evidence linking the 13th accused with the assembly was the evidence let in by PW27, who stated before court that the 13th accused were among the persons who had brought Madhu down from the forest. Furthermore, no specific act of violence is individually attributed to Accused No. 13.

9.7 **Sri. Varghese, the learned counsel appearing for A14 and A15 has advanced the following submissions:**

a. The learned counsel submitted that Accused Nos. 14 and 15 did not enter the Aandiyallachaal reserved forest and even according to the prosecution they had no part in assaulting Madhu after his apprehension inside the forest. According to

¹⁹ 2026 KHC Online 1578



the learned counsel, if Accused Nos. 14 and 15 was not part of the unlawful assembly at the inception, they cannot be treated as a member of the unlawful assembly

b. It is further submitted that the only evidence against Accused Nos. 14 and 15 is a photograph from A8's phone (Q5 file), which shows Accused Nos. 14 and 15 and the Marshal Jeep of Accused No. 9 at Vandikkadavu. It is submitted that from the forensic report it is evident that the said photograph is a WhatsApp forward and not an original photograph captured using the camera of the 8th accused.

c. Mobile phone of the Accused No. 14 (MO25/Q9) was produced before the police by the relative of the 14th accused and was seized on 08.03.2018 under Ext.P58 seizure mahazar. Accused No.14 was arrested on 24.02.2018. According to the learned counsel, the question of what happened to the phone's contents during those 12 days was never satisfactorily established and proved. According to the learned counsel, the contents of Q9 cannot be relied upon without first establishing the integrity of the device between 22.02.2018 and 08.03.2018.

d. The medical evidence establishes that the fatal injuries (causing brain edema) were inflicted between 1.00 p.m. and 2.00 p.m., that too while inside the forest. If the injuries that caused Madhu's death were inflicted before Accused Nos. 14 and 15 even joined the assembly, their liability under Section 304 Part II of the IPC becomes suspect. They can only be attributed constructive liability only if there is evidence to establish that when Accused Nos. 14 and 15 joined at Vandikkadavu, they knew or could reasonably have foreseen that the assembly's acts up to that point had likely caused or would cause death.



e. Insofar as Accused No.15 is concerned, the specific allegation is that Accused No. 15 held the zip tied around Madhu's arms during the march, and he fisted Madhu on the shoulder. No evidence was let in by the prosecution to establish both these aspects.

10. Analysis of evidence:

We have carefully considered the submissions advanced by the learned counsel on either side and have meticulously perused the entire record. Having regard to the nature of the appeals before us—namely, appeals against conviction, appeals against acquittal, as well as challenges to the adequacy of the sentence imposed—we are called upon to undertake a comprehensive reappraisal of the evidence on record. Furthermore, a contention was advanced before us by the learned counsel appearing for both sides that the oral evidence has not been properly appreciated by the learned Sessions Judge. In that backdrop, and before proceeding to deal with the specific contentions urged, we deem it appropriate, as a matter of judicial discipline, to first examine in detail the evidence adduced by the prosecution. This foundational exercise is necessary to assess the correctness of the findings recorded by the Trial Court, both in respect of conviction and acquittal, and to determine whether the conclusions reached are sustainable in law and on facts.

10.1. PW1 (CW1) is an attester to Ext.P1 inquest report. He deposed that he was present at the Agali Community Health Centre at the time of conducting the inquest over the body of deceased Madhu. PW1 further stated that for several years prior to the incident, Madhu had been residing in the forest area.



10.2. PW2 (CW10) is a witness examined by the prosecution to testify what had transpired at Mukkali Junction after Madhu was brought there. He deposed that he had visited Mukkali on the relevant day. He stated that he saw Madhu at Mukkali, and according to him, about 150-200 persons were near him. He, however, stated that nothing eventful was seen by him. He identified all the accused standing in the dock after the court had asked them to remove the masks worn by them. It is clear from his evidence that the witness was aware of the identity of each of the accused as they were all residents of Mukkali and whereabouts. Though PW2 was cited to prove the overt act of the 1st accused stamping on Madhu while he was seated in front of the treasure box of Ponmala Sastha Temple situated near Sreerag Bakery at Mukkali Junction, PW2 refused to depose that he witnessed the act of stamping. When he was asked a leading question as to whether he had stated to the police that one individual had entered the crowd of people and lifted his leg for stamping Madhu, he stated that he had stated so. The court ought not have permitted the prosecution to put such a question as it is hit by Section 162 of the Code. When he was asked whether the person who lifted the leg was in court, he stated that the said person was present in court and went on to state that it was the 1st accused. He stated that he then went towards the waiting shed. He stated that after some time police came to the spot. Madhu got up and entered the Police Jeep. He did not see whether any person had helped him to enter the Jeep. To a pointed question as to whether the hands and legs of Madhu were tied, he answered in the negative. The prosecution played the CCTV Footage extracted to Ext.P92(a) pen drive of the incident at Mukkali on 22.2.2018 from 3.08 p.m. onwards in open court and the attention of the witness was invited to the same. PW2 identified all the accused persons



visible in the CCTV footage, except Accused No.12 and stated that they could be seen in the video. He admitted that the video clipping was that of Mukkali and identified Sreerag Bakery situated in the junction. He was able to identify Madhu in the video. He then identified the accused who were found standing around Madhu. He specifically identified Accused No.15 (Biju), Accused No. 6 (Aboobacker), Accused No. 4 (Aneesh), Accused No. 5 (Radhakrishnan), Accused No.3 (Shamsudeen), Accused No.14 (Hareesh), Accused No.A11 (Abdul Kareen), Accused No.2 (Marakkar), Accused No. 9 (Najeeb), Accused No.7 (Sidhique), Accused No. 13 (Satheesh), Accused No. 16 (Muneer), Accused No.10 (Jaijumon), Accused No.1 (Hussain). When he refused to state that he had witnessed A1 stamping Madhu, the prosecution sought permission to put leading questions and the same was allowed by the Court and the confronted portions were marked as Exr. P2 series. He asserted that he had no occasion to witness Madhu being stamped by any person but added that he was able to notice some facial changes. In cross-examination, the witness asserted that he was present till Madhu was taken by the police and that he was also visible in the CCTV. The counsel for the 1st accused confronted him with his movements as captured by the CCTV cameras, and he admitted that it was him who was seen in the video. He stated that he was not aware as to why Accused No.1 lifted his leg. During cross-examination by the learned counsel appearing for Accused Nos. 2 and 5, the witness stated that he was questioned by the police two days after the incident. He further deposed that the police had not required him to identify any of the accused at that stage. He also stated that the distance between Mukkali and Agali could ordinarily be covered in about 25 minutes. In the course of cross-examination by the learned counsel appearing for accused Nos. 3, 6, and 8, the



witness stated that when the police arrived at the scene, the persons present approached them without any apparent fear. He further stated that several individuals seen in the visuals are not included in the array of accused. The witness also expressed his lack of knowledge as to whether the police had enquired among the assembled persons as to who had manhandled Madhu. During cross-examination by the counsel for Accused Nos. 4, 7, 14, and 15, the witness stated that he had spoken to Madhu and had asked him whether he wanted tea, juice, a cigarette, or parotta. According to the witness, Madhu responded by stating that a cigarette is "poison." The witness further stated that he did not notice any injuries on Madhu's body at the relevant time. He also deposed that Madhu appeared to be in a normal state of mind, had laughed during their interaction, and did not seem to be in any visible discomfort. The witness added that Madhu's behaviour was consistent with what he had observed of him since a young age. The witness further stated that he was acquainted with all the accused, which enabled him to identify them. However, when specifically asked whether Accused No. 13 was present when he reached Mukkali, the witness stated that a large number of persons were present and that he was not certain whether Accused No. 13 (Satheesh) was among them.

10.3. PW3 (CW11) is another witness who was examined to prove the incident at Mukkali Junction. PW3 deposed that he was aware of the incident which ultimately led to the death of Madhu. He stated that on 22.02.2018, at about 3.00 p.m., he reached Mukkali Junction. According to him, on arriving in front of Sreerag Bakery, he noticed a crowd of people gathered there. Out of curiosity, he entered the crowd and saw Madhu standing within it. After observing him briefly, he withdrew from the place.



When questioned about the condition in which he found Madhu, the witness stated that Madhu's hands were tied and that he was standing at the time. However, when asked as to what material was used to tie his hands, the witness stated that he had not noticed the same. He further stated that he did not see anyone holding Madhu or otherwise restraining him. The witness maintained that he did not observe anything further and did not identify any of the accused persons present at the scene. In view of the above responses, which were inconsistent with his earlier statement, the witness was declared hostile and was thereafter cross-examined by the learned Public Prosecutor.

10.4. PW4 (CW12) is a Forest Watcher stationed at Pottikkal. Although PW4 admitted that he was present in the forest on the relevant date and time, he denied that he was aware of the incident or the acts committed by the accused. He stated that on 22/3/2018, he was on duty at Pottikkal and Panjan and Abhilash were with him. Through PW4, Ext.P5 series contradictions were marked.

10.5. PW5 (CW14) is an employee of Sreerag Bakery conducted by Hareesh (A14). He stated that he had worked at the bakery for nearly three years. He denied having furnished a statement to the police. However, he deposed that he was unaware of the installation of CCTV cameras at the bakery. Through PW5, Ext.P6 series contradictions were marked. When confronted with the CCTV footage in Court, PW5 denied that he was seen in the same.

10.6. PW6 (CW15) stated that she goes to the Forest Area at Pottikkal to prepare food for workers. She denied that the police had recorded her statement. Ext.P7 series contradictions were marked through her.



10.7. PW7 (CW16) is a Forest watcher. He denied that he had given any statement in connection with any incident to the police. Ext.P8 series contradictions were marked. When confronted with CCTV footage, PW7 refused to identify the accused. However, he admitted his signatures on Exts.P9 and P10 scene mahazars.

10.8. PW8 (CW13) is a loyal witness for the prosecution. In his evidence, he stated that he was aware of the incident that took place on 22/02/2018. He deposed that on that day, he, along with his cousin, went to Mannarkkad and returned to Mukkali in a jeep and reached there at about 02:30 p.m. They got down at Mukkali and noticed a group of people gathered near the treasure box in front of the bakery. Out of curiosity, he went closer and saw that his relative, Madhu, was seated in the middle, surrounded by persons questioning him. He further stated that when asked whether Madhu had any ailments, he replied that Madhu suffered from minor mental ailments. When questioned about Madhu's clothing, he stated that Madhu's shirt was torn and open, with the buttons undone. He enquired whether Madhu wanted water and also asked the assembled persons where Madhu had been brought from. He was told that Madhu, referred to as a thief, had been brought there. He reiterated that Madhu was seated in front of Sreerag Bakery, near the treasure box. After some time, he moved and stood behind the treasure box. He deposed that after some time, Accused No. 1 (Hussain), who was running a shop at Pakulath, arrived in a Xylo car, got down, pushed aside the persons present, and asked where the thief was. He approached Madhu, lifted his legs, and kicked him on the chest. On receiving the kick, due to the force, the back side of the head of Madhu struck the treasure box behind him. Thereafter, Madhu was taken to the waiting shed on the opposite side of the road. By that time, a police jeep had



arrived, and some persons, who appeared to be some among the accused, placed Madhu into the jeep. The witness stated that he did not see Madhu thereafter. When asked whether he could identify the person who kicked Madhu, he pointed to Accused No.1. On being asked whether the accused present in the dock were among those present, he replied that some of them were. He identified Accused No.3 (Shamsudheen) and Accused No. 7 (Siddique) in court. He was then shown CCTV footage—File No. 2 in Camera No. 3—and he identified himself in the video at timestamp 03:22:15 p.m. dated 22/02/2018. He also identified the Xylo car and Accused No.1. Further footage at timestamp 03:36:10 p.m. from Camera No. 3 was shown, and he again identified Accused No.1. He stated that the footage showed Madhu being taken to the waiting shed. He further deposed that Madhu appeared very tired and was wearing torn clothes, and that a belt was tied to his hand. He identified MO1. He stated that he had given a statement to the police two days after the incident and had also given a statement before the Magistrate, both of which he affirmed. In cross-examination by counsel for accused Nos. 4, 7, 14, and 15, he stated that he was present at Mukkali between 02:30 p.m. and 03:00 p.m., and that approximately 10 to 100 people were present when he arrived. During cross-examination by the learned counsel for Accused No.1, PW8 stated that he had seen Accused No. 1 manhandling Madhu and that the same was visible in the CCTV footage. A pen drive containing CCTV footage was played in court. Footage from Camera No.1 at 03:00:02 p.m. dated 22/02/2018 was shown. When questioned regarding footage at 03:26:26 and 03:23:24, he admitted that he was the person seen proceeding towards Keeripara Road, accompanied by one Kunjan. He further stated that he returned to Sreeraj Bakery at about 03:28 p.m. and entered the bakery, identifying



himself in the footage. He stated that at that time, many people were still gathered around the treasure box. Footage at 03:32:20 p.m. was played, and he identified himself exiting the bakery and walking away. At timestamp 03:35:01, he confirmed that he was seen walking towards Keeripara, where Usman ran a shop. He further admitted that he is the person seen in the footage at around 03:50–03:55 p.m., returning from Usman's shop carrying two bags, though he was unsure of the exact time. At timestamp 03:50:57 p.m., he confirmed that he was the person shown carrying the two bags, which contained items purchased from Usman's shop. He also confirmed that the same was visible in Camera No.3. When questioned whether the footage showed him standing behind the treasure box, he stated that he had nothing to say. When asked whether the footage showed Hussain pushing aside the crowd and going near Madhu, he stated that it was not visible in the video. Footage at 03:35:34 p.m. was played, and he was asked whether it showed Hussain stamping on the deceased. He stated that no such act was visible. Further footage at 03:36:10 p.m. was shown, and he confirmed that it did not depict Hussain stamping anyone. When asked whether he was present during the inquest, he answered in the affirmative. However, he admitted that he had not disclosed to the police the fact that Hussain had stamped on Madhu.

10.9. PW9 (CW17) was examined to prove the movement of Madhu along the road in front of his kiosk shop. PW9 initially denied witnessing the incident and claimed that he came to know about it only through the media. However, he admitted that his shop was located at Mukkali in a property belonging to Latheef, father of Accused No.9. PW9 further admitted familiarity with the business activities of Accused No.9 and acknowledged that after viewing CCTV footage, he recollected a group of persons



passing through the road. However, he was not in a position to identify any of the accused. When confronted by the learned Special Public Prosecutor, PW9 admitted that he came to know from the newspapers that Madhu was beaten at Mukkali but claimed ignorance regarding the assailants.

10.10. PW10 (CW18) is a Forest Watcher. He is also the Ooru Mooppan of Kuttickal. PW10 stated that several persons proceeded into the forest and later returned, but he claimed that he could not identify those who entered and came back. Out of the sixteen accused, PW10 identified only one person, namely Accused No.2 (Marakkar). Such identification was not made on the basis of any prior acquaintance volunteered by the witness; rather, in response to a suggestive question put by the learned Special Public Prosecutor as to whether he could identify any person from the group, PW10 answered that among those persons he knew only Accused No.2 (Marakkar). He initially stated that the group proceeding into the forest was at an approximate distance of 10 to 70 metres. However, he later stated that when the group returned from the forest he saw them from a distance of about 1 kilometre. He did not state that Madhu was among the persons who had come down from the forest. PW10 also admitted the existence of a shed at Vandikkadavu used for preparation of food for forest workers. At the instance of the prosecution PW10 was recalled. In his examination by the Public Prosecutor, he stated that on the date of incident he had occasion to witness a group of people crossing the river and going into the forest. He stated that they were residents of Mukkali. He stated that he was aware that Madhu lived inside the forest. He added that on 22.02.2018, he had witnessed the accused bringing down Madhu from the forest. However, in cross-examination, he admitted that after his earlier examination before



court, he was removed from his service in the forest department.

10.11. PW11 (CW19) was working as a loading employee in the forest timber depot during the relevant period. He did not support the case of the prosecution when examined before the Court. As in the case of PW10, the said witness was recalled at the instance of the prosecution and again examined. Upon recall, he supported the prosecution case. PW11 stated that he had seen Madhu in the forest and that Accused No. 2 (Marakkar) had asked him about Madhu. PW11 identified Accused No.2 in Court. During the recalled examination, PW11 admitted that Madhu was his distant relative. PW11 explained that he turned hostile during the first examination because he was afraid of the accused persons. He stated that, at the time of his second examination, the accused were in jail and therefore he had no reason to fear them. It is relevant to note that, as several material witnesses turned hostile, the prosecution filed an application for cancellation of bail granted to some accused, contending that the accused had influenced or threatened witnesses in violation of bail conditions. Consequently, bail granted to most of the accused was cancelled and they were remanded. When PW11 was recalled, most accused were in jail. During cross-examination at the second stage, PW11 admitted that he had visited the office of the Special Public Prosecutor and discussed the case.

10.12. PW12 (CW20) was examined to prove that he witnessed Madhu being brought from the forest by the accused persons. PW12 did not support the case of the prosecution and stated that he had not witnessed the incident. Ext.P12 contradictions were marked through PW12.



10.13. PW13 (CW21) was examined to prove that he had seen Madhu in the forest along with the accused. Though he admitted that he is a distant relative of Madhu, he did not support the prosecution case.

10.14. PW14 (CW22) is another timber loader who had been working in the forest for several years. Though he stated that he knew Kalimooppan, he denied acquaintance with other witnesses examined in the case and did not support the prosecution version. Ext.P14 series contradictions were marked through PW14.

10.15. PW15 (CW 23) stated that he saw a group of persons passing through the road along with a person in shabby dress, and that on the next day he came to know that a person had died. Ext.P15 seizure mahazar was marked through him. As per Ext.P15, a vehicle bearing No. KL-32-B-5959 was seized. PW15 stated that among the group members he knew only Accused No. 8 (Ubaid), and claimed that he identified him from a distance of about 200 metres by seeing his backside. PW15, however, identified Accused No. 8 (Ubaid) in Court.

10.16. PW16 (CW2) was examined to prove that the accused brought Madhu to Mukkali through the Silent Valley–Mukkali road. PW16 did not support the prosecution and turned hostile.

10.17. PW17 (CW26) is engaged in crane service business. He deposed that, on the relevant day, there was no work for him in the plantation and therefore he spent some time in the forest with other workers. He stated that he saw plates, food items, beedi/cigarettes, a battery, and a mobile charger in the forest, and inferred that there



were signs of human dwelling in that area. He stated that on the next day he came to know about Madhu's death.

10.18. PW18 (CW27) was examined to prove that the accused brought Madhu from the forest. He also turned hostile. Ext.P17 series contradictions were marked through him.

10.19. PW19 (CW28) is another loyal prosecution witness. He stated that on 22.02.2018, he saw a gathering at Mukkali Junction near the bakery, in front of the hundi installed there, and Madhu was sitting near it. He was wearing dirty clothes. According to PW19, persons in the gathering were questioning Madhu, and one person entered the gathering by pushing aside others and stamped on Madhu. PW19 identified that person as Accused No.1 from the dock. PW19 further stated that the 1st accused was shown to him at the Police Station. He described Madhu as being in a pathetic condition at that time. PW19 reiterated, even during cross-examination, that he witnessed the stamping. In his cross-examination by the counsel appearing for Accused No. 1, the witness stated that he had seen a person, not known to him, stamping on Madhu. He further stated that he had remained at Mukkali for about half an hour and had arrived there in an autorickshaw. According to him, after witnessing the incident, he left Mukkali in the same autorickshaw. He asserted that he was among the persons assembled around Madhu at the relevant time and that he had witnessed the stamping incident. When asked whether he was aware that the entire incident had been captured on CCTV, he answered in the negative. He was questioned as to whether he was familiar with Silent Valley Road, to which he replied in the affirmative. He stated that his



autorickshaw had been parked on Silent Valley Road. When asked about the distance between Sreerag Bakery and the place where the autorickshaw was parked, he stated that it was approximately 30 metres and denied the suggestion that it was about 150 to 200 metres. He further stated that he had walked from the place where the autorickshaw was parked to the spot where the incident occurred and, after witnessing the incident, returned to his autorickshaw and left. The counsel then played CCTV footage for the timestamp 03:19:28 from Camera No. 3, and the attention of the witness was drawn to it. The witness identified his autorickshaw in the footage and admitted that it was being driven towards Silent Valley Road. He further stated that there were two persons inside the autorickshaw, one of whom got down and proceeded on foot towards Mukkali. Subsequently, footage at timestamp 03:24:38 was played, and the witness identified himself as the person seen therein. Further footage at timestamp 03:27:08 was played, and he admitted that it showed him walking towards Silent Valley Road. He was then asked whether he was seen in the footage after 03:07:08, and a specific suggestion was put to him that after that time he was at Silent Valley Road near the autorickshaw and not at Mukkali; he denied the same. He was further asked whether his autorickshaw had been parked in front of Jolly's shop on Silent Valley Road, which he admitted. He also admitted that, as seen in the footage at timestamp 03:39:42, the person who had walked to Mukkali had returned, and that he himself got into the autorickshaw and drove away. The defence specifically challenged his assertion that he was present at Mukkali at the time when the stamping took place. He stated that he had given his statement to the police about one month after the alleged incident. In re-examination, he was specifically asked where he was between 03:23:30 and



03:39:00. He responded that he was in the vicinity of the area where Madhu was seated. He was also asked about the approximate distance between the place where he had parked the autorickshaw and the place where Madhu was made to sit, to which he replied that it was about 30 metres.

10.20. PW20 (CW29) is a Forest Watcher. He stated that when he reached Mukkali, Madhu was sitting near the treasure box. He did not support the prosecution. When CCTV footage seized from Anavai Forest Station, Sreerag Bakery, and Mukkali was played in open court using electronic devices, PW20 denied the same. Ext.P18 series contradictions were marked through him.

10.21. PW21 (CW31) was examined by the prosecution to establish that the accused persons had brought Madhu to Mukkali after tying his hands. However, PW21 did not support the case of the prosecution. The contradictions in his earlier statements were marked as Ext.P19 series.

10.22. PW22 (CW32) was examined to prove the incidents that occurred at Mukkali and Vandikkadavu, including the act of bringing Madhu to those places. He did not support the prosecution case. He stated that he had only witnessed Madhu being taken in a police jeep and the presence of a mob at Mukkali Junction. He refused to support the prosecution regarding the events preceding that stage.

10.23. PW23 (CW33) was examined to prove the incident at Mukkali and the existence of a shed at Vandikkadavu. He did not support the prosecution case. Contradictions in his statements were marked as Ext.P21 series.



10.24. PW24 (CW34), a driver by profession, was examined to prove the incidents at Mukkali Junction and the Vandikkadavu shed. He turned adverse to the prosecution. Contradictions from his previous statements were marked as Ext.P22 series.

10.25. PW25 (CW35), who owns a jeep, also turned hostile.

10.26. PW26 (CW36) was examined to prove the incident at Mukkali. He turned adverse to the prosecution. He was confronted with his previous statements which were marked as Ext.P24 series.

10.27. PW27 (CW40) deposed that she was working as a Kudumbashree Coordinator at the relevant time. On 22.02.2018, she was on her way to the office. While proceeding towards Anavayil along with Subrahmaniam and Sindhusa through the Mukkali–Silent Valley Road, she saw a group of persons bringing Madhu, and they were spotted near to the Silent Valley Information Centre. She stated that at that point of time she was not aware that the exhausted person, dressed in shabby clothes, and carrying a sack on his shoulders was Madhu. The information center was about ½ a km away from Mukkali. They were bringing Madhu from the Mukkali Forest Check Post area to Mukkali Junction. A jeep was moving alongside the group. The driver of the vehicle in which she was travelling asked the Driver of the Jeep which was following Madhu as to what had happened. He stated that they were bringing a thief. She further deposed that she saw someone pouring water into Madhu's mouth. Later that evening, around 7.00–7.30 p.m., she learned that a person had died and subsequently identified the deceased as Madhu. She identified the CCTV visuals depicting Madhu being brought to Mukkali. Upon seeing the accused in the dock, she identified Accused Nos. 13, 14, and



16. She also admitted that she had shared information with media personnel at that time, and when confronted with photographs of her addressing the media, she acknowledged the same, stating that she had spoken to Asianet the day after the incident. The witness was subjected to cross-examination. She was asked whether she had given a news byte to Asianet Television which she answered in the affirmative. Much of the cross examination was directed against the identification of some of the accused in the dock for the first time. Despite being subjected to intense and searching cross-examination by all defence counsel, nothing material was elicited to discredit her testimony. She clarified that she had witnessed the gathering, including Madhu, only for a few minutes. She specifically stated that the group accompanying Madhu consisted of about 5 to 10 persons.

10.28. PW28 (CW43), a grocery shop owner at Kaklandi, deposed that theft had occurred in his shop in 2018, involving rice, coffee powder, beedis, etc., and that he had informed the police. Later, on hearing that a thief had been apprehended at Mukkali, he went there with another shop owner. He saw a crowd gathered near a treasure box and identified Madhu there. He also noticed the rice sack stolen from his shop and identified MO3. Police collected his details at the scene. He later learned of Madhu's death at Agali Police Station. His name finds place in Ext.P80 FIS. He identified MO3 and explained that police had initially detained him under suspicion but later exonerated him. In cross-examination, the witness was asked about the various hospitals that are functioning in between Mukkali and Thavalam. He denied the suggestion that theft did not happen and that he was stating falsehood to help the prosecution.



10.29. PW29 (CW44) was examined to prove theft in his tea shop at Kakkuppadi. He stated that bakery items, sugar, and tea powder were stolen, though he had not lodged a police complaint. His name also appears in Ext.P80 FIS, and he too was later exonerated.

10.30. PW30 (CW45), a hotel owner at Kalkkandi, deposed that theft had occurred in his shop on two occasions. He stated that the thief entered by removing roof tiles and took packed food items. On hearing that the thief had been apprehended, he went to Mukkali and saw a person seated there. He shared his details with the police. His name also appears in Ext.P80 FIS. He was initially detained but later released. He further stated that theft had occurred in neighbouring shops as well.

10.31. PW31 (CW46) was examined to prove theft in his shop and the alleged parading of Madhu. While admitting theft, he denied that Madhu was paraded in front of his shop. Cross-examination revealed that he is the father of Accused Nos. 9 and 16. He admitted theft of ₹10,000 and other items and that CCTV footage from his shop had been seized. His name appears in Ext.P80 FIS. He was later exonerated.

10.32. PW32 (CW48) is the videographer who recorded the inquest at CHC Hospital, Agali. He was examined to prove the video, CD, and 65B certificate (Ext.P26 series). He clarified that recording was done in sequential slots and denied any manipulation.

10.33. PW33 (CW49) was examined as an attesting witness to Ext.P27 scene mahazar dated 24.02.2018, prepared in connection with the second place of occurrence



at Mukkali. During examination, the witness admitted his signature in Ext.P27.

10.34. PW34 (CW50) was also examined as an attesor to Ext.P27 scene mahazar. He too admitted his signature therein. His evidence corroborates the preparation and authenticity of the scene mahazar relating to the Mukkali place of occurrence.

10.35. PW35 (CW51) was examined as an attesting witness to Ext.P28 seizure mahazar, under which the vehicle bearing Registration No. KL-11-H-8559 (Marshal Jeep) was seized. The witness admitted his signature in the seizure mahazar, and the document was accordingly marked through him.

10.36. PW36 (CW53) was examined as an attesor to Ext.P29 seizure mahazar relating to the seizure of vehicle bearing Registration No. KL-53-F-722. He admitted his signature in the mahazar. Accordingly, Ext.P29 was marked and proved.

10.37. PW37 is the elder brother of Accused No.14. He was examined as an attesting witness to the seizure mahazar prepared at the time of seizing the DVR from the shop of Accused No.14. However, he did not support the prosecution. During examination, he admitted that he had signed certain blank papers but denied his signature in the seizure mahazar when confronted. He further deposed that Accused No.14 was in the Police Station at the relevant time.

10.38. PW38 (CW56) is the photographer who took photographs of the accused persons, prepared printouts, copied them into CDs, and produced Ext.P30 series photographs, Ext.P30 CD, and the corresponding 65B certificate. He categorically



deposed that all photographs were taken and processed by him. Despite intense cross-examination, nothing was brought out to discredit the genuineness of the photographs or the electronic evidence produced through him.

10.39. PW39 (CW57) was examined as an attester to the seizure mahazar prepared while seizing the DVR from Ponniammal Gurukulam at Mukkali. Though he admitted the presence of CCTV cameras in the Gurukulam, he denied the seizure having taken place in his presence.

10.40. PW40 (CW58) was examined as an attesting witness to Ext.P15 seizure mahazar, under which the vehicle bearing Registration No. KL-32-B-5959 (Mahindra Xylo car) was seized. He admitted his signature in the mahazar. The seizure document was accordingly proved through him.

10.41. PW41 (CW60) was examined as an attester to Ext.P32 seizure mahazar relating to the seizure of Motorcycle bearing Registration No. KL-5-AJ-498. He admitted his signature, and the mahazar was marked through him.

10.42. PW42 (CW61) is an autorickshaw driver who produced Autorickshaw bearing Registration No. KL-50-D-2908 before the police. He, however, did not support the prosecution. He however admitted that the autorickshaw belonged to Jaijumon (Accused No.10).

10.43. PW43 (CW63) is a close relative of Accused No.14. As per the prosecution, he had produced the mobile phone of Accused No.14 before the police on 08.03.2018. However, he did not support the prosecution. He admitted his close



relationship with the accused and further stated that Accused No.14 was in police custody on the relevant date.

10.44. PW44 (CW65) is conducting MAM Auto Consultant at Nellipuzha, Mannarkkad. He deposed that he had purchased Bullet Motorcycle bearing No. KL-5-AJ-498 from one Albin and later sold it to Accused No.13 (Satheesh). He clarified that registration transfer had not been completed at that time, though requisite forms had been signed. He was examined to establish the transactional chain linking the vehicle to the accused.

10.45. PW45 (CW66) is the son of the 1st accused and the registered owner of Xylo car bearing Registration No. KL-53-F-722. The prosecution case is that the 1st accused and others travelled in this vehicle to Mukkali on the date of occurrence. PW45 admitted ownership of the vehicle and that he had taken a mobile connection in his name. Though he denied that his father used the phone, he admitted that on 22.02.2018 he, his father (A1), brother, and uncle had travelled to Mukkali to visit his sister. During cross-examination, it was elicited that they had come there to purchase bakery items.

10.46. PW46 (CW68) is another photographer who took photographs and videographs of the place of occurrence. The DVD and photographs produced by him were identified and marked as Ext.P33 series. He was later recalled and produced Ext.P33(k) along with the 65B certificate.

10.47. PW47 (CW69) was the Village Assistant of Kallamala Village Office. He



prepared Ext.P34 scene plan of Mukkali Junction under the instructions of the Village Officer (PW48). He identified his signature and proved the scene plan during examination.

10.48. PW48 (CW70) was the Village Officer of Kallamala. He supervised preparation of Ext.P34 scene plan and countersigned it. He also issued Ext.P35 caste certificates of Accused Nos.1 to 5 and 7 to 16. Further, he prepared Ext.P36 scene plan of Vandikkadavu on 06.03.2020.

10.49. PW49 (CW71), the then Village Officer holding charge of Padavayal Village, prepared Ext.P37 scene plan of the place of occurrence at Aandiyallachaal and identified his signature therein.

10.50. PW50 (CW72) was the then Village Officer of Palakkayam Village Office. He prepared Ext.P38 caste certificate relating to Accused No.6.

10.51. PW51 (CW73) is the Tahsildar, Mannarkkad, who was holding the additional charge of Principal Tahsildar, Mannarkkad, during the relevant period. He is the officer who issued Ext. P39 Caste Certificate in respect of Madhu. According to his testimony, the said certificate was issued on the basis of reports submitted by the Village Officer of Padavayal Village, and he had also conducted a preliminary enquiry in that regard. However, on a perusal of Ext. P39, it is evident that the document is more in the nature of a report rather than a certificate issued in the prescribed statutory format contemplated under the provisions of the Kerala Scheduled Castes and Scheduled Tribes Regulation of Issue of Community Certificates Act, 1996.



10.52. PW52 (CW76) is the Nodal Officer of Idea Cellular Limited. Through this witness, Ext. P40 series, Ext. P41 series, and Ext. P42 series — comprising Call Data Records (CDRs), Customer Application Forms (CAFs), and certificates under Section 65B of the Indian Evidence Act — were formally proved and marked. He deposed that, during the relevant period, one Saheel Kombath and P. Rajkumar were functioning as Nodal Officers of Idea Cellular Limited. Both of them had subsequently left the Company, and their present whereabouts could not be traced. Since PW52 had worked in close professional association with them, he was well acquainted with their signatures. On that basis, the CDRs, CAFs, and allied documents issued and signed by the said officers — namely Ext. P41 series and Ext. P42 series — were identified and marked through this witness. PW52 further deposed that he is the present Nodal Officer of Idea Cellular Limited and, by virtue of his official position and prior association, he is familiar with the signatures and documentation practices of the former Nodal Officers who issued the records in question. The witness gave a detailed account of the manner in which the data was stored and retrieved. He stated that the data is extracted from the central server of Idea Cellular Limited located at Pune, and housed in a secured facility. According to him, access to the server is strictly regulated through a unique user ID and password system. He further clarified that official laptops alone are issued to Nodal Officers, and only through such secured devices can access to the server be obtained. The data cannot be accessed through any external laptop or desktop system. Additionally, the server is protected by a three-layer password security protocol. This layered security architecture, according to the witness, effectively rules out the possibility of unauthorized access or manipulation of data contained in Exts. P40 to P42



series. PW52 was cross-examined at length about the personnel involved in collecting customer data and the process of uploading such data to the server. PW52 also testified that, apart from physical verification of identity proof and application forms, an e-KYC verification process is mandatorily undertaken. If any discrepancy is detected in the identification particulars, the SIM card is not issued to the applicant. This procedural safeguard further reinforces the reliability of the customer records.

10.53. PW53 (CW81) is the Tribal Watcher attached to Mukkali Forest Station. He accompanied the Investigating Officer as well as the Scientific Officer when they visited the place of occurrence for the purpose of collecting samples and material objects and for preparing the scene mahazar. He has admitted his signature in Ext. P43 scene mahazar relating to Aandiyallachaal, the first place of occurrence. He also identified MO3 series to MO22, being the material objects collected by the Investigating Officer from the said place of occurrence, namely Aandiyallachaal, which, according to the prosecution, is the location where Madhu was apprehended by the accused persons. PW53 further identified the photographs shown to him, which contained images of Aandiyallachaal and other parts of the Attappadi Reserved Forest. He also identified the video footage produced before the Court when they were played using an LCD projector and laptop. The witness categorically stated that he was able to identify all the locations depicted in the photographs and video recordings as places situated in Aandiyallachaal within the Reserved Forest. During cross-examination, the attempt was to discredit the evidence of the witness and to create an impression that the locations shown in the photographs and mobile video recordings were not Aandiyallachaal but some other place. However, PW53 firmly deposed that, by virtue of his official duties, he regularly



visits these forest areas and is thoroughly familiar with the terrain. He asserted, without any ambiguity, that the photographs and videos are indeed of Aandiyallachaal and that he has no doubt whatsoever in that regard. He also deposed that he personally knew Madhu.

10.54. PW54 (CW82) is the then Beat Forest Officer of Anavai Forest Station. He was present in the station office when the Investigating Officer and his team arrived to seize the CCTV footage from the said station. He is a signatory to Ext. P44 seizure mahazar, under which the DVR, adaptor, and connected equipment of Anavai Forest Station were seized. The witness identified MO23 and MO23(a) — the DVR and adaptor — which were seized by the Investigating Officer with the assistance of a Cyber Cell expert.

10.55. PW55 (CW84) is the then Forest Range Officer of Attappadi. He produced the relevant notification and plan relating to Aandiyallachaal Forest to establish that the said area is a notified Reserved Forest. These documents were marked as Ext. P45 series. Despite being subjected to extensive cross-examination by counsel for the accused, nothing material was elicited to discredit his testimony. He categorically deposed that the place known as Aandiyallachaal falls within his territorial jurisdiction.

10.56. PW56 (CW88) is the then Casualty Medical Officer of the Community Health Centre, Agali. On 22-02-2018, she examined the body of Madhu. She deposed that at about 4:15 p.m. on that day, a person was brought before her on a stretcher by the Police along with attenders. When she called out the name "Madhu," there was no response. She thereafter conducted a preliminary clinical examination and also took an



ECG. On such examination, it was found that the person was already dead. PW56 admitted her signature and handwriting in Ext. P46 OP ticket. She specifically deposed that, in the OP ticket, she had initially written the time as 4:12 p.m., but upon noticing the casualty clock, she corrected the time to 4:15 p.m. The overwriting seen in Ext. P46 was thus made by her personally, and she took full responsibility for the correction. According to PW56, on examination, the patient was found brought dead, and the same was intimated to the Police. The death intimation letter issued in that regard was marked as Ext. P46(a), which also bears her signature. She clarified that the said intimation letter does not contain the hospital seal, as office hours were over at that time and the official seal could not be affixed. She further deposed that the examination took approximately 5–10 minutes and that the patient might have been brought to the hospital sometime between 4:05 p.m. and 4:10 p.m. PW56 also explained that, in emergency situations, medical examination is undertaken first, and only thereafter are patient details elicited. During cross-examination, the witness was asked the approximate distance from the hospital to the Agali Police Station. To that question, she stated that it would take about 5 minutes by vehicle. She further stated that at the time when the incident took place, entries used to be made in the case records manually, as computerisation was not complete. She stated that Prasad Varkky and certain other police officers had come to the hospital. She also stated that she is not aware as to who handles the OP register. The doctor stated that she was in the casualty when the patient was brought. She stated that about 3 or 4 police officers had brought Madhu to the hospital. She further stated that, normally, in such cases, she would ask the persons who brought the patient to the hospital about the alleged cause of injury. In the case on



hand, since the victim was brought in that condition, there was no point in asking the said question. She was asked whether, after examining the body of Madhu, she considered it to be a medico-legal case, to which she answered in the negative. She stated that only after examining the patient for about 5 to 10 minutes did she realise that the patient was no more. Since the body was warm, she felt that the death had occurred only recently. She stated that she had examined Madhu about 5 to 10 minutes before 04:15 p.m. When she was asked as to how, in the OP register, the name of Madhu was struck off "Kala" was written in its place, she stated that she was not aware of the same and that those corrections were not made by her. When she was asked whether the OP ticket was prepared falsely for the purpose of the case, she answered in the negative. In cross-examination by the counsel appearing for accused Nos. 2 and 5, she was asked whether she had joined duty at about 02:00 p.m., to which she answered in the affirmative. She was also asked about the injection register maintained in the casualty, and she stated that the authority to maintain the injection register is with the nursing assistant. The Casualty Register dated 22.02.2018, obtained under the Right to Information Act, was confronted with the witness. Her attention was drawn to Serial No. 2614, and she was asked as to why the name of Madhu was struck off and "Kala" was written in its place. She stated that she was not aware. It was also put to her that in the entry corresponding to No. 2613, there were corrections. She stated that a perusal of the records would reveal that the time at which Madhu was brought to the hospital has been corrected as 4.15 p.m. from the original entry which is 4.25 p.m. She also admitted that there were corrections in the entries corresponding to Serial Nos. 2611, 2612, 2613, 2614. However, she denied that any corrections had been made in the entry



corresponding to Serial No. 2614. She stated that the inquest was prepared by the Sub-Collector and that she had assisted him in preparing the same. She further stated that she had pointed out the injuries to the Sub-Collector. When she was asked whether there were 10 to 20 injuries, she stated that she does not remember. According to her, she assisted by providing the appropriate medical terminology. In re-examination, she was asked when she had joined service, to which she answered as 31.01.2018. When she was asked how many casualty duties she had performed till 22.02.2018, she stated that she had conducted about 2 or 3 such duties. She explained the reasons for the entries made in the injection register. According to her, whenever an emergency case is brought in, life-saving drugs have to be administered, and it was in those circumstances that entries were made in the register. A suggestion was put to her that Madhu was brought to CHC, Agali, only at 4:40 p.m. , the same was emphatically denied.

10.57. PW57 (CW86) is the then Joint Regional Transport Officer, Mannarkkad. He produced and proved the registration particulars of the vehicles involved in the case, which were marked as Ext. P47 series.

10.58. PW58 (CW87) is a doctor attached to the Government Mental Health Centre, Kozhikode. He deposed that on 19-11-2012, while he was working as Consultant Psychiatrist at the said institution, he had examined and treated Madhu. According to him, Madhu was suffering from paranoid schizophrenia — a serious mental illness requiring long-term, and possibly lifelong, treatment. Ext. P48 medical records were marked through the said witness. The doctor further opined that if medication is not taken regularly, there is every likelihood of worsening or recurrence of symptoms



associated with the illness.

10.59. PW59 (CW89) is the then Superintendent of the Tribal Specialty Hospital, Kottathara. He deposed that Madhu had been admitted to the said hospital on 13-08-2008 and was discharged on 17-08-2008. He was examined by the witness on 26-08-2008. Madhu had been advised to continue treatment for psychosis. Ext. P49 series of medical records were marked through the said witness. The witness further deposed that, pursuant to a request made by the Police during the course of investigation, blood samples of the accused persons were collected at the hospital.

10.60. PW60 (CW85) was the then Forest Range Officer of Mukkali Forest Station. He deposed that forest watchers such as Anilkumar, Razak, and Kalimooppan were deployed under his supervision in the teak plantation area, and that another forester, namely Panjan, had also been deputed for duty there. He further stated that the plantation had, in fact, been handed over to a contractor for felling operations nearly one month prior to 22-02-2018. According to PW60, there was also a shed at Vandikkadavu where food was being prepared for the workers engaged in the plantation work. He deposed that at about 5:00 p.m. on 22-02-2018, he received information that a tribal person by name Madhu had been apprehended by a group of persons. Acting on the said information, he registered O.R. No. 1/2018. Subsequently, the accused in that forest offence case was formally arrested upon filing Ext. P50 application. This witness also identified the video footage and confirmed that the locations depicted therein formed part of the forest area within Aandiyallachaal Reserved Forest. He further identified some of the accused persons in the dock.



10.61. PW61 (CW91) was the then Nursing Assistant at the Tribal Specialty Hospital, Kottathara. He is an attesting witness to Ext. P51 mahazar, which was prepared at the time of seizure of blood samples collected from the accused persons involved in the case.

10.62. PW62 (CW80) was the then Section Officer of Mukkali Forest Station. He deposed in detail regarding the geographical layout of the Ajumala and Aandiyallachaal Reserved Forest areas. According to him, on 24-02-2018, when the Investigating Officer and the Scientific Officer visited Aandiyallachaal Forest for the purpose of collecting evidence, he accompanied them along with Perumal and Panali. He further deposed that, during the said visit, the Investigating Officer seized food articles, a large shopper bag, spice powders, and other materials from the location. He is an attesting witness to Ext. P43 scene mahazar. PW62 also stated that on 05.03.2018, when the Investigating Officer again visited the place of occurrence at Pottikkal Teak Plantation along with one Shamsudheen, he was present there. He identified accused No. 3 in the dock and testified that he witnessed the recovery of MO24 wooden stick at the instance of accused No.3. He is also a signatory to Ext. P52 recovery mahazar.

10.63. PW63 (CW42) is a tailor by profession. He did not support the prosecution case and deposed that he was unaware of the identity of the accused persons present in the dock. Ext. P53 series contradictions were marked through him. At the same time, PW63 admitted that on the relevant day, while he was present at Mukkali, a group of persons assembled there and that one individual present among them was identified by others as "Madhu."



10.64. PW64 (CW92) was the Scientific Officer attached to the District Crime Records Bureau (DCRB), Thrissur. She deposed that she collected scientific samples in connection with this crime on 23.02.2018. As part of the evidence collection process, she examined and collected particles of vomit, human faeces and other material objects from the police jeep bearing Registration No. KL-01-BW-5724, in which Madhu had been transported from Mukkali. She also collected food remnants and related material objects from the forest area at Aandiyallachaal. All such material evidence was properly packed, sealed, and labelled in accordance with scientific evidence collection protocol, and the same were thereafter seized by the Investigating Officer under mahazar.

10.65. PW65 (CW93) was the then Civil Police Officer attached to the SMS Unit, Agali Sub Division. He deposed that he was present when PW64 entrusted the material objects collected by her to the Investigating Officer, which process was documented under Ext. P55 mahazar. He is also an attesting witness to Ext. P54 mahazar. He further identified MO3 sack and stated that he is an attestor to Exts. P56 and P57 seizure mahazars as well.

10.66. PW66 was the Woman Civil Police Officer (WCPO) of Sholayur Police Station, who, during the relevant period, was on attached duty at the office of the Dy. S.P., Agali. She is an attesting witness to Exts. P54, P55, and P58 seizure mahazars. Ext. P58 mahazar relates to the seizure of medical records. She also attested Ext. P60 seizure mahazar, which was prepared at the time of seizure of the OP ticket. PW66 identified Ext. P46 OP ticket in Court.

10.67. PW67 (CW78) is the then Sub Collector of Ottapalam, who conducted



the inquest on the body of Madhu at CHC, Agali. He deposed that, as part of the inquest proceedings, he recorded the statements of five witnesses. He also identified MO26 series — being the clothes worn by Madhu at the time — which were seized during the inquest process. He identified his signature in Ext. P1 inquest report. Thereafter, the body was forwarded for post-mortem examination to the Medical College Hospital, Thrissur. He further deposed that he was present and accompanied the doctors at the time of conducting the post-mortem examination. This witness was subjected to detailed and searching cross-examination. He said that he had conducted the inquest to determine the apparent cause of death. He stated that he had requested the services of Dr. Lima Francis and other senior doctors. He stated that the injuries noted in column No.7 were noted by him with the assistance of the Doctors at the time of conducting the inquest. The attention of the witness was drawn to about 14 injuries noted in the inquest. He was asked whether he had omitted to note major injuries to make it appear that it was not a case of custodial death, and he denied the said suggestion. He said that Madhu had died while he was being brought by the Police to the Hospital and therefore, he was in police custody. He said he had also enquired whether it was on account of assault by the police that Madhu had died and it was found against. Subsequently, he was recalled to prove the Magisterial Inquiry Report prepared by him under Section 176 of the Cr.P.C., which was marked as Ext. P165. As per Exts. P165, PW67 arrived at the conclusion that the death in question was not a case of custodial torture by the Police.

10.68. PW68 was the Additional Sub-Inspector of Police working in the SMS Unit, Agali Sub-Division. He is an attesting witness to Ext. P61 mahazar prepared at the



time when the material objects collected from the body of Madhu by the Sub Collector were entrusted to the Investigating Officer. He identified MO26 series dress worn by Madhu. He is also an attestor to Ext. P60 seizure mahazar prepared at the time of seizure of Ext. P46 OP ticket by the Investigating Officer.

10.69. PW69 (CW96) was working in the office of the Dy.S.P., Agali, on attached duty from the Armed Reserve Camp. He is an attesting witness to Exts. P62, P63, P64, P65, and P66 seizure mahazars prepared in connection with the seizure of MO27 series mobile phones belonging to the accused persons. He is also an attestor to Exts. P67, P48, and P57 series seizure mahazars prepared in connection with the seizure of Ext. P49 series documents.

10.70. PW70 (CW339) is the mother of Madhu. Her evidence is primarily hearsay in nature regarding the incident. She deposed that Madhu lived with her until about the age of 16 and attended school during that period. Thereafter, he was sent to Palakkad to learn carpentry work. She further stated that Madhu later developed mental illness and had undergone treatment at institutions including the Mental Health Centre at Kottathara and the Government Mental Health Centre, Kozhikode. According to her, he was irregular in taking medication and would often spend his time wandering in forest areas and along river banks.

10.71. PW71 (CW37) is the brother-in-law of Madhu. He deposed that he belongs to the Kurumba community, while his wife — Madhu's sister — belongs to the Mudugar community. According to him, Madhu was suffering from a mild mental illness. He stated that on one occasion he had taken Madhu to the Mental Health Centre,



Kozhikode, for treatment. He further deposed that he had produced Exts. P48 and P49 series medical documents before the Police.

10.72. PW72 (CW97) is a Civil Police Officer attached to the Cyber Cell, District Police, Palakkad. He assisted the Investigating Officer in seizing MO27 series and MO25 mobile phones belonging to the accused persons. He is also a signatory to Exts. P62, P63, P64, P65, and P66 seizure mahazars. He further assisted in the seizure of electronic devices, including MO28 series DVR and power adapter from Sreerag Bakery, MO23 series DVR and adapters from Anavai Forest Station, and DVR and MO29(a) adapter from Ponniammal Gurukulam at Mukkali. PW72 also collected Facebook user account information relating to Accused No. 8 (Ubaid) and Accused No. 4 (Aneesh). The said records were marked as Ext. P68 series. He also issued and signed the corresponding Section 65B certificates, marked as Ext. P68(b).

10.73. PW73 (CW98) was the then CPO attached to Agali Police Station, who had been deputed for escort duty at the place where the body of Madhu was kept. After the post-mortem examination, it was PW73 who released the body to the relatives. He also entrusted the sealed envelopes containing material objects collected during post-mortem by the doctor to the Investigating Officer.

10.74. PW74 (CW101) was the Gunman attached to the Dy. S.P., Agali. He is an attesting witness to Ext. P69 seizure mahazar prepared at the time of seizure of photographs of the accused persons produced by photographer Jinson. His testimony supports the seizure of photographic identification material.



10.75. PW75 (CW102) is an attesting witness to Ext. P70 seizure mahazar prepared at the time of seizure of the autorickshaw belonging to Hareesh. Through his testimony, the seizure of the vehicle stands proved.

10.76. PW76 was the Civil Police Officer of Ottapalam Police Station who was deputed to assist the investigation team in this case as per the orders of the District Police Chief. He is an attesting witness to Ext. P58 seizure mahazar prepared at the time of seizure of the mobile phone of Accused No. 14 (Hareesh), which was produced by his relative Anand. He is also a signatory to Ext. P71 seizure mahazar — relating to photographs and DVD produced by photographer Albin, Ext. P72 seizure mahazar — relating to seizure of DVRs, and Exts. P59, P46, P73, and P74 seizure mahazars. It was PW76 who collected the OP ticket of Madhu from the hospital and handed it over to the Investigating Officer.

10.77. PW77 (CW115) is a contractor and a party to Ext. P75 agreement dated 27.11.2017, entered into with the Divisional Forest Officer, Palakkad, for cutting and transportation of teak wood from the forest department plantation area. He deposed that when he reached Mukkali on the relevant day, he saw a group of about seven persons assembled there, and Madhu was present among them.

10.78. PW78 (CW104) is a Civil Police Officer working in the office of the Dy.S.P., Agali, on working arrangement. On 17.03.2018, he signed Ext. P76 seizure mahazar prepared at the time of seizure of screenshots of videos circulated through WhatsApp, which were produced by one Nikhul. He is also an attesting witness to Ext.P77 seizure mahazar prepared in connection with the seizure of the vehicle diary of



the Bolero Jeep bearing Registration No. KL-01-BW-5724.

10.79. PW79 (CW105) is the Writer attached to the Office of the Assistant Superintendent of Police, Agali. He deposed that he had produced the Cell ID decoder details and Call Data Records (CDRs) of the mobile phones before the Dy. S.P. Office, Agali, after collecting the same from the District Police Office, Palakkad.

10.80. PW80 (CW107) is the official photographer attached to the DCRB, Palakkad. He deposed that he had taken photographs during the inquest conducted at CHC, Agali, and that the said photographs were subsequently copied and preserved in Ext. P78 compact disk.

10.81. PW81 (CW108) was the then Sub Inspector of Police attached to the Agali SMS Unit. He deposed that he had collected Ext. P75 agreement relating to the felling of teak timber entered into between Abbas and the Divisional Forest Officer, Mannarkkad, from the office of the DFO, Mannarkkad, and produced the same before the Investigating Officer.

10.82. PW82 (CW109) was the Junior Sub Inspector of Agali Police Station during the relevant period. He accompanied the Dy. S.P. when the latter visited the place of occurrence along with the Scientific Officer. He is also an attesting witness to Ext. P79 seizure mahazar prepared at the time when the material objects collected by the Scientific Officer were handed over to the Investigating Officer.

10.83. PW83 (CW110) was the Additional Sub Inspector of Police attached to Agali Police Station on the relevant date. He deposed that, while he was on patrol duty



at about 2:15 p.m. he received telephonic information from the GD Charge Officer of Agali Police Station, one Rejimon, that a person by name Madhu, allegedly involved in a theft case, had been apprehended at Mukkali. Acting on the said information, he proceeded to the spot and reached Mukkali at about 3:00 p.m. On arrival, he found Madhu sitting in the CITU waiting shed at Mukkali, in a shabby and exhausted condition. Persons gathered at the scene informed him that Madhu was a thief and a nuisance to the public in that locality and they had gone up into the forest to apprehend him. PW83 deposed that he collected the name and address of Madhu directly from him. He also stated that some persons present there furnished the names and addresses of about seven persons who had brought Madhu to that place. Though initially they refused, later seven among the people assembled furnished their name and address. They claimed that at the time of apprehending him, he had a sack with him and the said sack was placed near to the police jeep. According to PW83, a few persons from the gathered crowd escorted Madhu to the police jeep. Others brought a sack containing rice and certain items and placed it near the vehicle, which was also taken into custody. The police party left Mukkali at about 3:30 p.m. and proceeded towards Agali. During the journey, PW83 enquired with Madhu as to what had happened. At that time, Madhu reportedly stated that about ten persons had apprehended him from the forest, tied his hands, beaten him, and forced him to carry a sack on his shoulders while bringing him to Mukkali. He further stated that some persons had beaten him at Mukkali as well and that one person had stamped on him. However, Madhu did not disclose the names or addresses of those persons; the particulars were allegedly furnished only by members of the gathered crowd. When the police party reached a place called Mele Thavalam,



Madhu informed them that he felt like vomiting. The vehicle was stopped, and Vijulal opened the left side quarter glass to enable Madhu to vomit. PW83 deposed that Madhu appeared extremely tired and physically weak. He sat on the sack with his head placed on the back seat. Thereupon, he informed the GD Charge Officer of Agali Police Station to prepare a requisition for medical examination. According to PW83, they reached CHC, Agali, at about 4:15 p.m., and Madhu was taken before the duty doctor, Dr. Lima Francis, on a stretcher. After examination, the doctor certified that Madhu had been brought dead. PW83 thereafter informed higher police officials and the Police Station. After shifting the body to the mortuary, the police party returned to the station, and at about 5:15 p.m., he registered Crime No. 87/2018 under Section 174 of the Cr.P.C. concerning the death of Madhu. He further deposed that, owing to a power failure at the Police Station at the relevant time, Ext.P81 FIR was registered manually. Ext. P80 is the First Information Statement recorded by him, and Ext. P81 is the FIR registered on that basis. He identified MO26 series dress worn by Madhu. He stated that the distance to Mele Thavalam from Agali is about 10 kilometers and the distance from there to the Agali Police Station is about 8 km. The counsel for the accused subjected PW83 to lengthy and searching cross-examination. During cross-examination by the counsel appearing for the 1st accused, PW83 stated that he had not verified the number of crimes in which Madhu was involved. He stated that it was Regimon who had recorded the F.I. statement based on the inputs given by him. He admitted that in the F.I. statement, it has been mentioned that Madhu is an accused in numerous cases. He was asked whether he was aware of the procedural formalities that are to be complied with when a person is taken into custody, and he answered in the affirmative. When he was



asked whether all those formalities were complied with when Madhu was taken into custody, he stated that all the procedural formalities were not followed. According to him, Madhu's condition was very bad and, therefore, he wanted to take him to the hospital as early as possible. He stated that seven persons could travel in his jeep. He further stated that Madhu was taken into custody on the basis of information provided by the GD charge. When he was asked whether, at the time of taking a person into custody, it is required to ascertain the injuries on his body and examine him, he answered in the affirmative. However, when he was asked whether the injuries were noted, he answered in the negative. When he was asked whether, while recording Ext.P81 and Ext.P80, the fact that Madhu had injuries on his body was noted, he stated that he did not remember. A suggestion was put to the witness that the injuries found on the body were inflicted by policemen, including him, while Madhu was being taken to the Police Station and also at the Agali Police Station. He denied the same. To the suggestion that he had influenced the Sub-Collector as well as Dr. Lima Francis to refrain from noting the injuries in the inquest and in the wound certificate, he denied the same. He stated that the crime was registered under Section 174 of the Cr.P.C., as he was not aware of the cause of death of Madhu. When he was asked when he had registered the crime under Section 302 of the IPC, he stated that he did not remember. When he was asked whether the persons whose names are mentioned in the FIS had themselves given their names, he replied that he was not very sure. According to him, two of them had given their names and addresses. When he was asked whether he was aware of the persons who had apprehended Madhu from the forest, he stated that he was not aware at that point of time, though he later came to know. He stated that he had no time to



verify whether the persons whose names were furnished were the persons who had beaten Madhu. He admitted that in the F.I. statement, the fact that Madhu had informed him that somebody had kicked him on his chest was not mentioned. According to him, that was an important fact, but the same was not mentioned. He stated that he and the police party were present at Mukkali from 03:00 p.m. to 03:30 p.m. He further stated that he was not aware as to whether any of the relatives of Madhu were present at Mukkali. He stated that he was aware that, at the time of taking a person into custody, the relatives are to be informed. According to him, Madhu was not taken into custody but was merely taken to the Police Station along with the police. He stated that it was Madhu who had informed him that he had been beaten while being taken from the forest, though he had not mentioned that any particular persons had beaten him. When he was asked whether he had reached Agali after 04:40 p.m., he denied the same. When he was asked whether, in the OP Register, the name of Kala was deleted and Madhu's name was inserted, he denied the same. When he was asked whether, when an injured person is taken into custody, the injuries are to be noted, he stated that he was aware of the said procedure. He was asked whether he had checked the CCTV footage at the Agali Police Station to ascertain whether the presence of Madhu in the station was recorded therein, and he stated that he had not checked the CCTV footage. When it was suggested that there was no disruption of electricity supply at the Agali Police Station, he denied the same. When he was asked whether there were injuries on Madhu's face when he was taken to the doctor, he stated that it had not come to his notice. He further stated that when Madhu was taken down from the jeep, he was not conscious. In the cross-examination by the counsel appearing for Accused Nos. 2 and 5, he was



asked whether Madhu was questioned while inside the jeep. He stated that Madhu was not questioned and that only an inquiry was made. When he was asked whether confirmation of the death was informed to him, he stated that after reaching the hospital, within about 5 minutes, he was informed of Madhu's death. He further stated that when Madhu vomited, some vomit fell inside the jeep. He was asked about the details of various hospitals between Mukkali and Mele Thavalam. He stated that, normally, if an injured person is taken to any hospital, they would request that the injured person be taken to a Government hospital. He stated that he did not want to delay the treatment that could be given to Madhu. He further stated that when he enquired with Madhu, he appeared very tired. When he was asked whether Madhu had voluntarily entered the jeep, he stated that Madhu was brought by some persons holding him on both sides. He further stated that when Madhu entered the jeep, the officer was not aware that he required urgent medical attention. He stated that the police jeep was a Bolero jeep and that there was a third row with two seats. He further stated that the FIR was registered at 5:15 p.m. He stated that the Agali Police Station had a UPS facility, but since the charge was low, when the power went off, he had to manually register the FIR. The counsel appearing for the other accused also cross-examined the said witness on similar lines.

10.84. PW84 stated that he was a CPO at the Agali Police Station on 22.02.2018. On that day, he was on driver duty. He stated that while on duty, at about 02:15 p.m., the Station GD charge called the Sub-Inspector and informed him that a person involved in a theft case had been identified, apprehended, and detained at Mukkali Junction. As directed by the SI, they reached Mukkali at about 03:00 p.m. At



Mukkali, in front of a bus waiting shed, they saw a crowd of people. The jeep was stopped, and when they looked inside, they found a person wearing shabby and dark clothes sitting inside the bus waiting shed. He appeared very tired. The people assembled there told the police that he was the thief, Madhu, and that he had been apprehended from the forest and brought there. The SI asked him his name and address, and Madhu gave the same. The SI recorded the names of some of the persons assembled there. Some people escorted Madhu into the police jeep. They also placed a sack near the police jeep and stated that it contained items stolen by Madhu. At about 03:30 p.m., they left Mukkali. During the return journey, the Sub-Inspector asked Madhu as to what had happened. Madhu stated that he had been caught by people from the forest, branded as a thief, and that he had been kicked and stabbed. He further stated that some of the persons who had put him into the jeep had also assaulted him. When they reached Mele Thavalam, Madhu informed them that he wanted to vomit. The jeep was stopped by the roadside, and Madhu vomited through the side window on the left side. When the Sub-Inspector asked him whether he wanted water, Madhu answered in the negative. Madhu then sat on top of the sack at the back of the jeep and rested his head on the seat. The witness stated that Madhu appeared very tired. At that point of time, the SI called the Police Station and informed them that Madhu was being taken to the hospital and asked them to send a requisition. At about 04:15 p.m., the police reached the Agali CHC. Officer Kumaran was present at the hospital with a requisition. The hospital staff took Madhu into the hospital on a stretcher. The Doctor examined Madhu and informed them that he was no more. The Doctor prepared an intimation and sent it through Kumaran to the Police Station. After Madhu's body was shifted to the



mortuary, the police returned. In cross-examination by the counsel appearing for the 1st accused, when the witness was asked whether PW83 was constantly on the phone talking to the Police Station, he stated that he was not aware of the said fact. He denied the suggestion that Madhu became tired due to questioning inside the police jeep. He also denied the suggestion that Madhu was assaulted by the police with their hands and lathi inside the police jeep. The cross-examination by the other accused was also on similar lines.

10.85. PW85 (CW114) was the then Civil Police Officer of Agali Police Station who carried the requisition for medical examination of Madhu from the Police Station to CHC, Agali. He deposed that, on receiving instructions from Rejimon, the GD Charge Officer of Agali Police Station, he immediately rushed to CHC, Agali, with the requisition, based on the telephonic information conveyed by PW83, Prasad Varkky. According to him, Madhu was brought before the duty doctor on a stretcher with the assistance of other police personnel and hospital staff. After examination, the Doctor certified that Madhu had been brought dead. This witness was also subjected to thorough cross-examination. During the course of his examination, MO24 wooden stick was shown to the witness. He identified the same and stated that the said weapon had also been shown to him by the Investigating Officer during the course of investigation. He further deposed that he had personally visited the scene of occurrence as part of the investigative process.

10.86. PW86 is the Professor of Forensic Medicine and Police Surgeon. He, along with a team of surgeons, conducted an autopsy on the body of Madhu and issued



Ext.P82 postmortem certificate. On examination, he noted that the deceased was an adult male of height 154 cm and weight 40 Kg. Blood stained frothy fluid seen at nostrils and mouth. Tattoos were found on the inner aspect of the right forearm and on the front of the right forearm. There were numerous hypopigmented scars on various parts of his body. As many as 44 injuries were noted on various parts of his body out of which, Injury Nos.1 to 29 were found to be fresh in nature. The opinion of the Doctors was that death was due to Injury Nos. 1 to 15, being multiple blunt injuries. It would be appropriate to refer to the said ante mortem injuries at this juncture.

1. Contusion 5x3x0.5 cm on left side of forehead just above eyebrow and 3 cm outer to midline.
2. Contusion 6x5 cm, full thickness, on left side of back of head, 3.5 cm above the level of tip of mastoid and 3 cm outer to midline.
3. Contusion 4x3 cm, full thickness of left temporalis muscle. The skull was intact. Brain (1371 gm) showed features of raised intracranial tension with flattening of gyri, narrowing of sulci and uncal grooving.
4. Contusion 0.8x0.5x0.3 cm on right side of lower lip, 0.5 cm outer to midline.
5. Multiple small contusions over an area 2x1.5 cm on inner aspect of left side of lower lip, 0.5 cm outer to midline and 1cm below muco-cutaneous junction.
6. Contusion 2x1x0.5 cm on left side of lower lip, 3 cm outer to midline.
7. Contusion 14x8x3 cm on top of left shoulder and adjoining back of neck, 3 cm outer to midline.
8. Contusion 12x8x4 cm on back of trunk across midline, upper extent 4 cm below root of neck involving the full thickness of para spinal and trapezius muscles.
9. Abraded contusion 6x4x1 to 1.5 cm left side of back of chest, 13 cm outer to midline, 5 cm below top of shoulder.



10. Contusion 5x2x0.3 to 0.5 cm, oblique on right side of back of trunk , upper outer end 10 cm below root of neck and 2 cm outer to midline.
11. Multiple small contusions varying in sizes of 3x3x1.5 cm to 4x4x3 cm over an area 13x6 cm on right side of back of chest, 12 cm below top of shoulder and 3 cm outer to midline.
12. Tramline contusion 12.5x2.5x1 to 2 cm, with a central pale area of 1 cm breadth in its long axis, obliquely placed on left side of back of trunk, lower inner end 6.5 cm outer to midline and 32 cm below top of shoulder. Underneath, the XI th rib was seen fractured on back aspect with blood infiltration over an area of 8x6 cm. Perinephric haematoma seen on the lower pole of left kidney.
13. Contusion 2.5x1x0.3 cm vertical on back of left arm, 10 cm above elbow.
14. Contusion 10x8x2 cm on back of left thigh, 13 cm above knee fold,
15. Multiple linear abrasions varying in sizes 3.5x0.1 cm to 4.5x0.1 cm over an area 4.5x1.5 cm horizontally placed on left side of back of neck with an underlying contusion 5x4x1.5. cm across midline, just above root of neck.

When MO24 wooden stick was shown to the witness, he identified the same and stated that the same was shown to him by the Investigating Officer during the course of investigation. He stated that Injury Nos. 1 to 3 could be caused by applying a blunt force by a blunt object or striking on a blunt surface forcibly. When the attention of the Doctor was invited to injury No. 3, and he was asked how much time it would have taken for the "uncal grooving" to develop, he responded by stating that it would take a minimum of two or three hours. With regard to Injury Nos. 4 to 6, the Doctor stated that those are blunt force injuries caused by blunt force or fisting multiple times. The Doctor stated that Injury No. 7 could have been caused by the application of blunt force, probably with a long wooden log as the striking object. When he was asked whether MO24 could cause such an injury, he stated that the said weapon could not cause such



an injury. He further stated that such injuries could be caused by MO5 series sticks. Insofar as injury No. 8 is concerned, he stated that the said injury could be caused by forcible compression by a blunt weapon or by compression against a blunt surface. With regard to Injury No. 9, the Doctor stated that it is also a blunt force injury caused by a blunt agent forcibly impacting and that it can also be caused by a wooden stick or by hitting with the hand. With regard to Injury No. 10, the Doctor stated that it is also a blunt injury and can be caused by forcibly pressing against a blunt surface multiple times. When he was asked to clarify the tramline Injury No. 12, he stated that the same could be caused by a long rod-like weapon. He also added that MO24 could cause such an injury. When he was asked to explain "perinephric hematoma," he stated that hitting with MO24 could cause damage to the kidney and associated structures, i.e., adrenal glands, etc., on the lower pole of the left kidney. Insofar as injury No. 13 is concerned, he stated that the said injury is a blunt force injury caused by the use of a blunt weapon and that it could also be caused by hitting with the hand. Injury No. 14, according to him, could be caused by hitting with a blunt weapon such as a wooden log. Insofar as Injury Nos. 14 and 17 are concerned, the Doctor stated that the said injuries could be caused by wooden logs such as MO5 series. Insofar as Injury Nos. 26, 28, 31, and 33 are concerned, the Doctor stated that those injuries could be caused by small-stemmed, spiky plants which he had seen while visiting the spot and examining the scene of occurrence. During cross-examination, he stated that the entire autopsy procedure was videographed. He further stated that the Agali DYSP was present outside the autopsy room. He stated that all the Doctors in his team were experienced. When he was asked whether Injury Nos. 1 to 3 could be caused if the deceased was subjected to fisting, he



responded that even if the head is dashed against a hard surface, such injuries could be caused. When he was asked whether Injury Nos. 1 and 2 were corresponding injuries, he stated that the same could not be said. During cross-examination, the trend of the defence was to suggest that the injuries could have been inflicted by a lathi by police personnel while transporting the deceased from Angamaly or by banging his head on hard surfaces inside the Jeep or at the police Station. When he was asked whether Injury Nos. 1 to 3 had caused brain edema, he answered in the affirmative. When he was asked whether injury Nos. 1 to 3 might have been caused by hitting the head against a hard surface, he stated that it could be so. He further stated that such injuries would cause damage to the brain and result in uneasiness. He added that Injury Nos. 1 to 3 could lead to brain damage, loss of consciousness, and death within a short time. He stated that when the edema becomes severe, the victim may fall unconscious and die. When he was asked whether Injury Nos. 3 to 12 could be caused in a single transaction, he stated that they could not be, and that Injury Nos. 3 to 13 were caused due to different transactions. When he was asked whether, after sustaining such injuries, it would be possible for a person to take food while standing, he stated that it would be possible. When he was asked whether brain edema develops over a period of time, he stated that during the initial stages, the person may behave normally and may consume food. He further clarified that it is not correct to say that after sustaining such injuries, a person cannot take food. When he was asked by the counsel appearing for Accused Nos. 2 and 5 whether the injuries noted could be those typically seen in cases of custodial torture, the Doctor responded that the injuries do not reflect a case of custodial torture. When he was asked the difference between injuries in custodial torture



and general torture, he stated that many of the injuries were not in the nature of custodial torture and that, taken together, the pattern of injuries was not consistent with custodial torture. During re-examination, the Doctor was asked whether he had noted any injuries which could cause instantaneous death. He stated that none of the injuries were likely to cause instantaneous death. He further stated that several factors would contribute cumulatively, forming a vicious circle, ultimately leading to death. He added that none of the injuries were such that the injured person was likely to die within a short span of time, such as within one hour. He further stated that the impact of the injuries would increase over a period of time, and when it reaches a critical stage, it becomes a medical emergency. At that stage, if the patient is not provided treatment, death would ensue. He added that reaching such a stage of medical emergency may take several hours and, in some cases, even several days.

10.87. PW87 (CW77) was the Nodal Officer of Bharti Airtel, Kerala Circle. Through this witness, the prosecution produced Call Data Records, Customer Application Forms, and certificates under Section 65B of the Indian Evidence Act relating to the mobile phone used by Accused No. 6. These documents were marked as Ext. P83 series. In his cross-examination, questions were put by the defence that the documents produced by him were fabricated. The said suggestion was denied by the witness.

10.88. PW88 (CW99) was the then Woman Civil Police Officer of Agali Police Station, who was working as Station Writer during the relevant period. She deposed that she had kept in safe custody the notebooks of police personnel Prasad Varkky, Mohandas, and Sujilal, as entrusted by the Investigating Officer. She stated that she had



produced these notebooks, along with the Manual General Diary of Agali Police Station, before the Dy.S.P. She received interim custody of the Manual General Diary under Ext. P84 receipt and subsequently produced the same before Court. The relevant pages of the General Diary were marked as Ext. P85(a) through this witness. She also kept in safe custody the vehicle diary relating to Police Jeep bearing Registration No. KL-01-BW-5724 and later produced the same before the Investigating Officer. The relevant pages of the vehicle diary were marked as Ext. P86(a). The notebooks of Prasad Varkky, Mohandas, and Sujilal were marked as Ext. P87 series through her testimony.

10.89. PW89 (CW112) was working at Agali Police Station on attached duty during the relevant period. He is yet another police personnel who accompanied PW83 while taking Madhu from Mukkali. He stated that on 22.02.2018, at about 10:30 a.m., he, along with SI Prasad Varkky and CPO Mohandas, went on patrol duty in a jeep bearing registration No. KL-01 BW-5724. According to him, at about 02:15 p.m., when they reached Gulikadavu, the Sub-Inspector received a telephone call from the police station informing him that one Madhu, an accused in a theft case, had been apprehended and detained at Mukkali. They reached Mukkali at about 03:00 p.m. They found that a large crowd had assembled in front of the bus stand waiting shed. Madhu was sitting inside the waiting shed. The persons assembled there told them that Madhu was a thief and that he had been apprehended by the locals from the forest. The SI enquired with Madhu, and he disclosed his name and address. The persons assembled there escorted Madhu to the jeep and made him sit on the back seat. The people who had assembled there also brought a sack containing rice and informed the police that it



had been seized from Madhu. Mohandas took the sack and placed it on the back seat, between the two seats. The witness sat in the middle portion of the middle row, while the driver and the Sub-Inspector sat in the front row. At about 03:30 p.m., they started from Mukkali. The SI enquired with Madhu as to what had happened, and Madhu responded that he had been caught from the forest and that he had been beaten and stamped. He also stated that the persons who had put him into the jeep had kicked and stamped him. When they reached Thavalam, Madhu told them that he wanted to vomit. The witness lowered the left-side window pane to enable Madhu to vomit. Madhu put his head outside the window and vomited. Thereafter, he sat on the sack on the floor, rested his head on the seat, and continued vomiting. He was moaning while seated. At about 04:15 p.m., Madhu was taken to CHC Agali. With the assistance of the hospital staff, Madhu, who was unconscious, was taken on a stretcher. The Doctor, after examining his eyes, blood pressure, etc., and after taking ECG, stated that Madhu was no more. Madhu was then shifted to the mortuary. In cross-examination, the witness was asked about the distance between Mukkali and Gulikadavu. He stated that they had reached Mukkali in order to take the accused in the theft case to the forest. When he was asked whether there were 100 people assembled there, he stated that about 75 persons had assembled. He further stated that he was with the SI throughout. When he was asked whether he overheard the deceased telling the Sub-Inspector that the persons who brought him from the forest had kicked and assaulted him, he answered in the affirmative. The same line of cross-examination as was put to the earlier police officers was also adopted in his case. Questions were also put regarding the procedure followed by the Sub-Inspector while taking Madhu to the Station. He was further asked



whether he overheard Prasad Varkky calling several persons on the phone, to which he answered in the affirmative.

10.90. PW90 (CW121) was the then Village Officer of Kallamala Village. He prepared Ext. P88 series — two scene plans relating to the places connected with the occurrence.

10.91. PW91(CW 118) was the then Sub Inspector of Police attached to Agali Police Station, though he was on leave on 22-02-2018. He deposed that at about 2:00 p.m. on that day, one Shamsudheen (A3) contacted him over the phone and informed that he had seen Madhu. Upon receiving this information, PW91 conveyed the same to the Police Station. After about an hour, Shamsudheen again contacted him and informed that he had reached Mukkali along with Madhu. During examination, PW91 identified Accused No. 3 in the dock. He further deposed that he passed on this information to the Station as Madhu was an accused in a theft case and also instructed that police personnel be deputed to Mukkali. During cross-examination, PW91 admitted that he was the Investigating Officer in a theft case registered against Madhu — Crime No. 524 of 2016 of Agali Police Station — involving offences punishable under Sections 457, 380, and 461 of the IPC. He had filed the final report in that case, wherein one Muneer was the complainant. Ext. P89 is the Final Report on that crime. He also admitted that Witness No. 2 cited in Ext. P89 Final Report is none other than Accused No. 16 in the present case. He further stated that he knew Madhu personally in connection with that earlier investigation.



10.92. PW92 (CW113) was the Grade Senior Civil Police Officer of Agali Police Station who was on GD Charge duty on 22-02-2018. He deposed that at about 2:00 p.m. on that day, Sub Inspector Subin contacted him over the Station phone and informed that Madhu was being brought to Mukkali by members of the public and that patrol police personnel were to be despatched. He informed Prasad Varkky (PW83). Thereafter, PW83 informed him that Madhu was being taken to Agali and that, on the way, Madhu had vomited inside the police jeep. He was also informed that a requisition for medical examination was required. PW92 accordingly prepared the requisition and sent it to CHC, Agali, through Kumaran (PW85). He further deposed that PW83 later informed him that the Doctor had examined Madhu and certified that he was dead. These facts were entered by him in the General Diary. Thereafter, PW83 returned to the Police Station and registered Crime No. 87 of 2018 manually, owing to power failure at the Station. Ext. P85 series — the Manual GD entries made by PW92 — were proved through him. He also deposed that the details were subsequently entered in the CCTNS system.

10.93. PW93 was the then Inspector Station House Officer (ISHO) of Agali Police Station. He deposed that he had produced the CCTNS General Diary extracts before the Investigating Officer along with the requisite Section 65B certificate, which were marked as Exts. P90 and P90(a). According to him, on 22-02-2018, he was on duty but engaged in law and order work at another location. He came to know about the incident at about 4:20 p.m., when PW83 (Prasad Varkky) informed him over the phone. After reaching the Police Station, he made arrangements for the Magisterial enquiry and also requisitioned the services of the Scientific Expert, Fingerprint Bureau, and Dog



Squad. He further deposed that eight accused persons were brought to Agali Police Station and kept under surveillance. He was cross-examined in detail to substantiate the defence version that the death of Madhu was consequent to torture by the police.

10.94. PW94 was the then Nodal Officer of Vodafone Idea Cellular Limited. Through him, Ext. P91 series — comprising Call Data Records, call details, and Section 65B certificates — were produced. He deposed that the documents had in fact been issued by the then Nodal Officer, Rajesh M.R., whose signature he was acquainted with. On that basis, Ext. P91 series were marked through him. Subsequently, PW94 was recalled, and further records — Exts. P91(b) to P91(d) series, including additional call details, Customer Application Forms, and 65B certificates — were also marked. He was cross-examined in detail to challenge the credibility and genuineness of the documents produced by him.

10.95. PW95 (CW116) stated that as on 05.05.2018, he was working as the Assistant Director in the Forensic Science Laboratory, Thiruvananthapuram. While working as aforesaid, he had examined 3 digital video recorders and 6 mobile phones. He had also examined 25 photographs which were sent to him for the purpose of comparison. The hard disks found in the DVR were marked as Q1 to Q3 and the mobile phones were marked as Q4 to Q9. The standard photographs were marked as S1 to S25. He stated that after examining the entire records, he had prepared Ext.P92 report. Along with the report, he had also submitted to the court the pendrive which was marked as Ext.P92(a). The Section 65B certificate issued by him in respect of the pendrive is marked as Ext.P92 (b). He stated that the examined videographs and the



photographs have been extracted to Ext.P92(a) pendrive. S1 to S25 photographs which were sent to him were separately marked as Ext.P30 (a) to (i). Those photographs were the photographs of individuals except for Accused No. 1. Exts.P33(c) to P33(j) are the backgrounds. He stated that the photographs which were forwarded to him, which are Ext.P30(a) to (i) were examined by him and in the visuals, he had occasion to fix the identity of all other accused except Accused No. 1. They were found in the hard disk and mobile phone, videographs and photographs as well. Those videos and photographs were extracted and saved in the pendrive. He then proceeded to peruse the video file and the time slots therein and identified the photographs and the visuals showing the deceased as well as the accused. He stated specifically that the person shown in the video corresponds to the S1 series photographs which were forwarded to him for the purpose of comparison. During cross-examination, a challenge was raised against the manner in which he had submitted Ext. P92 report and its scientific basis. He stated that it took about 2 to 3 days for him to examine Q1 to Q9, if not more. He stated that he had meticulously examined the videographs and the photographs. The counsel appearing for the accused put pointed questions with regard to the presence of Accused No. 1 in the Q2 file. He referred to the presence of PW8 and PW19 in the video and the timestamps. The learned counsel appearing for the rest of the accused also challenged him with regard to the technique adopted for the purpose of comparison. They also challenged his capacity and competence to compare the photographs.

10.96. PW96 was the then Judicial First Class Magistrate, Mannarkkad, who conducted the Magisterial Inquiry under Section 176(1)(A) of the Cr.P.C. His enquiry report was marked as Ext. P94. The conclusion arrived at in the said inquiry was that the



death of Madhu was not attributable to police torture. Insofar as PW97 is concerned, the steps taken by him in the course of investigation have been narrated in paragraph No. 4 above and the challenges raised by the accused will be dealt with while dealing with the issues.

10.97. PW98 was the Nodal Officer of BSNL. Through him, Ext. P161 series — comprising call data records, customer application forms, and Section 65B certificates — were marked.

10.98. PW99 was the Nodal Officer of Reliance Jio Infocom. Through this witness, Ext. P162 series — including call details, customer identification forms, and Section 65B certificates — were marked.

10.99. PW100 is the present Attappadi Tribal Taluk Tahsildar. He issued Ext.P163 Caste Certificate of Madhu in response to summons issued under Section 91 of the Cr.P.C. He deposed that Madhu belonged to the Hindu-Mudugar community, a notified Scheduled Tribe. He further stated that this conclusion was arrived at on the basis of his official enquiry as well as the report of the Village Officer. The back file relating to the caste certificate was marked as Ext. P163(a), which contained supporting documents such as the school admission register of Madhu and the ration card records. According to the witness, Madhu's father also belonged to the Hindu-Mudugar Scheduled Tribe community, and Madhu followed the caste status of his father.

10.100. PW101 is the successor of PW97 and conducted the further stage of investigation in this case. He produced Ext. P88 series sketches and scene plans and



also prepared Exts. P9 and P10 scene mahazars relating to additional places of occurrence. It is evident from his testimony that the substantial and foundational portion of the investigation had already been completed by PW97, and PW101's role was confined to supplementary investigation, including preparation and production of additional sketches, plans, and mahazars concerning certain connected locations.

10.101. PW102 is the Assistant Superintendent of Police, Palakkad, who was holding charge of Dy. S.P., Agali, during the period from 06.12.2022 to 12.12.2022. During that period, the SD card containing the video recording of the postmortem examination of Madhu — which had earlier been forwarded to the National Human Rights Commission — was traced and retrieved. In response to summons issued under Section 91 of the Cr.P.C., the SD card was produced before Court. The covering letter issued by the National Human Rights Commission was marked as Ext. P166, and the SD card itself was marked as Ext. P167. The forwarding letter submitted by PW102 was marked as Ext. P166(a).

10.102. PW103 is the Police Photographer attached to DCRB, Thrissur (Rural). He deposed that it was he who videographed the postmortem examination conducted on the body of Madhu. He identified Ext. P167 SD card as the storage device containing the original recording. He also issued Ext. P168 Certificate under Section 65B of the Indian Evidence Act. He clarified during examination that postmortem videography is not recorded in one continuous stretch but is done in segments, part by part, in order to conserve storage space in the recording device. Ext. P167 memory card was played



before the Court using a laptop, and the witness identified the contents as the recording made by him.

11. Defence Witnesses:

a. DW1 was the then Senior Nursing Officer of Agali CHC, who produced Ext.D13 Casualty Injection Register of Agali CHC during the relevant period. She has also deposed about Ext.D6 postmortem register, Ext.D12 casualty OP Register, etc., of Agali CHC during the relevant period. The evidence given by DW1 along with Exts.D6, D12 and D13 documents reveal that there are some corrections in Ext.D12 OP register. It was also brought out that apart from the correction in the relevant entries, there are corrections in several other entries also. Likewise, in Ext.D13 Injection Register, there are corrections. It is found that instead of 4.25 p.m., it is written as 4.15 pm.

b. DW2 is the present Assistant Engineer of Agali Section, KSEB; he has proved Ext.D7 invoice issued by KSEB, produced Ext.D14 complaint register of KSEB, Agali dated 22.02.2018, Ext.D15 LT interruption register of KSEB Agali dated 22.02.2018 and Ext.D16 HT interruption register of KSEB Agali dated 22.02.2018. As per the evidence given by DW2, no complaint is registered with regard to power failure in the Agali Police Station at the relevant time. At the same time, he admitted that invariably in all cases consumers will not make complaints during the time of power failure.

c. DW3 is the Assistant Engineer of 11 KV Sub Station, Mannarkkad, who has produced Ext.D17 Interruption Register of 33 KV Sub Station of Agali and Ext.D18 Operator's Daily Register of 33 KV Sub Station, Agali dated 22.02.2018. According to



DW3, there was no power interruption in Mannarkkad 11 KV Sub Station during 5–5.30 pm on 22.02.2018. It was also brought out that there was interruption between 6.35 p.m and 7.13 p.m. Exts.D17 and D18 are with regard to major power failure in 11 KV and 33 KV Sub Stations. Details regarding the power failure in transformer level/LT connection interruption will not be borne out from the said record.

d. DW4 is the present Taluk Legal Services Committee Secretary, through whom Ext.D19 petition filed by PW70, the mother of Madhu, for deputing a Special Public Prosecutor was marked.

e. DW5 is the son-in-law of A1. He has produced Ext.D20 to D24 (a) series documents to prove that the daughter of Accused No.1 is married to DW5 at Mukkali and to show that the daughter of the 1st accused is staying at Mukkali. DW5 deposed that his daughter fell in love with another boy and later that girl eloped with her fiancée. According to him, his house is beside Mukkali-Anakatty road at a distance of 25–30 metres from Mukkali junction towards Anakatty. DW5 further identified the surroundings of Mukkali by watching the CCTV footage shown to him.

f. DW6 is the younger brother of Accused No.1, whose name and details, including mobile number found a place in Ext.P80 FIS. According to him, the house of DW5 is situated at a distance of 10–15 metres away from Mukkali junction beside Mukkali-Anakatty road. According to DW6, he along with his elder brother (Accused No. 1) and two children—PW45 and DW8—reached Mukkali on 22.02.2018 in connection with some family affairs. It is pertinent to note that DW6 has given evidence before



court stating that his brother (Accused No.1) has shared his name and address to the police. Likewise, he has also shared his name and other details to the Police.

g. DW7, the Secretary of Badariya Juma Masjid Committee, Mukkali through whom Ext.D25 minutes book of Juma Masjid Committee, Mukkali was marked. This witness was examined to prove that on 26.08.2020 some settlement talk was made with regard to the love affair of grand-daughter of Accused No.1, Sadariya, with her boyfriend. He deposed that the house of DW5 is situated at a distance of 200–300 metres away from Mukkali junction beside Mukkali-Anakatty road. According to him, for reaching the house of DW5 while coming from Anakatty side there is no need to come to Mukkali junction.

h. DW8 is the son of Accused No.1, who accompanied Accused No.1 at the time when the 1st accused reached Mukkali on 22.02.2018. He has also given a similar version as that of DW5.

12. Issues for determination:

12.1. Was the death homicidal?

a. To determine the question as to whether the death of Madhu was homicidal, reference need to be made to Ext.P82 postmortem certificate and the evidence of PW86, Professor of Forensic Medicine and Police Surgeon, who conducted the autopsy on 24.02.2018 along with a team of Doctors. The entire postmortem examination was video-recorded and photographed. The video recording is Ext.P167. In his evidence, he stated that death was due to multiple blunt injuries sustained; i.e.



Injury numbers 1 to 15. This opinion was given after a thorough autopsy by a team of Doctors, a visit to the scene of occurrence, examination of MO24 (the wooden stick recovered from A3), and an evaluation of each of the forty-four injuries. Injury Nos. 1 to 29 were fresh in nature. Injury Nos. 30 to 44 showed varying degrees of healing, indicated by the presence of brown scab, reddish-brown scab, or brownish scab, which reveals that some injuries were sustained earlier, over the days preceding death. These injuries are consistent with Madhu's life in the forest where natural abrasions from vegetation can occur.

b. In his oral evidence before the court, PW86 narrated how each category of injury was caused. He stated that Injury Nos. 1 to 3 were caused by blunt force from a blunt object or by the head being forcibly struck against a hard surface by another person. Injury No. 12, according to the Doctor, was caused by a long rod-like weapon, consistent with MO24. Injuries Nos. 13 and 14 could have been caused by a blunt weapon. Injury No. 18 was caused by stamping with foot and injuries Nos. 26, 28, 31, and 33 would have been caused by spiky stemmed plants in the forest. The opinion was that the nature and distribution of the injuries suggest an inference that these injuries were caused by two or more persons.

c. We also find from the evidence of the doctor and the report that even the external presentation carried the unmistakable markers of ante-mortem violence and neurological deterioration. The presence of blood-stained frothy fluid at the nostrils and mouth is a sign of pulmonary haemorrhage or severe pulmonary oedema which is consistent with the Acute Respiratory Distress Syndrome (ARDS) subsequently confirmed



in the lung findings. The presence of this fluid at the nostrils and mouth of a deceased person points to a process of acute systemic physiological collapse. This reveals that it is not a sudden cardiac event and not a natural death. The cyanosis of the fingernails is a clear sign of prolonged hypoxia thereby indicating that the body had been deprived of adequate oxygen supply for a significant period before death. This again is inconsistent with sudden or instantaneous death and consistent with a protracted process of neurological and respiratory deterioration consequent on severe traumatic injuries.

d. PW86, in his evidence stated that not one of the forty-four injuries, taken individually, was sufficient to cause death. The Doctor specifically deposed that even Injury Nos. 1 to 15, which were identified as the cause of death, were not individually fatal. It was their conjoint effect forming a vicious cycle in which each injury contributed to the progressive deterioration of the victim's condition that resulted in Madhu's death. The opinion of PW86 is categorical, unshaken by cross-examination, and supported by the physical evidence. In that view of the matter, we have no hesitation in coming to a conclusion that the death of Madhu was homicidal.

12.2. **Whether it is a case of custodial torture?**

a. It would be appropriate at this juncture to address one of the most persistent contentions advanced by the learned counsel for the accused. According to them, if Madhu had truly sustained forty-four ante-mortem injuries of the nature and severity described in Ext.P82, he could not possibly have been seen walking, eating, and behaving with any degree of normalcy at Mukkali junction as captured in the CCTV footage. According to them, the injuries were inflicted after 3.30 p.m., while Madhu was



in the custody of the Police. They contend that Madhu was beaten up while he was being taken to the Police Station, and it was only when his condition worsened that he was taken from the Station to the CHC. They also contend that if Madhu's condition was that bad, nothing prevented the police personnel from admitting him to one of the numerous hospitals on the way to Thavalam. This contention, attractive on first impression, falls to the ground on a careful evaluation of the evidence.

b. PW86 had deposed in categorical terms that even after sustaining all these injuries, including the head injuries, initiating the fatal brain edema the victim can behave normally, and he would be in a position to stand up, walk, drink and take food. The reason is rooted in the physiology of traumatic brain injury itself. Brain edema does not reach its fatal threshold instantaneously. It is a progressive biological process. As explained by the Doctor, the swelling of brain tissue consequent to injury develops over a period of two to three hours before attaining that saturated, critical level at which consciousness is lost, and death follows. In the interval between the infliction of the head injury and that terminal threshold, the victim may present to any lay observer as being in a relatively normal or merely distressed condition. The lethal nature of the injury is internal and invisible.

c. But the answer to this contention does not rest on medical science alone. To fully appreciate why Madhu walked, sat, ate, and endured what he did at Mukkali without immediately collapsing, one may have to look beyond the physiology of brain edema and look at who Madhu was, what his life was, and what was being done to him in those final hours. Madhu was a member of the Mudugar Scheduled Tribe. He



was approximately 30 years of age. His mother, who was examined as PW70, and his brother-in-law (PW71) stated that he was mentally ill. He had been wandering in the Aandiyallachaal forest for years, living a nomadic life and surviving on whatever food he could find or take from shops in the area. He was severely malnourished, which fact is discernible from the postmortem certificate. His body weight was just 40 kg at a height of 154 centimetres. He had no friends or family members to come to his aid. He had no understanding of his legal rights, no capacity to articulate his distress in terms that the world around him would recognise, and no power whatsoever over the situation into which he had been delivered. When he was apprehended in the forest by the group of accused, who are all healthy adult men, his hands were tied behind his back with a zip. This fact is discernible from the CCTV footage. If the postmortem report and whatever is visible from the CCTV footage are any indication, he was beaten with a wooden stick, fisted on his back repeatedly, he was stripped, and a sack of the goods he had allegedly stolen was placed on his shoulder. He was then bound, stripped and paraded carrying the sack, with his hands tied, for approximately three kilometres through a public road from Vandikkadavu to Mukkali junction. Madhu was not voluntarily walking down the forest path by exercising his volition. He was compelled to do so and he had no choice. He walked because stopping would have invited further violence from the men who were after him. He walked because his mental illness denied him the capacity to fully process what was being done to him, to formulate resistance, or to call out for help in any organised way. At Mukkali junction, he was made to sit against the treasure box of the Ponmala Dharmasasta Temple. The CCTV footage from Sreerag Bakery (Q2) captures what followed. He is seen sitting passive with an innocent child-like look,



exhausted, surrounded by hostile men. Accused No. 3 gave him a plantain and Accused No.14 offered him a cup of juice, which he consumed. That act of eating, which was highlighted by the defence as evidence that he could not have been seriously injured, is in truth among the most telling facts in the case. A mentally ill, malnourished tribal man, who had spent years scrounging for food in a forest and from unattended shops, was given food by the very persons who had beaten him. He ate the crumbs of food not because he was well or because the injuries were minor. He ate because his mental condition robbed him of the capacity to refuse, to protest, or to understand that the hand offering him food was the same hand that had fractured his rib and hit him with sticks. The stomach contained pieces of plantain in brownish mucoid fluid which fact corroborates this reality. The plantain that Accused No.3 gave him at Mukkali was still in his stomach when the Doctors conducted the autopsy by cutting him open on 24.02.2018. PW86 confirmed that in the initial stages of developing brain edema, the person behaves normally. What the CCTV shows—a frail, mentally ill, bound man sitting against a wall, accepting food from his tormentors, surrounded by a crowd of men—is not evidence of a healthy or lightly injured man. It is evidence of a man whose body was still ambulatory while his brain was dying, whose mental illness prevented him from understanding or resisting what was being done to him. The 30 years of his utterly powerless life on the margins of society had conditioned him to passivity and compliance in the face of the authority that men like the accused represented to him. The defence contention that a man with such injuries would have collapsed immediately and could not have walked or eaten cannot, therefore, be accepted.



d. We shall now consider the contention of the accused that Madhu had died while in police custody and the injuries found on his body were inflicted by the Police while on the way to the hospital and at the Police Station.

e. We have already noted that the postmortem examination was conducted on 24.02.2018 by PW86, Professor of Forensic Medicine and Police Surgeon. The finding of the Doctor is that Injury Nos. 1 to 3 caused brain edema. Injury No. 3 specifically is "uncal grooving", a life-threatening neurological emergency characterised by raised intracranial tension with flattening of gyri, narrowing of sulci, and herniation of the uncus of the temporal lobe across the tentorium cerebelli. The Doctor stated that this is not a sudden event. PW86 categorically deposed that for this uncal grooving to form and for the consequential brain edema to develop to a fatal level, it takes at least two to three hours. He further clarified that until the edema reaches its saturated, peak level, the victim can continue to perform normal activities. Only when the edema reaches that critical threshold does the victim become unconscious and death follows. The medical evidence tendered by the Doctor delivers a precise answer to the question of causation.

f. Madhu was pronounced dead by Dr. Lima Francis (PW56) at Agali CHC at approximately 4:15 pm. Working back by the minimum development period of two hours as stated by PW86, the injuries initiating the fatal brain edema must have been inflicted at or before 2:15 pm. Working back by the maximum development period of three hours: the initiating injuries must have been inflicted at or before 1:15 pm. The police took Madhu into custody at Mukkali at 3:30 pm. The window of time during which



the police had any custody of Madhu at all, from 3:30 p.m. to approximately 4:10 p.m. when they arrived at Agali CHC, is 40 - 45 minutes at the most. PW86's uncontroverted expert evidence establishes that even if a fresh injury had been inflicted at the very moment of police custody at 3:30 pm, the resulting brain edema would not have matured to a fatal level until at least 5:30 pm to 6:30 pm, an hour to two hours after Madhu was already dead. Death at 4:15 p.m. from injuries inflicted after 3:30 p.m. is medically impossible under the development timeline established by PW86.

g. There is yet another pertinent indication. By the time the police took custody of him at Mukkali at 3:30 p.m., he had already been subjected to several hours of sustained mob violence, had walked or been paraded several kilometres from the forest to Mukkali junction, and was described by PW83 as sitting in the CITU waiting shed at Mukkali in a shabby and tired condition. A 40 kg mentally ill man in this condition presented no threat, no resistance, and no reason for any police response other than the medical attention that PW83 was already arranging by phone. When the police jeep reached Mele Thavalam, approximately 10 kilometres from Mukkali and 8 kilometres from Agali CHC, Madhu informed the police that he wanted to vomit. The jeep was stopped. Madhu then vomited through the quarter glass of the jeep. He was seated in the back row and vomited outward through the quarter window. The report of PW64, the scientific expert reveals that Madhu had also defecated while inside the Jeep. The act of vomiting is itself a significant neurological symptom. Vomiting of this nature in a person sustaining a serious head injury — particularly in the context of developing raised intracranial pressure — is a classical sign of the neurological deterioration already



in progress. It is a clinical sign that the brain edema was already at an advanced stage of development approximately 45 minutes before his death was declared at the CHC.

h. When specifically asked in cross-examination whether the injuries could have been caused in a custodial torture scenario, PW86 answered unequivocally that when all injuries are taken together as a pattern, these are not of a nature of custodial torture. Another very pertinent opinion of PW86, which has direct bearing on the legal analysis of culpability is that not a single one of the forty-four injuries, taken individually, was sufficient to cause death. The Doctor specifically deposed that even injuries Nos. 1 to 15 identified as the cause of death were not individually fatal. It was their conjoint effect forming a vicious cycle in which each injury contributed to the progressive deterioration of the victim's condition that resulted in Madhu's death. From the evidence adduced by PW86, it can be seen that the head injuries (Nos. 1–3) initiated the cascade of brain edema and rising intracranial pressure. The rib fracture and perinephric haematoma from Injury No. 12 caused internal bleeding that compounded the systemic physiological stress. The large contusions across the back and shoulders (Injury Nos. 7–11) caused significant blood loss from the muscular tissue and added to the physiological burden. The aspiration of food particles into the airways as a consequence of the neurological deterioration added a respiratory component to the multi-organ failure. Each of these elements contributed to the progressive deterioration. None alone would necessarily have killed. PW86 also gave an overall evaluation of the pattern of forty-four injuries on Madhu's body and specifically opined that the nature of the injuries, their distribution, and their pattern collectively reveal that this is not a case of police torture. It has also come out from the evidence tendered by the Forensic Surgeon



that PW86 visited the place of occurrence at Aandiyallachaal, and during his journey to that location he personally observed spiky-stemmed herbs in that forest area which are capable of causing exactly those categories of injuries. He stated that the forest environment itself left its marks on Madhu's body, and those marks are documented and catalogued in the forty-four injuries.

i. The police transit from Mukkali to Agali CHC was conducted in Police Bolero Jeep bearing No. KL-01-BW-5724. The vehicle diary of this jeep is Ext.P86, produced and proved by PW88. Ext.P54 is the body mahazar of the vehicle that was prepared on 23.02.2018 by which time the vehicle had been preserved as an exhibit in the investigation. Three police officials were in the vehicle: PW83 (Additional Sub Inspector Prasad Varkky), PW84 (the driver), and PW89 (a CPO attached to Agali Police Station on duty). PW83, the Additional Sub Inspector, was in the front passenger seat. PW84 was in the driver's seat. PW89, the third officer, was in the middle row. Madhu was placed in the rear/last row of the vehicle. This seating arrangement is established from the evidence and is not in dispute. The expert who examined the Jeep has stated in her evidence that she was able to detect vomit and human faeces inside the Jeep. For any injury to have been inflicted by the police inside the vehicle, it would be necessary for a police officer to physically assault a person in the rearmost row of a moving jeep. PW83, in the front seat, could not reach the rear row without physically climbing over the middle row. PW84 was driving and he was responsible for navigating the road to Agali and could not have left the driver's seat. PW89 in the middle row would have had limited space to turn and assault a person behind him in a moving vehicle. More



fundamentally, it has come out from the cross-examination of the accused that PW83 was on the phone throughout the transit.

j. Evidence also reveals that PW83, as the senior officer in the vehicle, conveyed telephonic information to GD charge Officer, Rejimon, that Madhu had vomited. PW83 directed Rejimon to prepare a requisition for medical examination of Madhu and to bring it to the Agali CHC. The GD Charge Officer, Rejimon, relayed this information to CPO Kumaran at the Police Station, who then rushed to Agali CHC with the requisition form.

k. Even leaving out the seating configuration and the phone engagement, Madhu's condition in the vehicle provides yet another layer of evidence entirely inconsistent with any police assault. The hypothesis that the police needed to assault this individual in the back seat of a jeep, while one officer drove and the senior officer was on the phone for any purpose whatsoever is not supported by a single piece of evidence in the record. The absence of motive, the absence of opportunity, combined with the medical impossibility as per the timing as per the available evidence, together constitute a complete answer to the custodial torture allegation. Furthermore, the timeline does not accommodate a stoppage at the police station. The police took custody at Mukkali at 3:30 p.m. Madhu was examined by Dr. Lima Francis at Agali CHC at 4:15 pm. The distance from Mukkali to Agali is approximately 18 kilometres. Travelling this distance, stopping at the Police Station, conducting an alleged torture session, and then travelling the additional distance from the station to the CHC is an impossible task.



I. The defence has also urged that there were private hospitals available between Mukkali and Agali and that the failure to stop at any of these hospitals evidenced either police indifference to Madhu's condition or a deliberate choice to take him to a Government hospital where police influence could be exercised over the medical records. However, the evidence available before the court establishes that there is no hospital of comparable quality to Agali CHC at Mele Thavalam, where Madhu vomited. After going through the evidence, we are inclined to believe the version of the PW86 that his choice of Agali CHC as the hospital where medical aid could be administered is rational. Under no circumstances could the police officers have known that Madhu was suffering from developing brain edema and raised intracranial pressure. The external presentation of Madhu at that point gave no visible indication of the neurological emergency within. The postmortem evidence and the evidence tendered by the Doctor establishes that the dark complexion of Madhu made his contusions entirely invisible to the naked eye, as confirmed by the postmortem video Ext.P167, which shows the Doctors having to surgically incise the body at multiple points — file numbers 0530, 0531, 0532, 0536, 0538, 0575, 0596, 0877 onwards — to reveal contusions lying below the skin surface that were invisible on external examination. PW86 specifically confirmed in his evidence that even the doctors conducting the post-mortem examination had to cut open doubtful portions of the body to understand the nature and depth of the injuries. Some were skin level and others muscle deep. If trained Forensic Doctors conducting a formal postmortem examination found the injuries invisible without surgical incision, police officers without medical training observing a fatigued man who was unable to communicate could not have been expected to recognise the severity of



his condition. The police officers transported him to the nearest Government medical facility capable of treating him. These are the actions of officers who were attending to a person in distress with the resources available and the knowledge available to them at the time. Mele Thavalam is a small settlement on the Mukkali-Agali road. The CHC is a Government community health centre with round-the-clock medical staff, emergency facilities, and the capacity to examine and treat a patient in distress. When Madhu vomited at Thavalam, the police party was already 10 kilometres into the journey with only 8 kilometres remaining to the CHC. The police officers cannot be said to have made an incorrect decision in the facts and circumstances.

m. There is a piece of evidence on the record that actually came from the accused's own phones rather than the police. File VID-20180222-WA0094, found in the Q5 file in Ext.P92(a) pen-drive, is a video recording taken while Madhu was being taken from Mukkali by the police. The audio recording captured in this video file reveals that as the police were taking Madhu away, PW83 was audibly collecting from the gathered crowd the names and details of shop owners from whose establishments thefts had taken place. This is the source of the names, addresses, and phone numbers that PW83 subsequently wrote in the FIS (Ext.P80), which is attributed by the defence to Madhu. The significance of this video for the custodial torture question is two-fold. Firstly, it demonstrates that PW83 was engaged in the entirely ordinary and legitimate police activity of gathering preliminary information from bystanders at the scene and not engaged in any conspiratorial activity. Secondly, the video was not taken by the police. It was on the accused's own phone. It was an unintentional recording by one of the accused of a scene at Mukkali as the police were leaving. The fact that this recording



captured PW83's voice asking bystanders for shop theft details is itself exculpatory evidence against the custodial torture theory. The accused, who recorded everything else that day, recorded PW83 at Mukkali engaged in the act of collecting preliminary information.

n. In this context, serious contentions were advanced by the defence that the medical records were corrected to conceal the actual facts. DW1, the Senior Nursing Officer of Agali CHC, produced the OP register (Ext.D12) and the Injection Register (Ext.D13). The defence highlighted that in Ext.D13, the time of Madhu's examination had been corrected from 4:12 pm or 4:25 pm to 4:15 pm. This was highlighted as evidence of manipulation with a view to shorten the window of police custody. We find that Dr. Lima Francis (PW56) explained that she made the correction by reference to the casualty clock — changing the time to 4:15 p.m. to accord with the accurate clock time. We have examined the registers of the mofussil hospital and find that the corrections appear throughout the registers and are not confined to the entry relevant to Madhu. We find that though there are corrections in the name column, the fact remains that the gender and age are correctly mentioned in the relevant columns. DW1 confirmed this during examination. We are of the view that routine corrections in the working registers of a busy government hospital, made by the examining Doctor by reference to a clock, are not evidence of manipulation. The defence's attempt to construct a conspiracy from an ordinary clinical notation correction finds no support in the evidence. Though Dr. Lima Francis was subjected to vehement cross-examination by the defence to establish that she had been influenced by senior police officials to minimise or omit injury findings in her examination notes. Nothing was elicited from her to support this. She maintained



throughout that she examined Madhu at 4:15 p.m., that she found him brought dead, and that she recorded what she observed in her clinical notes. The absence of injury notation in her clinical record is fully explained by the physical impossibility of detecting sub-surface contusions on a darkly complexioned body without surgical incision. We also find that the Sub-Divisional Magistrate, Ottapalam conducted a mandatory inquiry under Section 176 of the Cr.P.C. into custodial death. The inquiry concluded that this was not a case of police torture. Separately, the Judicial First Class Magistrate, Mannarkkad conducted an inquiry under Section 176(1A) of the Cr.P.C. This inquiry also found no evidence of police-inflicted injuries. The SDM inquiry report, along with Ext.P167 (the postmortem video), was forwarded to the National Human Rights Commission. The NHRC reviewed both the inquiry report and the postmortem video footage and, by its letter Ext.P166 addressed to the District Police Chief, Palakkad, confirmed that it accepted the findings of the Sub-Divisional Magistrate and found no evidence of police torture. Three independent authorities, examining the same facts, have all reached the same conclusion: this was not a case of custodial torture. Though the reports are not binding on us, we have no difficulty in concluding that the intracranial tension leading to brain edema was caused by injuries inflicted by the accused and not by injuries sustained during police transit.

o. Another contention advanced by the defence is with regard to the noting of certain injuries by the SDM at the time of inquest which were apparently not noted by Dr Lima Francis who declared Madhu died. This gradation — from nothing visible at Mukkali (3:30 pm), to nothing visible at CHC (4:15 pm), to some minor bruises visible at inquest (23.02.2018) is actually consistent with the case of the



prosecution. The progression reflects the natural post-mortem process by which subcutaneous contusions that were not visible on the surface of dark skin at the time of death gradually manifest as the biological processes following death allow them to become visible on the external surface of the skin. This is a well-established forensic phenomenon as it is commonly accepted that lividity and the development of visible contusion markings continue after death. The minor bruises that the SDM noted during the inquest on 23.02.2018 were the same pre-existing sub-surface contusions, which had become progressively more visible after death.

p. In view of the discussion above, we hold that the contention of the defence that the death of Madhu was on account of assault by the police while he was in their custody is only to be rejected.

12.3. **Tribal identity of Madhu:**

a. The prosecution examined PW70, the mother of Madhu, to establish the fact that he was a member of the Scheduled Tribe. She stated that they belong to the Kurumba community. Kurumba is a Scheduled Tribe notified in the Constitution (Scheduled Tribes) Order, 1950, as applicable to the State of Kerala. PW71 is the brother-in-law of Madhu. He stated that Madhu belongs to the Mudugar community, which is also a Scheduled Tribe community.

b. The prosecution has placed on record Ext.P39, a caste certificate that was issued by PW51 in his capacity as the Tahsildar at Mannarkkad at the relevant time. PW51 testified that he was serving as the Principal Tahsildar at Mannarkkad when he



issued this certificate. He stated that his decision was based on the reports furnished by the Village Officer of Padavayal Village, and that he had also conducted an independent enquiry before issuing the document. Through this enquiry, PW51 determined that Madhu belongs to the Hindu Mudugar community, which is recognised as a Scheduled Tribe. However, the defence raised a serious challenge to the admissibility and validity of Ext.P39. Their objection rested on the specific ground that the certificate had not been prepared in the prescribed Form No. III, as strictly required under the provisions of the Kerala Scheduled Caste and Scheduled Tribe Regulation for Issue of Community Certificate Act, 1996.

c. The prosecution thereafter examined PW100, the present Attappadi Tribal Taluk Tahsildar, who produced Ext.P163, the Caste Certificate of Madhu. Ext.P163 is a certificate issued in the prescribed Form No. III under the Kerala Scheduled Castes and Scheduled Tribes Regulation for Issue of Community Certificate Act, 1996. It was issued by the Attappadi Tribal Taluk Tahsildar, the competent statutory authority authorised to issue community certificates for members of the tribal communities residing in the Attappadi area. The certificate clearly and unequivocally states that Madhu belonged to the Hindu-Mudugar community, which is a recognised Scheduled Tribe community. Ext.P163(a) is the back file relating to the issuance of the certificate and contains the materials relied upon by PW100 in arriving at his conclusion regarding the community status of Madhu. These records include the enquiry report submitted by the concerned Village Officer, a xerox copy of Madhu's school admission register showing the community entered at the time of his admission to school, and a copy of Madhu's ration card reflecting the community recorded in the official civil supplies records.



PW100 deposed that the caste of Madhu was recorded based on the caste of his father, following the well-established and accepted principle that, in the ordinary course, a child follows the caste and community status of the father unless there are circumstances proving otherwise. The records revealed that Madhu's father belonged to the Hindu-Mudugar community and, accordingly, Madhu was also treated as belonging to the same community. PW100 was subjected to detailed and lengthy cross-examination. However, nothing could be elicited to discredit his testimony, cast any doubt upon the authenticity of Ext.P163, or impeach the materials forming part of Ext.P163(a). The school admission register relating to Madhu, which forms part of Ext.P163(a), is a contemporaneous official record maintained in the ordinary course of school administration at the time of his admission. The entry regarding his community was made long prior to the present incident and much before the commencement of any investigation or litigation. Likewise, the ration card records independently reflect Madhu's community status in official government records maintained in the ordinary course of public administration. The prosecution has also produced Ext.P67, the seizure mahazar relating to hospital records, Ext.P48, the records from the Mental Health Centre, Kozhikode, and Ext.P49, the records from the Government Tribal Specialty Hospital, Kottathara, all of which relate to the medical treatment imparted to Madhu. These records further reveal that Madhu had undergone treatment at the Government Tribal Specialty Hospital, Kottathara, a hospital specifically established for providing medical care to members of the tribal communities of Attappadi. PW58, the doctor attached to the Mental Health Centre, Kozhikode, deposed that Madhu was treated there for paranoid schizophrenia. PW59, the Superintendent of the Tribal Specialty Hospital,



Kottathara, confirmed that Madhu had been admitted to the said hospital on 13.08.2008 and discharged on 26.08.2008 after treatment for psychosis. These medical records were seized under Ext.P67 mahazar and were subsequently produced before the Court in accordance with law.

d. We find that the mother, while examined as PW70, stated that Madhu belonged to the "Kurumba" Tribe whereas PW71 stated that he belonged to the "Mudugar" tribe. Ext.P163 Caste Certificate conclusively establishes that Madhu belongs to the Hindu-Mudugar community. The mere fact that PW70 used the term "Kurumba", which is also a Scheduled Tribe and a name locally used for certain sections of the Tribal community in Attappadi, would not make any difference insofar as the Tribal identity of Madhu is concerned. In that view of the matter, we hold that the prosecution has been able to establish that Madhu is a member of the Scheduled Tribe and specifically of the "Mudugar" Tribe.

12.4. **Non-Tribal status of the accused:**

In order to establish the caste identity of the accused, the prosecution examined PW48, the Village Officer, Kallamala Village. The said witness has issued caste certificates of accused Nos. 1 to 5 and 7 to 16. These certificates were issued in PW48's official capacity as Village Officer and are documents prepared in the ordinary course of official duty. They establish the community identities of the respective accused as recorded in official village records. PW50, the Village Officer, Palakkayam Village Office, has issued Ext.P38, the Caste certificate of Accused No. 6 (Aboobacker). These caste certificates, issued by the respective Village Officers having jurisdiction over the



residential areas of the accused, collectively establish that the accused persons belong to communities that are not Scheduled Castes or Scheduled Tribes. The accused are drawn from Muslim communities (A1-Hussain, A2-Marakkar, A3-Shamsudheen, A6-Aboobacker @ Backer, A7-Sidhique, A8-Ubaid, A9-Najeeb, A14-Hareesh, A15-Biju, A16-Muneer) and Hindu communities (A5-Radhakrishnan, A10-Jaijumon, A12-Sajeev, A13-Satheesh). The fact that they belong to communities not notified as Scheduled Castes or Scheduled Tribes under the Constitution (Scheduled Castes) Order, 1950 or the Constitution (Scheduled Tribes) Order, 1950, as applicable to Kerala, has also been established. The Caste certificates, Ext.P35 and Ext.P38, as documents prepared by officials in their official capacity, carry the presumption under Section 114 of the Evidence Act that official acts have been regularly performed. There is no material before the court to rebut this presumption. The accused have taken a contention that the mere marking of the said document will not establish that they are not members of the Scheduled Tribe. We are not inclined to agree. If any of the accused was a member of the Scheduled Tribe, nothing prevented the said accused from challenging the record placed before the court by the official witnesses or in adducing evidence on their side. The bare denial of the accused is of no consequence.

12.5. **Knowledge of Madhu's Tribal identity:**

a. The learned Sessions Court acquitted the accused of the charges under Sections 3(2)(v) and 3(2)(va) of the SC/ST (PoA) Act by holding that knowledge on the part of the accused regarding the caste or tribal identity of the victim is a mandatory ingredient for attracting the said provisions. According to the learned Sessions Judge,



such knowledge had to be established exclusively through the oral testimony of witnesses. The court further held that the available electronic evidence and surrounding circumstances could not, by themselves, give rise to any inference or presumption that the accused were aware of Madhu's tribal identity. The learned Sessions Judge was also of the view that the statutory presumption contained in Section 8 of the SC/ST (PoA) Act could not be invoked in the present case on the ground that there was no "foundational evidence" to establish that the accused had prior acquaintance with Madhu or his family members. Reliance was further placed on the decision of the Supreme Court reported in **Patan Jamal Vali v. State of Andhra Pradesh**²⁰ to hold that mere knowledge of the caste identity of the victim would not, by itself, be sufficient to attract the provisions of Sections 3(2)(v) and 3(2)(va). Proceeding on that reasoning, the learned Sessions Judge concluded that, since the motive alleged by the prosecution related to the accusation of theft and not directly to caste identity, the provisions of the SC/ST (PoA) Act would not be attracted.

b. In our considered view, the learned Sessions Judge committed a fundamental error in applying the legal principles governing the pre-amendment provision to a case which admittedly arose after the statutory amendment to Section 3(2)(v) of the SC/ST (PoA) Act. The reasoning adopted by the learned Sessions Judge reflects a clear misapplication of the law. We shall give our reasons.

c. It is undisputed that Mukkali is a ward within the Agali Grama Panchayat in the Attappady region of Palakkad district. It is from the Mukkali Junction

²⁰ AIR 2021 SC 2190



that the road to the Silent Valley Reserved Forests commences and it is the entry point to one of the most well-known Scheduled Tribe dominant areas in the State of Kerala. The Aandiyallachaal Reserved Forest from which Madhu was apprehended is within the Attappadi tribal belt. The accused were shopkeepers, traders, and long-term residents of Mukkali. PW31, the father of accused A9 and A16, deposed that he had been conducting a shop at Mukkali junction for the last 14 years. The Attappadi block is administratively identified as a Tribal area. The Scheduled Tribe communities of Mudugar, Kurumba, and Irula have inhabited this region for generations. The Government of Kerala specifically established the Attappadi Tribal Taluk Tahsildar, the officer who issued Ext.P163, as a dedicated administrative authority for the tribal population of Attappadi. There is a Government Tribal Specialty Hospital specifically for the tribal community at Kottathara within the Attappadi area and Madhu was a patient there. Any person who has lived and traded in Mukkali for years knows that the surrounding forest and hills are tribal habitation zones and that persons found dwelling in those forests are members of the tribal community. It would be difficult to accept the proposition that shopkeepers who had operated in the Mukkali area for years were unaware that persons dwelling in the Aandiyallachaal reserved forest were members of the Scheduled Tribe.

d. The evidence of PW28, PW29, PW30, and PW31 collectively establishes that theft from shops in the Mukkali and Chindakki area had been occurring repeatedly over the period 2017-2018 and that Madhu was identified as the person responsible. PW28 testified that the theft occurred from his grocery shop at Kakkandi. PW29 deposed that theft occurred from his tea shop at Kakkuppadi. PW30 stated that theft occurred on two separate occasions from his shop at Mukkali, with the thief entering through the



roof tiles and taking food items. PW31 confirmed that theft occurred from his shop and that a formal complaint was registered.

e. The WhatsApp group "Voice of Attappadi", which has been marked as Ext.P143 series, contained a message stating that a person involved in more than 300 theft cases had been apprehended at Mukkali. Whatever the precise accuracy of the number 300, the message reflects the scale of local knowledge about Madhu and his activities. The accused persons were apprehending a person they had complained about to the police and whose identity they had shared in their WhatsApp group. The knowledge of a person that necessarily accompanies awareness of that person's repeated activities in one's own locality includes knowledge of who that person is, which community he belongs to, where he comes from, and what his background is. In a tribal-dominant area like Attappadi, where the demography is known to every resident, knowing that a person has been living in the reserved forest for years and repeatedly stealing food items from local shops is knowing that that person is a tribal.

f. In Crime No. 524 of 2016 of Agali Police Station, a case involving the offence of theft, Madhu was arrayed as the accused. PW91 (SI Subin) was the Investigating Officer. The Final Report in the said case is Ext.P89. In Ext.P89, Accused No. 16 (Muneer) was cited as CW2. He was cited as a witness to identify the accused (Madhu) in CCTV footage of the theft. In other words, A16 (Muneer) had formally participated in a criminal investigation in which Madhu's identity was specifically at issue. A person who has viewed CCTV footage in a criminal investigation for the purpose of formally identifying Madhu knows exactly who Madhu is. No doubt, he would be aware



of Madhu's existence in the locality in the context of a tribal man living in the Aandiyallachaal forest and stealing food items from shops in the Attappadi area. The personal knowledge of Accused No.16 is imputable to the assembly of which he was a member, and specifically to his father Accused No. 9, who organised the entire operation based on information about Madhu.

g. Furthermore, PW91 was the Investigating Officer in both the prior theft case (Cr.No. 524 of 2016) and was called by Accused No. 3 to inform him that Madhu was being brought to Mukkali. PW91 himself deposed that "he knows Madhu" for the reason that he was the Investigating Officer in the theft case against Madhu. If the Police Officer who was called deposed that he already knew who Madhu was from the prior investigation, the accused persons who informed him about Madhu's apprehension can be no less informed. A3's call to PW91 was a call between people who already had a shared understanding of who Madhu was. When Accused No.3 (Shamsudheen) called SI Subin (PW91) before the group reached Mukkali, he described the person being brought as someone found in "Aandiyallachaal forest". This description is not a neutral geographic reference. In the context of Attappadi, a person found dwelling in the Aandiyallachaal Reserved Forest is, in the common understanding of every person who lives and trades in that area, a tribal person. The Reserved Forest areas surrounding Mukkali are protected tribal habitation zones. A3's choice of that specific description reflects his own understanding that the person being brought belonged to the forest-dwelling tribal community. His own words in his call to the police officer establish his constructive knowledge of Madhu's tribal identity. Accused No. 3 was with the rest of the accused when he had made the call.



h. The evidence of PW1, PW10, and PW70 clearly establishes that Madhu had been residing and wandering in the Aandiyallachaal reserved forest area for several years prior to the incident. Their testimony reveals that Madhu was not an unknown or unfamiliar person in the locality. He was a constant presence in and around the forest region and was known to the local inhabitants and persons residing in the Attappadi area. The evidence further indicates that he survived in and around the forest for years, frequently moving through nearby settlements and shops in search of food and shelter. His continued presence in the locality over a long period of time assumes significance while appreciating the question as to whether the accused persons were aware of his identity and tribal background.

i. The learned Sessions Judge watched the video footage VID-20180222-WA0034 in the Q7 file and opined that knowledge is a personal feeling of a person, and the same cannot be perceived from video footage. We have also carefully watched the video and heard the audio. It is perfectly possible to hear the conversation of the accused, and they can be clearly heard saying that Madhu was not suffering from any mental ailments and had been living in the forest on one pretext or another, and that his behaviour was just a pretence. They are also heard telling one another that the deceased had been sleeping on rocks inside the forest and had not been visiting his house. These are not the words of a stranger. All of this points irresistibly to the conclusion that the accused had direct and intimate personal knowledge about the deceased. When all of this evidence is read in consonance with the facts and circumstances of this case, it would unequivocally and conclusively establish that the accused were well acquainted with Madhu — his mental ailment, his movements, and



his place of residence. In this context, the plea of ignorance as to the caste of Madhu is wholly implausible and cannot be believed.

j. It would also be appropriate to refer to Section 8 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The said provision reads as under:

Section 8 Presumption as to offences.

In a prosecution for an offence under this chapter, if it is proved that-

- (a) the accused rendered any financial assistance in relation to the offences committed by a person accused of or reasonably suspected of committing, an offence under this chapter, the Special Court shall presume, unless the contrary is proved, that such person had abetted the offence.
- (b) a group of persons committed an offence under this chapter and if it is proved that the offence committed was a sequel to any existing dispute regarding land or any other matter, it shall be presumed that the offence was committed in furtherance of the common intention or in prosecution of the common object
- (c) the accused was having personal knowledge of the victim or his family, the Court shall presume that the accused was aware of the caste or tribal identity of the victim, unless the contrary is proved.

k. As per the above provision, all that is required is proof that the accused had personal knowledge of the victim or his family. Once evidence establishing such knowledge is available, the Court is bound to draw the statutory presumption that the accused were aware of the caste or tribal identity of the victim, unless the contrary is proved. In the present case, the evidence on record overwhelmingly satisfies the said



requirement. Even independently of the statutory presumption under Section 8, the materials on record clearly establish that the accused were fully aware of the identity and tribal status of Madhu.

I. The postmortem evidence and medical records show that, at the relevant time, Madhu weighed only about 40 kilograms and was in an extremely malnourished and debilitated condition. The evidence also indicates that his body was covered with dark soot and dirt, consistent with a person who had been living for a prolonged period inside the forest without proper shelter, clothing, hygiene, or access to regular food and medical care. His overall physical appearance, condition, manner of living, and the circumstances in which he was found unmistakably reflected his social vulnerability and tribal background. The accused were all persons residing in, or closely associated with, the Attappadi tribal belt, an area where the tribal population forms a distinct and identifiable community. Madhu was apprehended from the Aandiyallachaal forest area, which was specifically identified throughout the evidence as a tribal settlement and forest region predominantly inhabited by members of Scheduled Tribes. The evidence further shows that Madhu was not a stranger to the accused. In the earlier theft case, A16 had personally identified Madhu from CCTV visuals. A3, while communicating with the police, specifically described Madhu as a person from the "Aandiyallachaal forest," thereby demonstrating prior familiarity with him and the area from which he came. The prosecution has also brought on record the messages circulated in the "Voice of Attappadi" WhatsApp group, through which visuals and information relating to Madhu were widely shared among the accused and others. The evidence additionally reveals that previous complaints had also been lodged against



Madhu by persons in the locality. These circumstances clearly demonstrate that the accused had specific and prior personal knowledge about Madhu, his background, and his identity. On the strength of the statutory presumption under Section 8 of the Act, coupled with the oral, documentary, and electronic evidence available on record, we have no hesitation in holding that the accused persons, at the time of the commission of the offences against Madhu, were fully aware that Madhu belonged to a Scheduled Tribe community.

m. We shall also refer to Section 3(1) (d), (r), 3(2) (v) and 3(2) (va) of the SC/ST (PoA) Act.

Section 3 Punishments for offences of atrocities.--

(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,--

xxxxx xxxxx xxxx

(d) garlands with footwear or parades naked or semi-naked a member of a Scheduled Caste or a Scheduled Tribe;

xxxx xxxxx xxxx

(r) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;

xxxx xxxxx xxxx

(2) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,

xxxx xxxxx xxxx

(v) commits any offence under the Indian Penal Code (45 of 1860) punishable with imprisonment for a term of a ten years or more against a person or property knowing that such person is a member of a Scheduled Caste or a



Scheduled Tribe or such property belongs to such member, shall be punishable with imprisonment for life and with fine;

- (va) commits any offence specified in the Schedule, against a person or property, knowing that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with such punishment as specified under the Indian Penal Code (45 of 1860) for such offences and shall also be liable to fine.

n. It would be pertinent to mention that Section 3(2)(v) was amended by the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015, which came into effect on 26 January 2016. Prior to the amendment, the provision had read as under:

3. Whoever, not being a member of a Scheduled Caste or Scheduled Tribe,-

- (v) commits any offence under the Penal Code, 1860 punishable with imprisonment for a term of ten years or more against a person or property on the ground that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with imprisonment for life and with fine;

o. While interpreting the provision as it stood, the Apex Court in **Patan Jamal Vali** (supra), following the law laid down in **Dinesh Alias Buddha v. State Of Rajasthan**²¹, held that the *sine qua non* for application of Section 3(2)(v) is that an offence must have been committed against a person on the ground that such person is a member of Scheduled Castes and Scheduled Tribes. The Apex Court held that in the said case, no evidence has been led by the prosecution to establish that the offence was committed on the victim since she was a member of Scheduled Caste.



p. By the amendment to the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015, which came into effect on 26 January 2016, the words "on the ground of" under Section 3(2)(v) have been substituted with "knowing that such person is a member of a Scheduled Caste or Scheduled Tribe". This has decreased the threshold of proving that a crime was committed on the basis of the caste identity to a threshold where mere knowledge is sufficient to sustain a conviction. Section 8, which deals with presumptions as to offences was also amended to include clause (c) to provide that if the accused was acquainted with the victim or his family, the court shall presume that the accused was aware of the caste or tribal identity of the victim unless proved otherwise. (See: **Patan Jamal Vali** (supra))

q. We are of the view that in view of the overwhelming evidence let in by the prosecution, the statutory presumption of knowledge of the victim's tribal identity should have been triggered automatically and the burden would have shifted to the accused to disprove that knowledge. Not one of the convicted accused offered any evidence, oral or documentary, to establish that they did not know Madhu was a Scheduled Tribe member. The presumption therefore stands un rebutted. The Sessions Court's refusal to apply it at all is a fundamental legal error that vitiates the entire finding on Sections 3(2)(v) and 3(2)(va). We are of the view that the said finding warrants interference in view of the discussion above.

12.6. **Motive: Whether established?**

a. From the materials on record, it would be safe to conclude that the motive behind the crime of 22.02.2018 did not arise suddenly or impulsively. It had been



building for months in the shops, lanes, and in the minds of the residents of Mukkali, Kakkuppadi, and Kalkandi. Mukkali and its surrounding areas were facing a prolonged series of thefts from local shops. The person responsible entered shops by removing roof tiles. PW28 (Mathachan), who ran a grocery shop at Kalkandi, deposed that theft occurred at his shop and that rice, coffee powder, beedis, and other items were stolen. PW29 (Ummar), who ran a tea shop at Kakkuppadi, deposed that bakery items, sugar, tea powder, and other goods were stolen from his shop repeatedly. PW30 (Manoj), who ran a shop at Mukkali, deposed that theft occurred on two separate occasions from his establishment, with the thief entering through the roof tiles. PW31 (Latheef), who ran a shop at Mukkali junction for fourteen years, deposed that in the theft from his shop Rs.10,000/- in cash, along with cigarettes, plates, and torch lights, were stolen and that he had formally registered a complaint with the police. However, the thief, who was none other than Madhu, and who lived in the Aandiyallachaal reserved forest, was not easily found by conventional police methods. PW91 (S.I., Subin), who investigated the formal theft case Cr.No.524 of 2016 registered against Madhu under Sections 457, 380, and 461 of the IPC for housebreaking and theft from the very shop of PW31, had filed a final report (Ext. P89) in that case but admitted before the court that the police could not find Madhu as he was allegedly absconding. He had been in search of Madhu for his involvement in the theft case, but Madhu remained elusive in the forest. In Ext.P143(a) WhatsApp screenshot, which contains a picture of Madhu, states that the person apprehended is involved in more than 300 theft cases. The accused were not random strangers who stumbled upon Madhu in the forest. They were men who had a specific, documented, longstanding grievance against a specific person. PW2 deposed that



Madhu himself told him at Mukkali junction that Madhu had committed theft from the shop of Hareesh (A14). Madhu, a mentally ill man who had just been subjected to hours of violence, apparently acknowledged the thefts to the bystanders around him at Mukkali. Whether this was a voluntary admission or the statement of a broken man who had been conditioned by the assault into repeating whatever his tormentors demanded of him is not established. This reflects the extent to which the theft narrative had been woven into the entire episode as its organising logic. The accused, it must be clearly stated, were not enforcing the law. What the accused chose to do instead was to take the law entirely into their own hands. They went inside the forest, apprehended Madhu through force, inflicting injuries upon him, and used the handover to police as a ritual of public humiliation rather than a legal act. We are therefore of the view that the prosecution has established the motive beyond any reasonable doubt.

12.7. **Admissibility of Electronic Evidence:**

a. This case presents a challenge that strikes at the very foundation of the criminal justice process. It must be noted at the outset that the events of 22.02.2018 did not take place in the middle of the night or indoors. They unfolded in broad daylight, on a public road at a busy commercial junction, in the presence of numerous witnesses, and were recorded simultaneously from multiple angles by multiple devices. The perpetrators themselves filmed the incident. CCTV cameras at Mukkali junction, at the Ponniammal Gurukulam and at the forest station captured portions of the incident. Several mobile phones documented it. At the time of the incident, the evidence was overwhelming in both scope and detail. However, when the trial began,



witnesses—including some close relatives of Madhu—chose to turn away. PW2, who viewed the CCTV footage in open court and identified the accused by name, declined to speak about the overt acts he or she had allegedly witnessed. PW3, PW4, PW5, PW6, and PW7, all present at or near the scene, retracted their earlier statements or claimed ignorance. PW9, PW20, PW26, and PW63 did the same. Forest officials, shop employees, roadside eyewitnesses, and others who had given detailed Section 161 statements narrating the incident also turned hostile. This was not an isolated instance of a single witness recanting under pressure.

b. In the face of such widespread hostility, the prosecution sought to establish its case through the convergence of four independent streams of electronic and digital evidence: CCTV footage, mobile phone videos and photographs, call data records/telephonic evidence, and GPS metadata.

c. Three separate CCTV systems, installed at different locations with no connection to each other or to the accused, independently captured the events of 22.02.2018. The Anavai Forest Station CCTV (Q1) recorded the Marshal Jeep proceeding toward Vandikkadavu at 12:51:51 pm, and later, at 14:46:50 pm, captured the accused bringing Madhu back toward the Silent Valley–Mukkali road. The Ponniyammal Gurukulam CCTV (Q3) recorded the gathering of the accused at Mukkali at 12:41:15 pm and, separately, at 14:56:47 pm, showed the group returning with a frail man in their custody, carrying a sack on his shoulder. The Sreerag Bakery CCTV (Q2), which belonged to accused Accused No.14 (Hareesh), recorded the events at Mukkali junction from two camera angles at the same time, clearly establishing who was present, what



they were doing, and when. These three independent systems together created a continuous visual timeline from 12:30 pm to 4:00 pm. This timeline is internally consistent, chronologically coherent, and corroborated at each stage by other evidence.

d. The DVRs were seized—Sreerag Bakery DVR under Ext.P120 seizure mahazar dated 26.02.2018; Ponniammal Gurukulam DVR under Ext.P31 dated 02.03.2018; Aanavai Forest Station DVR under Ext. P44 dated 01.03.2018 — and forwarded, along with the original hardware, to the State Forensic Science Laboratory, Thiruvananthapuram. Bit-stream duplicates were created on three sterile hard disks using certified forensic write-blockers (TABLEAU, Logicube-Falcon) by PW95 (Shaji P, Assistant Director, Documents Division, SFSL). His report, Ext.P92 (Report No.DD-158/18 dated 05.05.2018), was proved as a report of a Government Scientific Expert under Section 293 of the Cr.P.C. The original DVRs, which could not be read on standard Windows systems, were played in court using their native hardware. The 65B certificate [Ext.P92(b)] was produced. The integrity of the extraction process was affirmatively established. There is no material before this Court to suggest any tampering with these electronic records.

e. The accused themselves generated some of the most incriminating evidence. Six mobile phones were seized — MO27 (A7/Sidhique, Q8), MO27(a) (A5/Radhakrishnan, Q6), MO27(b) (A9/Najeeb, Q7), MO27(c) (A8/Ubaid, Q5), MO27(d) (A4/Aneesh, Q4), and MO25 (A14/Hareesh, Q9). These devices contained photographs and videos of the incident, recorded in real time from within the group. They captured Madhu being assaulted, restrained, marched, paraded, and humiliated. Among these,



the Q7 file (VID-20180222-WA0034), a 5-minute and 38-second video from A9's phone, stands out as the most critical piece of evidence. It documents the forest-stage assault in its entirety, the accused surrounding Madhu, placing the sack on his shoulders, initiating the march, and continuing with the assault. The video was recorded from within the group, and those visible in it are the accused themselves. No one else is present. PW95's forensic analysis, cross-referenced with the S-series photographs of the accused, identified with precision which individuals appeared in each file, at what time, and engaging in which acts.

f. One of the principal contentions advanced by the learned counsel for the accused is that the electronic and digital evidence relied upon by the prosecution is inadmissible on the ground that the examination was not conducted by an Examiner of Electronic Evidence notified under Section 79A of the Information Technology Act, 2000. It was further contended that the State FSL, Thiruvananthapuram obtained notification/accreditation as an Examiner of Electronic Evidence only subsequently and, therefore, the reports issued in the present case cannot be acted upon. Before dealing with the said contention, it would be apposite to refer to the provisions.

(i) Section 79A of the Information Technology Act 2000, reads as under:-

"79A. Central Government to notify Examiner of Electronic Evidence.-The Central Government may, for the purposes of providing expert opinion on electronic form evidence before any court or other authority specify, by notification in the Official Gazette, any Department, body or agency of the Central Government or a State Government as an Examiner of Electronic Evidence.



- (ii) It would also be apposite to refer to the relevant provisions of the Indian Evidence Act.

"45. Opinions of experts.—When the Court has to form an opinion upon a point of foreign law or of science or art, or as to identity of handwriting 35 [or finger impressions], the opinions upon that point of persons specially skilled in such foreign law, science or art, or in questions as to identity of handwriting or finger impressions are relevant facts. Such persons are called experts.

"45A. Opinion of Examiner of Electronic Evidence. —When in a proceeding, the court has to form an opinion on any matter relating to any information transmitted or stored in any computer resource or any other electronic or digital form, the opinion of the Examiner of Electronic Evidence referred to in section 79A of the Information Technology Act, 2000 (21 of 2000) is a relevant fact.

- (iii) Section 136 of the Indian Evidence Act, which gives power to the court to decide as to admissibility of the evidence, reads as under:-

"136. Judge to decide as to admissibility of evidence.—

When either party proposes to give evidence of any fact, the Judge may ask the party proposing to give the evidence in what manner the alleged fact, if proved, would be relevant; and the Judge shall admit the evidence if he thinks that the fact, if proved, would be relevant, and not otherwise.

If the fact proposed to be proved is one of which evidence is admissible only upon proof of some other fact, such last-mentioned fact must be proved before evidence is given of the fact first mentioned, unless the party undertakes to give proof of such fact, and the Court is satisfied with such undertaking.

If the relevancy of one alleged fact depends upon another alleged fact being first proved, the Judge may, in his discretion, either permit evidence of the first fact to be given before the second fact is proved, or require evidence to be given of the second fact before evidence is given of the first fact."

- (iv) Section 293 of the Code of Criminal Procedure provides that any document purporting to be a report under the hand of a Government Scientific Expert



in respect of any matter or thing submitted for its examination or analysis may be used as evidence and the court may summon or examine any such expert as to the subject matter of his report. Section 293 of the Cr.P.C. is quoted below:-

"293. Reports of certain Government scientific experts.—

- (1) Any document purporting to be a report under the hand of a Government scientific expert to whom this section applies, upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Code, may be used as evidence in any inquiry, trial or other proceeding under this Code.
 - (2) The Court may, if it thinks fit, summon and examine any such expert as to the subject-matter of his report.
 - (3) Where any such expert is summoned by a Court, and he is unable to attend personally, he may, unless the Court has expressly directed him to appear personally, depute any responsible officer working with him to attend the Court, if such officer is conversant with the facts of the case and can satisfactorily depose in Court on his behalf.
 - (4) This section applies to the following Government scientific experts, namely:—(a) any Chemical Examiner or Assistant Chemical Examiner to Government; (b) the Chief Controller of Explosives; (c) the Director of the Finger Print Bureau; (d) the Director, Haffkeine Institute, Bombay; (e) the Director, Deputy Director or Assistant Director of a Central Forensic Science Laboratory or a State Forensic Science Laboratory; (f) the Serologist to the Government; (g) any other Government scientific expert specified, by notification, by the Central Government for this purpose.
- (v) Section 79A of the Information Technology Act merely empowers the Central Government to notify a department, body, or agency of the Central Government or State Government as an "Examiner of Electronic Evidence" for the purpose of rendering expert opinion relating to electronic records. Correspondingly, Section 45A of the Indian Evidence Act provides that when



the Court has to form an opinion on matters relating to electronic or digital evidence, the opinion of such notified Examiner of Electronic Evidence becomes a relevant fact. The provision only creates an additional statutory mechanism for obtaining expert opinion in relation to electronic evidence. However, neither Section 79A of the Information Technology Act nor Section 45A of the Indian Evidence Act lays down that, in the absence of such notification, the opinion of a qualified scientific expert or the report issued by a Government forensic laboratory becomes inadmissible in evidence. No such exclusionary bar is contemplated either under the Information Technology Act or under the Evidence Act. In the absence of a specific statutory prohibition, the Court cannot read into Section 79A a consequence that has not been expressly provided by the legislature.

- (vi) Section 293 of the Code of Criminal Procedure independently governs the admissibility and evidentiary use of reports issued by Government Scientific Experts. The provision specifically recognises reports issued by Directors, Deputy Directors, and Assistant Directors of Central and State Forensic Science Laboratories as admissible evidence in criminal proceedings. Section 293 of the Cr.P.C. does not make such admissibility conditional upon a notification under Section 79A of the Information Technology Act. In the case on hand, the report has been submitted by an authority competent under Section 293 of the Cr.P.C., namely the Director, State Forensic Science Laboratory. Section 293 of the Cr.P.C. specifically recognises such reports as admissible evidence in criminal proceedings. When read along with Section



136 of the Indian Evidence Act, which empowers the Court to determine the relevancy and admissibility of evidence, the report clearly becomes a relevant and admissible piece of evidence. Once the Court is satisfied that the evidence is relevant and has been produced through a competent scientific expert, its admissibility cannot be rejected merely on the ground that the laboratory had not been separately notified under Section 79A of the Information Technology Act. It is also relevant to note that the experts concerned were examined before the Court and were subjected to cross-examination by the defence. Their qualifications, methodology, examination process, and findings were all placed before the Court. Once such expert evidence is admitted and tested through judicial scrutiny, the opinion ultimately becomes part of the evidentiary assessment of the Court itself. We therefore hold that the absence of notification under Section 79A of the Information Technology Act does not render the electronic and digital evidence inadmissible, nor does it vitiate the reports issued by the State Forensic Science Laboratory, Thiruvananthapuram.

g. The CDR evidence (Ext.P42 series), proved through PW98 and PW99, establishes the sequence of events leading up to the incident. Accused No.2 (Marakkar) called Accused No.9 (Najeeb) three times between 12:17 pm and 12:22 p.m. on 22.02.2018, immediately after learning from PW11 (Kakki) that Madhu was at Aandiyallachaal. Within minutes, Accused No.9 had gathered the group, and the Marshal Jeep began moving toward Vandikkadavu. The records confirm that these calls were made and received, and that the group assembled immediately thereafter. They also



reveal continued contact between the accused and prosecution witnesses during the trial, demonstrating interference.

h. A3's two calls to PW91 (S.I., Subin)—one informing him that Madhu had been found and was being brought, and another confirming his arrival at Mukkali—further support the timeline and establish A3's coordinating role. PW91's testimony on this point remained unshaken. The calls are confirmed by the records.

i. The EXIF data embedded in photographs taken from A5's phone (MO27(a) /Q6), particularly the file IMG20180222130057 taken at 1:00 pm, includes GPS coordinates (latitude 11.079782, longitude 76.536017). PW95 verified these coordinates using Google Maps and confirmed that they correspond to the Aandiyallachaal reserved forest area—the exact location where the prosecution alleges the assault occurred. This metadata provides independent, machine-generated confirmation of A5's presence at that location at the relevant time, without the need for witness testimony.

j. One of the main contentions advanced by the defence is that the reliance of the prosecution on CCTV and mobile evidence will not advance its case when none of the prosecution witnesses identified the accused with precision and spoke about their presence or involvement. According to the defence, digital footage may establish that some of the events have occurred, but will not by itself identify the individuals involved.

k. Having carefully considered the materials on record, we are of the view that the prosecution has managed to establish the link through three independent



evidentiary steps. The first link is through PW38, a photographer who took photographs of each accused after their arrest at Lamiya Studio. These became the S-series photographs—S1 concerning Madhu till S17 dealing with each of the accused. PW38 proved Ext.P30 series, including both the printed photographs and the compact disk containing them, along with the 65B certificate. He confirmed that he personally took all the photographs and prepared the accompanying materials. Despite rigorous cross-examination, his testimony remained intact. These photographs serve as the reference standard and would establish that the person shown in the reference photograph is the concerned accused. The second link is the forensic comparison conducted by PW95. He extracted relevant content from all seized devices which include CCTV footage, mobile phone videos and photographs and then compared the faces visible in that content with the S-series photographs, and identified which individuals appeared in each file and at what time. His findings, detailed in Ext.P92, established specific identifications across multiple recordings. The third link is the testimony of PW2 (Unnikrishnan), a local resident who had known the accused for several years prior to the incident. When shown the CCTV footage in court, he identified all the accused visible in the footage by name, except Accused No.12. He also identified them in court. Although he did not testify regarding Accused No.1 stamping Madhu, his identification of the accused remained consistent and unchallenged. PW2's identification carries significant weight. His identification is not that of a stranger but of a local resident recognising individuals he already knew. It is grounded in familiarity and personal knowledge. In addition to these three links, the trial court undertook its own visual assessment. By viewing the footage and comparing it with the accused present in court,



it performed its judicial function of evaluating the evidence before it. This was not an act of expert analysis but a direct observation that served to confirm the consistency of the other evidence. Taken together, these four layers—PW38’s photographs, PW95’s forensic comparison, PW2’s identification, and the court’s own observation—form a coherent and mutually reinforcing framework. They lead to a single conclusion: the individuals seen in the footage are the accused before the court. This conclusion does not depend on any single piece of evidence but arises from the convergence of multiple independent sources, making any alternative explanation untenable.

I. In **Kailas v. State of Maharashtra**²², the accused was prosecuted for offences under Sections 8(c) and 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act). A police raid on 23.09.2020 allegedly yielded 39 kg of Ganja from a hut where the appellant and one co-accused were present, and a further 107.9 kg from the residence of another accused. In its judgment, the Trial Court, inter alia, relied on the video recording of the raid to corroborate the substantive evidence led during trial. The Trial Court in its judgment observed as under:

43. All of us saw when the said CD was played in this court that the panch witnesses, police officers, staff members, the weighing scale operator, sub-divisional officer, both the accused No. 1, Kailas, No. 2 Raju could be seen in the video film (i.e., in the video shooting in the CD) in the compact disc marked as property No. 27.

44. There is no reason whatsoever to take any doubt regarding the veracity of the video film in the said property No. 27. There is no place whatsoever to raise any doubt regarding the reliability of Santosh No. 2 doing the video shooting. There is also no reason whatsoever to raise any doubts regarding this certificate exhibit No. 32 issued as per section 65-B (4) of the Indian Evidence Act, 1872. No one has raised any dispute whatsoever in the recognition or identification of the panch witnesses, police officials, staff members, accused seen in the said video hence all these facts stand proven.

²² [2025 SCC OnLine SC 1977]



m. The High Court, while allowing the appeal and ordering the retrial observed as under:

In such a case, at the time of recording the evidence of the concerned witness, the video recording, either recorded in the CD or pen drive or any other electronic gadget, must be played on the screen. The witness, after playing the CD, must describe or translate the video recording or the contents of the recording in his own words on oath before the Court. If it is an audio recording, then the part of the audible conversation must be transcribed and placed on record under the signature of the investigating officer. Unless and until the recorded video or CCTV footage is played at the stage of evidence of the witness, the witness would not be able to describe or narrate the incident in his or her own words on oath before the Court. In this way, at the stage of recording of evidence, each and every witness concerned with the video recording of the incident or any part of the incident must describe or narrate the incident in his or her own words on oath before the Court. If it is not so done, then it would be very difficult to understand or read that video recording by the presiding officer, prosecutor or Advocate. This procedure has to be scrupulously followed. This has not happened in this case. The CD was not played while recording the evidence of the panch witnesses, the photographer, the other members of the raiding party and the investigating officer. It is therefore apparent that the legally admissible evidence as to the contents of the recording/CD has not at all been recorded.

n. The Apex Court, while considering the matter, noted that the reasons which persuaded the High Court to order a re-trial were:

(a) Video-recording of search and seizure operation was the best evidence, but the same was not converted into admissible evidence inasmuch as,

- (i) video was not played while recording statement of each witness so as to enable the witness to explain the video in his own words in his deposition;
- (ii) no transcript of video was prepared; and
- (iii) when it was played in Court, in absence of explanatory statement of witnesses qua the video, its content could not be understood.



o. The Apex Court, while refusing to agree with the findings of the High Court, explained the position and observed as under in paragraph No 19.

9. As far as admissibility of video recording i.e., Compact Disc (CD) is concerned, the author of the video i.e., SW No. 2 not only deposed that he recorded the video, but he also gave a certificate, as contemplated under sub-section (4) of Section 65B of the Evidence Act, to make the CD admissible in evidence. Interestingly, the High Court did not dispute that the electronic record was duly exhibited as there existed a certificate envisaged under sub-section (4) of Section 65B. However, strangely, the High Court opined that the video would become relevant only if it is played during deposition of each witness so that the witness could explain its contents in his own words resulting in a transcript of the video. In our view, this is a strange and unacceptable reasoning for the simple reason that the CD is an electronic record and once the requirement of Section 65B is fulfilled it becomes an admissible piece of evidence, like a document, and the video recorded therein is akin to contents of a document which can be seen and heard to enable the Court to draw appropriate inference(s). No doubt, there may be an occasion where to appreciate contents of a video an explanatory statement may be needed, but that would depend on the facts of a case. However, it is not the requirement of law that the contents of the video would become admissible only if it is reduced to a transcript in the words of a witness who created the video or is noticed in the video. Besides that, in the instant case, the search and seizure operation was sought to be proved by oral evidence of witnesses. The video, therefore, was perhaps to corroborate the oral testimony. Even the judgment of the trial court makes it clear that the video was played in court in the presence of all accused as well as both sides counsels and the presiding officer, upon seeing the video, could spot and confirm the presence of witnesses as well as the accused at the time of search and seizure. In such circumstances, in our view, a re-trial is not required only to explain the video.

p. The observations of the Supreme Court in **Kailas** (supra) lays down the most recent and authoritative statement of the law on the admissibility and use of video and electronic evidence in criminal trials. Its principles operate as a complete and comprehensive answer to every challenge that the defence has raised to the electronic evidence on which the prosecution's case rests. The CCTV footage from Q1 (Anavai Forest Station), Q2 (Sreerag Bakery), and Q3 (Ponniyammal Gurukulam), the mobile



phone videos and photographs from Q4 to Q9 seized from the respective accused, and the content of the Q7 file were scientifically extracted to Ext.P92 a pen drive by an expert. This is accompanied by a 65B certificate [Ext.P92(b)] issued by PW95. The same receives credibility from Ext.P92 forensic analysis report filed under Section 293(4)(e) of the Cr.P.C. As held by the Apex Court, the footage is an electronic record and once the requirement of Section 65B is fulfilled it becomes an admissible piece of evidence, like a document, and the video recorded therein is akin to contents of a document which can be seen and heard to enable the Court to draw appropriate inference. It is not the requirement of law that the contents of the video would become admissible only if it is reduced to a transcript in the words of a witness who created the video or is noticed in the video. They do not require each person visible in the footage to step into the witness box and narrate in their own words what is being shown. These are not procedural luxuries that the law demands. They are requirements that find no support in any statute which the Hon'ble Supreme Court in **Kailas** (supra) has specifically and categorically rejected as strange and unacceptable.

q. These electronic records record on their face the truth of what happened in the Aandiyallachaal Reserved Forest and at Mukkali junction on 22.02.2018 with the neutrality and precision of a machine. They record the assembly of the accused, the apprehension of Madhu, the parading, the assault and the handover to the police. Unlike the witnesses who turned hostile and denied their own visuals when the footage was played before them in open court these records are incapable of being pressured, suborned, or intimidated into silence. The Supreme Court in **Kailas** (supra) has placed the highest judicial imprimatur on the principle that in the age of digital



evidence, truth need not depend on the willingness of human witnesses to narrate the same.

r. It would be apposite at this juncture to refer to the contentions advanced by the defence with regard to the Call Data Records. According to the learned counsel, the Call Data Records (CDR) and Customer Application Forms (CAF) cannot be relied upon because the Nodal Officers have not deposed before the court that such and such calls were made from such and such mobiles. According to the learned counsel, unless these officers explicitly stated in court that particular individuals made specific calls to particular numbers, the records could not be considered. This contention has to be examined in light of the legal framework governing electronic records, particularly Section 22A of the Indian Evidence Act, 1872.

s. Section 22A of the Evidence Act provides that oral admissions about the contents of electronic records are not relevant unless the genuineness of the record itself is in question. When read alongside Section 59, which states that all facts may be proved by oral evidence except the contents of documents, the position becomes clear. The contents of an electronic record do not require oral proof. The document speaks for itself. Oral narration of its contents is unnecessary unless its authenticity is challenged.

t. The learned Sessions Judge, while considering this question, relied on the observations of this Court in **Jisal Razak v State of Kerala**²³, wherein it was clarified that the contents of electronic records are not meant to be proved through oral testimony, and that oral admissions regarding such contents are irrelevant unless the

²³ 2019 (4) KHC 928



genuineness of the record is disputed. We do not think that the law envisages or requires a Nodal Officer to peruse the voluminous call data records and read out each call entry. Once the CDR is proved as genuine, its contents stand on their own. The role of the Nodal Officer is to establish authenticity and not to narrate what the document already records.

u. In the case on hand, the prosecution has adopted a layered approach to prove the CDR. At the first level, it examined PW52 (Nodal Officer, Idea Cellular) who proved Exts.P40, P41, and P42 series documents, including the CDR, CAF, and 65B certificates. He also stated that parts of these records had been issued by earlier Nodal Officers who were no longer available and that he was personally familiar with their signatures, having worked with them. Based on this familiarity and his position as the current Nodal Officer, the documents were marked through him. PW52 went further and explained how the data is stored and accessed. The server is located in Pune and cannot be physically produced in court. Access is tightly controlled through designated laptops, user IDs, and a three-layer password system. Only authorised Nodal Officers can retrieve data. Additionally, SIM issuance involves E-KYC verification, ensuring that subscriber details are accurate. The witness thus stated that the data is not casually accessible or modifiable. According to him, the system described makes unauthorised alteration highly improbable. On the third level, each CDR was accompanied by a 65B certificate, as required by law. PW52, being responsible for the system, was competent to issue these certificates. This is strictly in tune with the principles of law laid down in **Arjun Panditrao Khotkar** (supra). Since multiple networks were involved, PW98 (BSNL) and PW99 (Reliance Jio) were examined to prove additional CDR records. PW98



was not cross-examined at all. The prosecution added another layer by linking SIM cards to specific devices using IMEI numbers. The CDR records include IMEI details, and the same numbers were recorded in the seizure mahazars when phones were recovered from the accused. Thus, the evidence established that the SIM is linked to the accused through the CAF, and the device is linked through the IMEI. When both match, the connection is complete. The accused cannot claim that the SIM was theirs, but the phone was not. The most crucial evidence comes from Ext.P42 series. It shows that on 22.02.2018, Accused No.2 called Accused No.9 three times within a span of five minutes, shortly before the group assembled. The timing, frequency, and context of these calls align perfectly with the prosecution case. The records establish the calls, the numbers involved, and their timing. The CAF connects the numbers to the accused. There is no evidence suggesting that Accused No.2 was not using his own SIM.

v. In that view of the matter, the contention advanced by the defence that CDR is inadmissible cannot be sustained. We hold that the CDR, coupled with CAF and the IMEI numbers, establishes with precision, the communication pattern between the accused immediately before the incident.

w. In view of the detailed discussion above, we hold that the prosecution has conclusively established, through reliable, cogent, and legally admissible electronic evidence, the identity and presence of each of the accused as reflected in the various electronic records produced before the Court. The CCTV footage, mobile phone videos, photographs, call detail records, GPS metadata, and other electronic materials, when read together with the oral testimony of witnesses, form a consistent and unbroken



chain of evidence clearly identifying the accused and demonstrating their participation at different stages of the incident. The electronic evidence is corroborative in nature, mutually consistent, and free from any material contradiction or infirmity. Nothing substantial has been brought out in cross-examination to discredit the authenticity, integrity, or evidentiary value of these electronic records. We are therefore satisfied that the prosecution has successfully proved the identity of each of the accused appearing in the electronic evidence beyond reasonable doubt.

12.8. **Reconstruction of events:**

a. We shall now detail the sequence of events that took place on 22.02.2018 as borne out from the evidence on record. The accused are shopkeepers, traders, and businessmen of the locality who had been nursing a collective grievance for months against a tribal man named Madhu, whom they believed was responsible for a series of thefts from their establishments. Some of them had filed formal complaints, and a final report had been submitted in Crime No. 524 of 2016 against Madhu for offences punishable under Sections 457, 380, and 461 of the IPC. The Investigating Officer, PW91 (S.I., Subin), admitted before the court that despite all of this, he could not trace Madhu — because Madhu lived deep in the Aandiyallachaal Reserved Forest, a rocky, hilly tract of Reserved Forest beneath the Ajmudi hill, approximately two kilometres north-east of the Bhavani River, in Padavayal Village, Puthur Panchayath, Mannarkkad Taluk.

b. On that morning, PW11, a forest employee, came to know about the presence of Madhu in the forest. He encountered Accused No.2 (Marakkar), who



enquired about Madhu's whereabouts. PW11, who is a distant relative of Madhu, initially turned hostile out of fear of the accused. He was subsequently recalled, and in the second stage of his examination he deposed that Accused No. 2 had specifically asked him about Madhu and that he had revealed where Madhu could be found. The learned Sessions Judge accepted this recalled testimony, relying on the principles of law laid down in **Mohammed Nisam A. A. @ Muhammed Nisham A. A. and Another v. State of Kerala and Another**²⁴. We find no reason, in the peculiar facts of this case, to take a different view.

c. PW10 (Kali Mooppan), a Forest watcher, corroborated this narrative. Though initially hostile, he confirmed seeing a group of persons from Mukkali bringing Madhu down from the forest on the relevant day. His evidence establishes that what he witnessed was a group action and his admission that the group came from Mukkali is a material concession that lends credence to the prosecution's case.

d. The moment Accused No.2 received information from PW11 about Madhu's location, he acted without delay. The Call Data Records, Ext.P42 series — proved by PW52 (Augustine Joseph), Nodal Officer of Idea Cellular Limited, with 65B certificates establish that:

- (i) At 12:17 pm — A2 (Marakkar) called A9 (Najeeb) from mobile No. 9961268715, subscribed in A2's name as per the Customer Application Form, to mobile No. 9744791333, subscribed in A9's name.
- (ii) At 12:21 pm — A2 called A9 again.
- (iii) At 12:22 pm — A2 called A9 a third time.

²⁴ 2022 (2) KLD 581



Thus, three calls were made within a span of five minutes. It can be gathered from the narrative that the matter conveyed was that Madhu had been sighted in the Aandiyallachaal forest.

e. Accused No.9 (Najeeb) was obviously the right person to receive this information and act upon it. His father, PW31 (Latheef), had filed the formal theft complaint against Madhu in Cr.No.524/2016. His brother, A16 (Muneer), had been cited as CW2 in the final report of that prior case. The personal grievance of the entire family against Madhu was deep and specific. A9's shop at Mukkali served as the assembly point as it was the hub of the local trading community, and Accused No. 9 was the man with the connections and the vehicle to mobilise a response. Upon receiving A2's calls, Accused No.9 immediately activated his network, contacting the remaining accused both over the phone and in person. This is established by the CDR evidence in Ext.P40 series. This record reveals the communications between A2, A7, A9, and A15 from 12:17 pm onwards — and Ext.P83 series, an Airtel CDR proved by PW87 (Vasudevan), establishing A6's communication trail, and Ext.P91 series, a Vodafone Idea CDR proved by PW94, confirming the communication trails of several other accused. Accused No.3 (Shamsudheen), who took charge of the exercise, received information from Accused No.9 and directly contacted the remaining accused to converge at Mukkali. The entire assembly was mobilised within minutes of A2's first call to A9.

f. By approximately 12:30 p.m., the accused had gathered at A9's shop at Mukkali junction. Accused Nos. 3, 5, 6, 7, 8, and 12 arrived together in A10's autorickshaw bearing registration No. KL-50-D-2908. Accused No.13 (Satheesh) arrived



separately on his motorcycle bearing No. KL-05-AJ-498 after having first discussed the plan with Accused No.9. What followed is captured with remarkable precision by the CCTV system at Ponniyammal Gurukulam, which is situated beside the Mukkali–Silent Valley road, the very road that leads toward the forest. The Q3 file in Ext.P92(a) pen drive shows that from 12:41:24 p.m. onwards, the accused were seen to be visible gathering at the Ponniyammal Gurukulam. By 12:44 p.m., eight of the accused entered A9's Marshal Jeep bearing No. KL-11-H-8559 and began moving toward the Silent Valley road in the direction of the forest. Accused No.13 is simultaneously seen proceeding along the same road on his motorcycle. These facts are crystal clear in the CCTV footage and were formally proved by PW95. PW2 (Unnikrishnan), who watched the Q3 footage in open court, identified the accused persons by name as they appeared in the footage. He provided the crucial prior-acquaintance identification that bridged the digital images with the dock accused. The formation of the unlawful assembly at 12:30 p.m. is accordingly established on four independent pillars: the CDR chain showing the A2–A9 communication from 12:17 pm; the Q3 CCTV showing the gathering from 12:41 pm; the Q3 CCTV showing the departure at 12:44 pm; and PW2's personal identification of the accused in the footage.

g. The transit stage followed. The Anavai Forest Station is located on the Silent Valley–Mukkali road, between Mukkali junction and the Vandikkadavu teak plantation area. It has its own CCTV system — the Q1 file in Ext.P92(a) pen drive. At 12:51:51 p.m., the Q1 CCTV captured A9's Marshal Jeep (KL-11-H-8559) proceeding toward Vandikkadavu in the direction of the forest. Aboard were A3, A5, A6, A7, A8, A9, A10, A12, and A13. They were moving with a shared and deliberate purpose. Accused



No. 2 (Marakkar), who had made his way to the forest area separately or slightly ahead of the group, joined them there. The CDR evidence places him in the area at the relevant time, and PW11 had already confirmed his earlier presence in the forest enquiring about Madhu. The vehicles were parked at the Vandikkadavu Teak Plantation. The group then entered the reserved forest on foot, travelling approximately two kilometres north-east through forested terrain toward the rocky area known as Aandiyallachaal, beneath the Ajmudi hill, forming part of the Silent Valley National Park reserved forest, in an area falling within Padavayal Village, Puthur Panchayath, Mannarkkad Taluk.

h. The exact time at which the group reached Aandiyallachaal has been established by scientific evidence. Accused No.5 (Radhakrishnan) was carrying his Xiaomi Mi A1 mobile phone [MO27(a), Q6] into the forest. The phone's camera was capturing photographs of the area. PW95 extracted the EXIF metadata embedded in those photographs and analysed the same in Ext.P92. The GPS coordinates in the metadata read: Latitude 11.079782, Longitude 76.536017. PW95 verified these coordinates against Google Maps and confirmed that this location falls within the Aandiyallachaal reserved forest area of Silent Valley National Park. The photograph in Q6 — file Name. IMG_20180222_130057 — was captured at 1:00 pm on 22.02.2018. This establishes beyond scientific doubt that A5, along with the group, had reached Aandiyallachaal by 1:00 pm.

i. Running alongside this photographic record is the single most important piece of evidence for the forest stage: the Q7 video — file VID-20180222-WA0034 — a



5-minute and 38-second video recording from A9's mobile phone [MO27(b)]. Crucially, his face is seen for a short while in the video at 5 minute 19 seconds. What the video shows, with the clarity of a contemporary account, is the accused surrounding Madhu, the apprehension, the assault, the tying of his hands, and the beginning of the march out of the forest. PW53, a forest tribal watcher and PW62, a forest section officer who had worked in that area for years both viewed the Q7 video in court and confirmed that the terrain visible in the footage is nothing other than Aandiyallachaal, forming part of the reserved forest.

j. The group found Madhu at the rocky Aandiyallachaal area at approximately 1:10 p.m. Madhu was a frail mentally ill tribal man weighing 40 kg. who had been dwelling alone in this forest for several years. He had no family member with him, no capacity for physical resistance, and no means of escape from a group of ten able-bodied men who had come specifically to find him.

k. What followed is recorded in the mobile phones of the accused themselves. Accused No. 3 (Shamsudheen) tied Madhu's hands first, using Madhu's own dhoti which act is proved by the photographs in Q6 (A5's phone) and corroborated by the Q7 video. The photographs from Q6 show Madhu from multiple angles in the forest, his hands bound. It is evident from the photographs contained in the mobile phones of Accused Nos. 5, 7, 8, and 9 that Madhu's hands were initially tied using his own dhoti. The assault then began, individually and jointly. The nature and extent of that assault is documented not by the testimony of any eyewitness but by the postmortem evidence of PW86, who found 44 ante-mortem injuries on Madhu's body, and by the video and



photographic record from the accused's own devices. Madhu, on his way to the police station, also reportedly disclosed to the police that he had been harmed by those who had apprehended him.

l. The prosecution's case is that Accused No.3 struck Madhu on the dorsum with MO24 wooden stick fracturing the XIth rib on the left side and causing a perinephric haematoma to the left kidney. This is Injury No. 12 in the postmortem certificate, which is a tramline contusion that PW86 specifically attributed to a long rod-like weapon. MO24 was subsequently recovered from A3 through his confession statement Ext.P132 and recovery mahazar Ext.P52. The head injuries including Injury No. 2, the full-thickness contusion to the back of the head causing brain edema, are also attributed to the forest stage. PW86 deposed that brain edema of the nature found takes a minimum of two to three hours to develop to a fatal level. Working backward from the time of death at approximately 4:15 pm, this places the initiation of the fatal head injury between 1:00 p.m. and 1:15 p.m., squarely within the forest stage, while Madhu was in the exclusive custody of the accused.

m. After the assault in the forest, Accused No.3 replaced the dhoti with MO2 plastic zip which was used to bind Madhu's right hand. The Q7 video captures Accused No. 3 in the act of tying Madhu. During the march that followed, Accused No.2 (Marakkar) caught hold of the zip tied on Madhu's hands, and Accused No.7 (Sidhique) caught hold of Madhu's left hand. They controlled and directed the descent of Madhu from the forest.



n. A10 (Jaijumon) placed MO3 sack containing stolen rice and other items on Madhu's shoulders. This act is captured in Q7 video with clarity. MO3 was subsequently identified in court by PW28 (Mathachan), the shopkeeper from whose grocery establishment the rice had been stolen. The sack that Madhu was forced to carry through a public road as a mark of humiliation contained the very goods he was accused of stealing from the men who were now parading him.

o. The mobile phones of five accused simultaneously recorded what was happening. A5 (Q6 — MO27(a)), A7 (Q8 — MO27e memory card), A8 (Q5 — MO27(c)), A9 (Q7 — MO27(b)), and A4 (Q4 — MO27d) each captured photographs and videos during the forest assault. Collectively, these devices contained numerous files photographs and videos of which the relevant were 11 photographs and 2 videos from A5's phone, photographs from A7's memory card, 7 photographs and 2 videos from A8's phone, 4 videos and 6 photographs from A9's phone, and photographs from A4's phone. The accused were not merely committing violence but they were celebrating it and preserving it.

p. PW11, in the second stage of his examination, confirmed that Accused No.2 was present in the forest area and had specifically enquired about Madhu from him earlier that morning. The presence of the 2nd accused in the forest is established both by this oral evidence and by the broader photographic and video material showing the assembled group at Aandiyallachaal. Accused No. 2 is attributed with fisting Madhu on his dorsum, as charged, and this is established through the group assault evidence.



q. The audio content of the Q7 video carries its own significance. At 27 seconds into the footage, an accused is heard uttering words in an abusive tone directed at Madhu. At the 2:58-minute mark, a conversation among the accused is audible. The substance of this audio, which can be heard clearly by us conveys, in the vernacular, that Madhu does not have the physical strength to sustain any beating. This statement, made in the midst of the assault, is not evidence of compassion. It is evidence of awareness of the fact that the accused knew what they were doing to him, they could see it was taking its toll, and they continued regardless.

r. While the core forest group was engaged at Aandiyallachaal, A3 (Shamsudheen) telephoned A14 (Hareesh) to inform him that Madhu had been apprehended and that the group was bringing him down toward Vandikkadavu. This call is established by the CDR evidence in Ext.P41 and P42 series. The Anavai Forest Station CCTV (Q1 file) then captures, at 13:50:28 pm, a Mahindra Xylo car bearing No. KL-32-B-5959, belonging to A15, moving toward Vandikkadavu. The photograph IMG-20180222-WA0083 from A8's phone (Q5, MO27c) shows A14 (Hareesh) and A15 (Biju) together with A9's Marshal Jeep at the Vandikkadavu location. This establishes their physical presence at the forest fringe before the group completed its descent. A14 arrived in his own Mahindra Xylo bearing No. KL-32-B-5259, and A15 (Biju — A14's brother) arrived with him. Both trespassed into the forest edge and formally joined the unlawful assembly. They have to be attributed with full and immediate knowledge of its common object, since the group was visibly before them bringing Madhu down with his hands bound and a sack on his shoulder.



s. Upon joining, A14 is stated to have struck Madhu on the dorsum with his hand and also filmed Madhu using his mobile phone (MO25/Q9). That phone was not seized from A14 directly but it was produced by his relative Anand on 12.03.2018, eighteen days after A14's arrest. A15, for his part, is stated to have caught hold of the zip around Madhu's arms to restrain him and fisted him on the shoulder. It must be noted, however, that the specific assaults attributed to A14 and A15 at the Vandikkadavu stage are not directly visible in the CCTV footage. Their individual acts are established through the charges, the broader photographic and video material from the forest group's devices, and the overall forensic reconstruction of events.

t. During the march from Aandiyallachaal down to Vandikkadavu Accused No.7 caught hold of Madhu's left hand. Accused No.2 retained his grip on the zip binding Madhu's hands. These acts are established through the Q7 video and the photographic evidence from multiple mobile phones.

u. At 14:46:50 pm, Q1 CCTV at Anavai Forest Station captures the group returning through the check post and emerging onto the Silent Valley–Mukkali road. Madhu is visible among them, the sack still on his shoulder. Accused Nos.14 and 15 are also visible in this footage, actively participating in bringing Madhu toward the road. This is the moment the forest stage ends and the public road stage begins. PW20 (Sunilkumar), the forest watcher posted at Anavai, was examined to prove the group's passage through the check post, but he did not support the prosecution version and turned hostile. However, his oral denial is directly contradicted by the Q1 CCTV footage,



which clearly shows the group passing through the check post with Madhu in their custody.

v. What followed next was the three-kilometre public parade. This clearly is one of the most dehumanising aspects of the entire incident. Madhu, his hands bound, stripped to the upper body, carrying on his shoulder a sack containing goods he was alleged to have stolen, was made to walk approximately three kilometres along the public Silent Valley–Mukkali road toward Mukkali junction, surrounded and controlled by the accused. As stated earlier, audio content of the Q7 video shows that the accused were aware that Madhu did not have the physical strength to sustain any beating and that his physical condition was very bad. It was in spite of the above that he was terrorised and forced to carry the sack by able bodied men.

w. PW27 (Lakshmi), a Kudumbasree Coordinator, was present near the Silent Valley Information Centre located on the Silent Valley–Mukkali road between Vandikkadavu and Mukkali. She deposed that she saw a group of five to ten persons bringing a tired man dressed in shabby clothes and carrying a sack on his shoulder, passing the Information Centre on their way toward Mukkali. She identified Accused Nos. 13 (Satheesh), 14 (Hareesh), and 16 (Muneer) from the dock. PW15 (Gokul), another witness along the route, testified to seeing the group passing with Madhu through the Silent Valley–Mukkali road and specifically identified A8 (Ubaid) in the dock. At 14:56:47 p.m., the Q3 CCTV at Ponniammal Gurukulam located on the road between the forest and Mukkali junction, just minutes' walk from the junction captured the accused bringing Madhu toward Mukkali. Accused No.7 (Sidhique) is specifically visible in



this footage holding Madhu. This footage confirms that the parade was actively in progress approximately three minutes before the group arrived at Mukkali junction.

x. The group reached Mukkali junction at approximately 3:00 p.m. and Madhu was made to sit in the area in front of Sreerag Bakery, which is the establishment of Accused No.14 situated at Mukkali junction. The Sreerag Bakery CCTV system, Q2 file, recorded what followed from two camera angles simultaneously. It is at this stage that three further accused joined the assembly at Mukkali.

y. Accused No.4 (Aneesh) was at Mukkali junction when the group arrived with Madhu. His mobile phone, Q4 (MO27(d)), captured photographs and video of Madhu at Mukkali. The Q4 video shows, at the 1:00:00 mark, a person identified as Accused No.16 (Muneer) shown as S8 in the reference photographs emerging from behind and delivering a blow to Madhu's back. A4's presence at Mukkali is sought to be proved by the Internet Protocol Detail Records (IPDR) evidence (Ext.P74), his Facebook business record (Ext.P68a), and the content of the Q4 file itself, all corroborated by the Q2 CCTV footage.

z. Accused No.11 (Abdul Kareem) was present throughout the events at Mukkali junction from the time Madhu was made to sit in front of the treasury box. The Q2 CCTV shows his continuous presence throughout the incident. Accused No.16 (Muneer) — the son of PW31 (the theft complainant) and the very person who, as CW2 in the prior theft case, had formally identified Madhu in CCTV footage, arrived at Mukkali junction and joined the group. His individual act is captured in the video evidence: VID-20180222-WA0091.mp4 from A8's phone (MO27c) in Q5 file shows, at the



1:05-second mark, a person in a pink T-shirt identified through reference photograph S8 as A16 emerging from behind and delivering a thrust or knee-blow to Madhu's back. The Q2 video independently corroborates this same act from a different angle.

aa. Madhu was made to sit in front of the treasury box of the Ponmala Dharmasasta Temple, against the northern wall of the building, 4.9 metres from the north-eastern corner of Sreerag Bakery. Accused No.6 (Aboobacker) held his shoulder. Accused No.15 (Biju) held the zip bound around his arms. Accused No.11 is alleged to have verbally abused him before the assembled crowd, calling him a thief. Accused No.16 struck him with his knee on his back. A4 and A8 continued to photograph and film Madhu in this condition, bound in public, and surrounded by his tormentors.

ab. Accused No.1 (Hussain) arrived at Mukkali junction in a Mahindra Xylo bearing No. KL-53-F-722. The Q2 CCTV from camera-1 shows him walking toward the crowd from 3:35:15 pm onwards and entering the gathering. At 3:36:10 p.m. to 3:36:13 p.m. the Q2 CCTV captures a sudden disturbance within the gathered crowd. Simultaneously, Accused No.7 (Sidhique) — identifiable in the Q2 footage by his black shirt — is seen rising suddenly from his seated position and raising his hands. The trial court treated this spontaneous physical reaction under Section 6 of the Evidence Act as a contemporaneous act forming part of the same transaction as A1's stamping, categorising it as gestae evidence that corroborates the occurrence of the stamp.

ac. PW8 (Suresh), who had reached Mukkali by this time, deposed that he found Madhu sitting in front of the treasury box with his hands tied by MO2, the black zip, which he identified in court. He deposed to witnessing Accused No.1 (Hussain)



stamp Madhu. PW19 (Manikandan) also identified A1 as the person who stamped Madhu. We shall deal with the evidence of PW8 and PW19 at a later stage.

ad. After the group reached Mukkali, Accused No.3 (Shamsudheen) called S.I., Subin (PW91) a second time to inform him that Madhu had been brought to the junction. This call is established by the CDR evidence in Exts.P41 and P42 series. It was this call that set in motion the police response. PW91, on receiving the information, contacted the GD charge of Agali Police Station, who in turn mobilised the patrol party.

ae. PW83 (ASI Prasad Varkky), PW84 (the driver), and PW89 (Sujilal) had received information at approximately 2:15 pm from the GD charge of Agali Police Station that a person named Madhu, involved in a theft case, had been apprehended at Mukkali. PW83 proceeded immediately and reached Mukkali at approximately 3:00 p.m. He found Madhu sitting in the CITU waiting shed at Mukkali junction, in shabby dress and in a state of exhaustion. A crowd had gathered around him. The persons at the scene told PW83 that this was Madhu — a thief who had been causing a nuisance to the public in the area. A few persons from the crowd placed Madhu in the police jeep bearing No. KL-01-BW-5724. PW83 noticed no prima facie external injury other than a single swelling over the lips.

af. At approximately 3:30 p.m., the police formally took Madhu into their custody. The jeep departed for Agali CHC. Madhu vomited at Mele Thavalam, approximately 10 kilometres from Mukkali, a symptom consistent with the advancing neurological deterioration caused by the brain edema that had been developing since the injuries inflicted in the Aandiyallachaal forest hours earlier. He was brought dead to



Agali CHC at approximately 4:15 p.m., where Dr. Lima Francis (PW56) examined him and confirmed his death.

12.9. On the basis of the above sequence of events, which the prosecution has been able to prove successfully, we shall consider the application of Section 149 of the IPC, the categorisation of the accused and the individual findings against each of them.

13. Section 149 IPC: Categorisation and Individual Findings:

13.1. Legal framework:

Section 149 of the Indian Penal Code reads thus:

"If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of the committing of that offence, is a member of the same assembly, is guilty of that offence."

13.2. In **Lalji And Others v. State Of U.P**²⁵, the Apex Court, while explaining the scope and ambit of the provisions, observed as follows:

"8. Section 149 IPC provides that if an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of the assembly knew to be likely to be committed in prosecution of that object, every person, who at the time of committing of that offence is a member of the same assembly, is guilty of that offence. As has been defined in Section 141 IPC, an assembly of five or more persons is designated an "Unlawful Assembly", if the common object of the persons composing that assembly is to do any act or acts stated in clauses "First", "Second",

²⁵ (1989) 1 SCC 437



“Third”, “Fourth”, and “Fifth” of that section. An assembly, as the Explanation to the section says, which was not unlawful when it assembled, may subsequently become an unlawful assembly. Whoever being aware of facts which render any assembly an unlawful assembly intentionally joins that assembly, or continues in it, is said to be a member of an unlawful assembly. Thus, whenever so many as five or more persons meet together to support each other, even against opposition, in carrying out the common object which is likely to involve violence or to produce in the minds of rational and firm men any reasonable apprehension of violence, then even though they ultimately depart without doing anything whatever towards carrying out their common object, the mere fact of their having thus met will constitute an offence. Of course, the alarm must not be merely such as would frighten any foolish or timid person, but must be such as would alarm persons of reasonable firmness and courage. The two essentials of the section are the commission of an offence by any member of an unlawful assembly and that such offence must have been committed in prosecution of the common object of that assembly or must be such as the members of that assembly knew to be likely to be committed. Not every person is necessarily guilty but only those who share in the common object. The common object of the assembly must be one of the five objects mentioned in Section 141 IPC. Common object of the unlawful assembly can be gathered from the nature of the assembly, arms used by them and the behaviour of the assembly at or before scene of occurrence. It is an inference to be deduced from the facts and circumstances of each case.

9. Section 149 makes every member of an unlawful assembly at the time of committing of the offence guilty of that offence. Thus this section created a specific and distinct offence. In other words, it created a constructive or vicarious liability of the members of the unlawful assembly for the unlawful acts committed pursuant to the common object by any other member of that assembly. However, the vicarious liability of the members of the unlawful assembly extends only to the acts done in pursuance of the common objects of the unlawful assembly, or to such offences as the members of the unlawful assembly knew to be likely to be committed in prosecution of that object. Once the case of a person falls within the ingredients of the section the question that he did nothing with his own hands would be immaterial. He cannot put forward the defence that he did not with his own hand commit the offence committed in prosecution of the common object of the unlawful assembly or such as the members of the assembly knew to be likely to be committed in prosecution of that object. Everyone must be taken to have intended the probable and natural results of the combination of the acts in which he joined. It is not necessary that all the persons forming an unlawful assembly must do some overt act. When the accused persons assembled together, armed with lathis, and were parties to the assault on the complainant party, the prosecution is not obliged to prove which specific overt act was done by which of the accused. This section makes a member of the unlawful assembly responsible as a principal for the acts of each, and all, merely because



he is a member of an unlawful assembly. While overt act and active participation may indicate common intention of the person perpetrating the crime, the mere presence in the unlawful assembly may fasten vicariously criminal liability under Section 149. It must be noted that the basis of the constructive guilt under Section 149 is mere membership of the unlawful assembly, with the requisite common object or knowledge.

10. Thus, once the court holds that certain accused persons formed an unlawful assembly and an offence is committed by any member of that assembly in prosecution of the common object of that assembly, or such as the members of the assembly knew to be likely to be committed in prosecution of that object, every person who at the time of committing of that offence was a member of the same assembly is to be held guilty of that offence. After such a finding it would not be open to the court to see as to who actually did the offensive act or require the prosecution to prove which of the members did which of the offensive acts. The prosecution would have no obligation to prove it.

13.3. Two principles flow from this provision that are critical to the analysis in the present case. Firstly, membership of the unlawful assembly must be established for each accused independently. Secondly, the scope of constructive liability under Section 149 of the IPC may vary for accused who joined the assembly at different stages, because they can only be held liable for acts committed after they joined, provided they had knowledge of the common object at the time of joining.

13.4. In **Shambhu Nath Singh v. State of Bihar**²⁶, fourteen individuals were tried for offences punishable under Sections 147, 148, 302, 302/149 of the Indian Penal Code (IPC) and Sections 19(E) & 19(F) of the Arms Act. In the course of the incident, accused No. 1, Shambhu Nath Singh, allegedly fired a gun, killing two persons and injuring others. The contention raised before the Apex Court by some of the convicted accused was that an accused cannot be constructively held liable with the aid

²⁶ (AIR 1960 SC 725)



of Section 149, for acts committed before one became a member of the assembly. The Apex Court had observed as under:

6. Section 149 of the Indian Penal Code is declaratory of the vicarious liability of the members of an unlawful assembly for acts done in prosecution of the common object of that assembly or for such offences as the members of the unlawful assembly knew to be likely to be committed in prosecution of that object. If an unlawful assembly is formed with the common object of committing an offence, and if that offence is committed in prosecution of the object by any member of the unlawful assembly, all the members of the assembly will be vicariously liable for that offence even if one or more, but not all committed the offence. Again, if an offence is committed by a member of an unlawful assembly and that offence is one which the members of the unlawful assembly knew to be likely to be committed in prosecution of the common object, every member who had that knowledge will be guilty of the offence so committed. But members of an unlawful assembly may have a community of object up to a certain point, beyond which they may differ in their objects, and the knowledge possessed by each member of what is likely to be committed in prosecution of their common object may vary not only according to the information at his command, but also according to the extent to which he shares the community of object and as a consequence of this the effect of Section 149 of the Indian Penal Code may be different on different members of the same unlawful assembly." See *Jahiruddin v. Queen Empress*, ILR 22 Cal 306.

13.5. In the light of the principles above, we shall deal with the facts of the instant case and examine the categories of the accused.

13.6. **Category - I: Core Forest Group:**

The first category is what may be described as the core forest group, comprising Accused Nos. 2, 3, 5, 6, 7, 8, 9, 10, 12, and 13. These are the accused who were part of the original unlawful assembly formed at the shop of Accused No. 9 at Mukkali at 12:30 p.m. and who proceeded together to the Aandiyallachaal reserved forest. Accused Nos. 3, 5, 6, 7, 8, and 12 arrived at the assembly point in A10's autorickshaw. Accused No.9



was already at his shop, which served as the assembly point. Accused No.10 drove the autorickshaw. Accused No.13 arrived separately on his motorcycle. Accused No.2 joined the group in the forest itself, after receiving information from PW11 about Madhu's whereabouts. Accused No.3 was in charge of the operation throughout.

13.7. The evidence establishing the membership and individual acts of this group operates at multiple levels. We shall first deal with the formation of the unlawful assembly. Q3 CCTV footage recorded on the Ponniammal Gurukulam Camera from 12:41:24 p.m. onwards reveals the group gathering beside the Mukkali-Silent Valley road. At 12:44 p.m., eight of the accused entered A9's Marshal Jeep bearing No. KL-11-H-8559 and proceeded toward the Silent Valley road in the direction of the forest. Accused No.13 is simultaneously visible on the same road on his motorcycle. These facts are formally proved by PW95 and the accused are identified in the footage by PW2 by name, on the basis of his prior personal acquaintance with them.

13.8. As regards the transit to the forest, Q1 CCTV at Anavai Forest Station at 12:51:51 p.m. captures A9's Marshal Jeep proceeding toward Vandikkadavu.

13.9. The GPS coordinates embedded in the EXIF metadata of photographs taken by A5's phone (MO27(a)/Q6) (Latitude 11.079782, Longitude 76.536017) verified by PW95 against Google Maps and confirmed to fall within the Aandiyallachaal reserved forest area of Silent Valley National Park, confirm the presence of the accused in the reserved forest. The photograph in Q6 file No. IMG_20180222_130057 was captured at 1:00 pm, placing Accused No.5 and the group in the forest at that time. The photograph showing Madhu (IMG20180222132323/IMG20180222132326) was taken at 1:23 pm,



with a portion of Accused No.2 visibly present in the frame, checking Madhu's hands. The video VID-20180222-WA0034 in Q 7 seen in A9's phone (MO27b), which is of 5:38 minutes' duration shows the accused surrounding Madhu, the capture, the assault, the tying, and the beginning of the march. The area shown in the footage was identified by PW53 and PW62 as Aandiyallachaal, forming part of the reserved forest.

13.10. The individual acts established against each member of this group are as follows. Accused No.3 (Shamsudheen) tied Madhu's hands first with his own dhoti and then with MO2, the black plastic zip. These acts are visible in Q7 video and the Q6 photographs. The projected case of the prosecution is that Accused No.3 struck Madhu on the dorsum with MO24, a wooden stick, causing the fractured XIth rib on the left side and perinephric haematoma recorded as Injury No. 12 in the postmortem certificate, Ext.P82. MO24 was recovered through A3's confession statement Ext.P132, mahazar Ext.P52. Accused No.3 called PW91 (S.I., Subin) once from the forest to inform that Madhu had been apprehended, and again on reaching Mukkali. These calls are established by Exts.P41 and P42 series. Accused No.2 (Marakkar) inquired about Madhu from PW11, as established by PW11's recalled testimony. He is visible in the Q6 photograph at 1:23 p.m. He held the zip tied on Madhu's hands during the march. His three calls to A9 at 12:17, 12:21, and 12:22 pm are established by Ext.P42 CDR. Accused No.5 (Radhakrishnan) was the person whose phone placed the group in the forest at 1:00 pm through GPS metadata. His device (MO27(a)/Q6) captured 11 photographs and 2 videos of the incident. He is stated to have fisted Madhu on the dorsum, as attributed in the charges. Accused No.6 (Aboobacker) was part of the autorickshaw group and is stated to have fisted Madhu on the dorsum during the forest



assault as per the charge. He was also present at Mukkali, where he held Madhu's shoulder when Madhu was made to sit at the treasury box. Accused No.7 (Sidhique) caught hold of Madhu's left hand during the march from the forest and this is visible in the Q7 video. His phone (MO27/Q8) and the memory card (MO27(e)) contained photographs of the incident. At Mukkali, his spontaneous rising from his seat at 3:36:10 seconds is captured in the Q2 CCTV. A8 (Ubaid) was part of the core forest group and is stated to have fisted Madhu on the dorsum. His phone (MO27(c)/Q5) contained 7 photographs and 2 videos, including VID-20180222-WA0091 showing A16's act and VID-20180222-WA0094 which shows A1 near the police jeep. Accused No.9 (Najeeb) organised the entire operation. He received A2's three calls, assembled the group, and provided his Marshal Jeep KL-11-H-8559. His phone (MO27(b)/Q7) contained the critical 5:38-minute Q7 video. Accused No.10 (Jaijumon) drove the autorickshaw KL-50-D-2908 that transported the group to the assembly point. He placed MO3 sack containing stolen rice and other items on Madhu's shoulder, and this act has been captured in Q7 video. He is stated to have fisted Madhu on the dorsum as per the charge. Accused No.12 (Sajeev) was part of the accused who arrived in the autorickshaw and was present throughout the forest stage and the march. His participation in the acts of the assembly is established through his group presence in the Q7 video and the photographs from multiple phones, though no individual weapon use or separately identified violent act beyond group participation is proved. Accused No.13 (Satheesh) arrived on his motorcycle KL-05-AJ-498 and proceeded to the forest area. He was identified by PW27 (Lakshmi) from the dock as one of the persons marching Madhu through the road.



13.11. This group constituted the original unlawful assembly from the moment of its formation at 12:30 p.m. They proceeded together to the forest, trespassed together, committed the forest-stage assault together, and brought Madhu to Mukkali together. Their constructive liability under Section 149 of the IPC attaches from the point of formation and extends to all acts committed in prosecution of the common object or such acts as the members knew were likely to be committed from 12:30 pm onwards. The common object was to apprehend Madhu from the reserved forest, cause him bodily hurt and grievous hurt to teach him a lesson, and hand him over to the police.

13.12. Category - II: Accused who joined the Group at Vandikkadavu:

The second category comprises Accused Nos. 14 and 15 who joined the unlawful assembly at Vandikkadavu. Accused No.14 (Hareesh) is the owner of Sreerag Bakery at Mukkali, the establishment from whose own CCTV system the Q2 footage was extracted. Accused No.15 (Biju) is A14's brother. Both joined the unlawful assembly at the Vandikkadavu forest fringe, after the forest-stage assault had already been committed and the group was bringing Madhu down toward the road. While the group was still in the forest, A3 called A14 to inform him of Madhu's apprehension and that the group was bringing him down to Vandikkadavu. This call is established by CDR Ext.P41 and P42 series. The Q1 CCTV at Anavai Forest Station captures at 13:50:28 pm a Mahindra Xylo bearing No. KL-32-B-5959, which is owned by Accused No.15, moving toward Vandikkadavu. The above video establishes the physical movement of Accused Nos.14 and 15 toward the meeting point. Photograph IMG-20180222-WA0083 from A8's phone (Q5, MO27(c)) shows A14, A15, and A9's Marshal Jeep together at Vandikkadavu,



establishing their physical co-location at the forest fringe before the group completed its descent. The Q1 CCTV from 14:46:50 pm onwards shows Accused Nos.14 and 15 visible in the footage, actively bringing Madhu toward the Silent Valley–Mukkali road. A14 is attributed with having beaten Madhu on the dorsum with his hand and with having recorded visuals of Madhu on his mobile phone MO25/Q9.

13.13. While considering whether Section 149 of the IPC can be applied to Accused Nos.14 and 15, and question that was posed by the learned counsel was that since the fatal head injury (Injury No. 2) and the rib fracture (Injury No. 12) were inflicted in the forest before they joined, they cannot be constructively held liable for those injuries. We are of the view that the sequence of events and the evidence establishes that Accused Nos.14 and 15 joined with full knowledge of the common object which was apparent and visible to them in concrete and unmistakable form when they arrived. On the basis of prior telephonic information, they saw that Madhu was being brought down with his hands bound, a sack on his shoulder, having plainly been subjected to assault. The continuing common object they shared encompassed confinement, further hurt, the parade, and the humiliation all of which continued after their joining and all of which contributed to the conjoint vicious cycle of injuries that caused Madhu's death.

13.14. **Category - III: Accused who joined at Mukkali:**

The third category are the accused who joined at Mukkali. They are Accused Nos. 4, 11, and 16. As regards Accused No.4 (Aneesh), the Sessions Judge acquitted him on the ground that the prosecution failed to prove he had joined the unlawful



assembly or committed any of the offences charged. While A4 was present at Mukkali junction and his phone (Q4/MO27d) captured photographs and video of Madhu, the prosecution failed to establish that Accused No.4 shared the common object of the assembly rather than being a person who was present and photographing without actively participating in the physical acts or the confinement. The act of photography, without more, was found insufficient to establish membership. As regards Accused No.11 (Abdul Kareem), the Sessions Court acquitted him on the ground that no overt act was attributable to him and that his sharing of the common object was not established. The Q2 CCTV shows Accused No.11 present at Mukkali throughout the incident, but presence alone without evidence of any act in furtherance of the common object was found insufficient. No specific violent act, no act of control over Madhu, and no specific instruction was attributed to Accused No.11 individually. The passive presence of A11 at the scene, without any active furtherance of the common object, was held not to satisfy the membership requirement of Section 141 of the IPC. As regards Accused No.16 (Muneer), he was found guilty for the offence under Section 352 of the IPC for criminal force causing annoyance on the ground that his knee-blow on Madhu's back caused no visible pain and that no injury in the postmortem certificate could be attributed to his act.

13.15. Category - IV: Accused No. 1:

The fourth and final category is Accused No. 1, who was the last among the accused to join the unlawful assembly as per the prosecution. The Sessions Court convicted Accused No.1 under Sections 143, 147, 323, 342, and 304 Part II r/w Section



149 of the IPC — notably not including Sections 324, 326, and 367 of the IPC. The learned Sessions Judge took note of the fact that Accused No.1 joined the assembly only at Mukkali, and that his constructive liability under Section 149 of the IPC is confined to the acts committed from the point of his joining rather than the forest-stage offences. The Sessions Court relied on the disturbance captured in the Q2 CCTV at 3:36:10 to 3:36:13 seconds was treated as res gestae evidence corroborating the stamping.

13.16. We shall consider the sustainability of the finding of conviction against Accused Nos. 1, 2, 3, 5, 6, 7, 8, 9, 10, 12, 13, 14 and 15, the acquittal of Accused Nos.4 and 11, conviction for a lesser offence insofar as Accused No.16 is concerned and the conviction of Accused No.1 separately.

14. Legal Principles on Interference with Acquittals:

14.1. We shall first deal with the acquittal of accused Nos. 4 and 11. It is well settled that an order of acquittal can be set aside by the High Court only if the Appellate Court is satisfied that the reasons in support of acquittal recorded by the trial court are non-existent, extraneous or perverse. Interference can also be made if the acquittal is palpably wrong, totally ill-founded or wholly misconceived. If the view taken by the trial court was legal, proper and in consonance with law, in an appeal against acquittal, this Court shall refrain from disturbing the order even if two views were possible. It would be apposite to refer to the settled precedents.



14.2. In **Kallu Alias Masih v. State of M.P**²⁷, the Apex Court has observed as under:

"8. While deciding an appeal against acquittal, the power of the appellate court is no less than the power exercised while hearing appeals against conviction. In both types of appeals, the power exists to review the entire evidence. However, one significant difference is that an order of acquittal will not be interfered with, by an appellate court, where the judgment of the trial court is based on evidence and the view taken is reasonable and plausible. It will not reverse the decision of the trial court merely because a different view is possible. The appellate court will also bear in mind that there is a presumption of innocence in favour of the accused and the accused is entitled to get the benefit of any doubt. Further if it decides to interfere, it should assign reasons for differing with the decision of the trial court."

14.3. In **Harijana Thirupala v. Public Prosecutor, High Court of A.P**²⁸, it was held as under:

12. Doubtless the High Court in appeal either against an order of acquittal or conviction as a court of first appeal has full power to review the evidence to reach its own independent conclusion. However, it will not interfere with an order of acquittal lightly or merely because one other view is possible, because with the passing of an order of acquittal presumption of innocence in favour of the accused gets reinforced and strengthened. The High Court would not be justified to interfere with order of acquittal merely because it feels that sitting as a trial court it would have proceeded to record a conviction; a duty is cast on the High Court while reversing an order of acquittal to examine and discuss the reasons given by the trial court to acquit the accused and then to dispel those reasons. If the High Court fails to make such an exercise the judgment will suffer from serious infirmity.

14.4. In **Chandrappa v. State of Karnataka**²⁹, the general principles regarding powers of the appellate court while dealing with an appeal against an order of acquittal was laid down as under:

- (1) An appellate court has full power to review, reappraise and reconsider the evidence upon which the order of acquittal is founded.

²⁷ (2006) 10 SCC 313

²⁸ (2002) 6 SCC 470

²⁹ (2007) 4 SCC 415



- (2) The Code of Criminal Procedure, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate court on the evidence before it may reach its own conclusion, both on questions of fact and of law.
- (3) Various expressions, such as, "substantial and compelling reasons", "good and sufficient grounds", "very strong circumstances", "distorted conclusions", "glaring mistakes", etc. are not intended to curtail extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of "flourishes of language" to emphasise the reluctance of an appellate court to interfere with acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion.
- (4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.
- (5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.

14.5. In the light of the principles above, we shall consider the order of acquittal passed against accused Nos. 4 and 11.

14.6. **Finding on Accused No. 4:**

Insofar as A4 is concerned, the prosecution does not have a case that he had accompanied the other accused to the Aandiyallachaal Reserved Forest. There is no allegation that Accused No.4 participated in the apprehension of Madhu inside the forest or in the march from the forest area to Vandikkadavu. PW27 (Lakshmi), who identified several accused persons from the dock as those involved in parading and assaulting Madhu, did not identify Accused No.4 as one of the persons whom she saw marching



Madhu along the road. Significantly, not a single prosecution witness has attributed any overt act of assault, restraint, confinement, or intimidation to Accused No.4 at any stage of the occurrence. The prosecution case against Accused No.4, as reflected in the charge, is limited to the allegation that he was present at Mukkali junction when Madhu was brought there, and that photographs and a video of Madhu were found in his mobile phone, namely MO27(d), marked as Q4. It is further alleged that these visuals were circulated through social media platforms.

14.7. In order to substantiate the said allegation, the prosecution relied primarily on the evidence of PW95, the FSL expert, and Ext.P92 report, wherein reference is made to three photographs and one video of Madhu extracted from Q4, namely MO27(d), the mobile phone allegedly seized from Accused No.4 Aneesh. The prosecution also relied on the Q2 CCTV footage obtained from Sreerag Bakery, which captured Accused No.4 standing at Mukkali junction at the time when Madhu was brought there and showed him taking photographs of Madhu using a mobile phone. The prosecution further produced the Call Detail Records (CDR) and Customer Application Form (CAF) relating to mobile number "9961069609", which stood in the name of Accused No.4. According to the prosecution, the IMEI number reflected in the CDR corresponded with the IMEI number noted in Ext.P66 seizure mahazar. The prosecution also attempted to establish that Accused No.4 maintained Facebook and WhatsApp accounts by relying upon the IPDR records marked as Ext.P74 and Facebook business records marked as Ext.P68(a). Reliance was also placed on the WhatsApp group chat titled "Voice of Attappadi" forming part of Ext.P143 series, in which a chat under the



name "Aneesh" appears. However, those screenshots were allegedly produced through CW63 (Nikhul), who was not examined as a witness before the Sessions Court.

14.8. The learned Sessions Judge found that the common object of the unlawful assembly was to apprehend Madhu from the reserved forest, wrongfully restrain him, inflict hurt and grievous injuries upon him, and thereafter hand him over to the police. The mere act of Accused No.4 taking photographs at Mukkali junction, by itself, does not establish that he shared the said common object. The act of photographing the incident is entirely collateral to the unlawful object alleged by the prosecution. In the present social context, persons witnessing a public incident often take photographs or videos out of curiosity, for documentation, or for dissemination through social media platforms. Merely because Accused No.4 photographed the incident cannot, without anything more, lead to the conclusion that he was a member of the unlawful assembly or that he participated in the commission of the offences.

14.9. It has also come out in the evidence of PW97 that nearly 75 persons had gathered at Mukkali junction when Madhu was brought there. Out of them, only 16 persons were arraigned as accused. The remaining persons were either bystanders, onlookers, or individuals who happened to be present at the scene. In such circumstances, the mere presence of Accused No.4 at a busy commercial junction where a large crowd had assembled, coupled with the fact that he took photographs of the incident, is insufficient to establish his membership in the unlawful assembly or participation in its common object.



14.10. Further, the prosecution has failed to satisfactorily establish the allegation that Accused No.4 had uploaded or circulated the visuals of Madhu through social media. Ext.P143 series, consisting of WhatsApp screenshots, were marked through PW97, the Investigating Officer. However, the person who allegedly produced those screenshots, namely CW63 (Nikhul), was not examined before the Court. Merely because the name "Aneesh" appears in a WhatsApp chat cannot, in the absence of legally admissible connecting evidence, lead to the conclusion that the said account belonged to Accused No.4. The mere assertion of the Investigating Officer that the person referred to in the chat was Accused No.4 cannot, by itself, constitute substantive proof of that fact.

14.11. In the above circumstances, and applying the settled principles governing interference with an order of acquittal, it cannot be said that the learned Sessions Judge committed any error of law or arrived at a perverse finding on the evidence available on record. On the contrary, the view taken by the Sessions Court is a possible and reasonable view arising from the evidence. We are therefore of the considered opinion that the order of acquittal passed in favour of Accused No.4 calls for no interference.

14.12. Finding on Accused No. 11:

Insofar as the prosecution case against Accused No.11 is concerned, it rests essentially on two allegations. The first allegation is that Accused No.11 joined the assembly of the other accused persons after Madhu was brought to Mukkali junction. The second allegation is that Accused No.11 publicly called Madhu a thief, which,



according to the prosecution, amounted to an act of verbal humiliation committed in public view. Beyond these allegations, no further overt act has been attributed to Accused No.11. Similar to the case of Accused No.4, the prosecution does not have a case that Accused No.11 had gone to the forest area, participated in the apprehension of Madhu, or accompanied the group during the march from the forest to Mukkali. In order to substantiate the above allegations, the prosecution principally relied upon the Q2 CCTV footage obtained from Sreerag Bakery, which constitutes the primary electronic record relating to the events that transpired at Mukkali junction. The footage shows the presence of A11 among the gathering assembled there at the relevant time. However, the Q2 CCTV footage does not contain any audio recording. Consequently, while the footage may establish the physical presence of A11 at the scene, it is wholly insufficient to establish what he allegedly stated or whether he made any statement at all. Likewise, the mobile phone video clippings produced before the Court, including the files extracted from the phones of A4 (Q4), A8 (Q5), and A9 (Q7), do not contain any audio recording specifically capturing A11 calling Madhu a thief. None of the electronic records relied upon by the prosecution establish the alleged verbal act attributed to A11. Significantly, none of the prosecution witnesses deposed before the Court that A11 had called Madhu a thief in public view. No witness attributed any act of assault, intimidation, restraint, or active participation in the incident to A11. As in the case of A4, the mere presence of A11 at Mukkali junction, without any additional evidence establishing participation, cannot by itself be sufficient to infer membership in the unlawful assembly or sharing of its common object.



14.13. The learned Sessions Judge, upon a careful and detailed evaluation of the oral, documentary, and electronic evidence, came to the conclusion that there was a complete absence of evidence regarding any overt act committed by A11. The Sessions Court further found that there was no reliable oral, electronic, or documentary evidence establishing his membership in the unlawful assembly, apart from his physical presence amidst a crowd of nearly 75 persons gathered at the junction, out of whom only 16 persons were ultimately arrayed as accused. The finding recorded by the learned Sessions Judge cannot be said to suffer from any erroneous appreciation of evidence, perversity, illegality, or distorted reasoning warranting interference by this Court. On the evidence available on record, the view taken by the Sessions Court is a possible and reasonable one. We are therefore of the opinion that the order of acquittal passed in favour of A11 calls for no interference and deserves to be affirmed.

14.15. For all these reasons, the acquittals of A4 (Aneesh) and A11 (Abdul Kareem) are confirmed. The State's appeal, insofar as it challenges these two acquittals, is dismissed. The double presumption of innocence in their favour stands unrebutted and unshaken by the evidence on record.

15. Appellate Challenge to the Convictions:

15.1. Appeal against convictions:

We shall now proceed to consider the appeals preferred by Accused Nos. 2, 3, 5, 6, 7, 8, 9, 10, 12, 13, 14, and 15 challenging their conviction and sentence. We shall also consider the appeals filed by the State and the victim questioning the findings of the learned Sessions Judge insofar as they relate to the failure to convict the accused for



the offence punishable under Section 302 of the Indian Penal Code and under Sections 3(2)(v) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

15.2. Before recording the final findings against the above accused, it is necessary to state the foundational conclusions that govern the entire analysis. We have already held that the death of Madhu was homicidal in nature. Secondly, we have also held that the death was not caused by police while transporting Madhu to the CHC or at the Police Station. Thirdly, the fact that Madhu was a member of the Muduka Scheduled Tribe has also been established. Fourthly, we have held on the basis of the evidence that the prosecution has established that the accused persons are not members of any Scheduled Caste or Scheduled Tribe. Fifthly, and critically for the SC/ST (PoA) Act analysis, the statutory presumption under Section 8 of the SC/ST (Prevention of Atrocities) Act, 1989, as amended by the 2015 Amendment Act, mandates that, in any prosecution under the Act, the court shall presume that the accused had knowledge of the victim's caste or tribal identity unless the contrary is proved. This presumption, standing un rebutted, combined with the affirmative evidence of the accused's long-term residence in the Attappadi tribal belt, A3's description of Madhu to the police as a person from "Aandiyallachaal forest," the name "Voice of Attappadi" given to the WhatsApp group in which the visuals were circulated, and A16's specific personal prior knowledge of Madhu through his participation as CW2 in Cr.No.524/2016, establishes beyond reasonable doubt that the accused knew Madhu was a member of the Scheduled Tribe at the time of commission of the offences.



16. The concluded findings:

16.1. We shall now state the concluded findings against each of the accused. The Core forest group comprises accused Nos. 2, 3, 5, 6, 7, 8, 9, 10, 12, and 13. The evidence against this group is comprehensive, multilayered, and mutually corroborating. The CDR evidence through Ext.P40 series (communications between A2, A7, A9, and A15 from 12:17 pm onwards), Ext.P42 series (A2's three calls to A9 at 12:17, 12:21, and 12:22 pm), Ext.P83 series (Airtel CDR establishing A6's communication trail), and Ext.P91 series (Vodafone Idea CDR confirming other accused's communication trails) establishes the coordinated pre-incident communication chain that set the entire operation in motion. The Q3 CCTV (Ponniyammal Gurukulam) establishes the assembly formation from 12:41 pm and the departure toward the forest at 12:44 pm. The Q1 CCTV (Anavai Forest Station) at 12:51:51 pm establishes the group's transit toward Vandikkadavu. The GPS metadata from A5's phone (latitude 11.079782, longitude 76.536017), verified by PW95, establishes their presence within the Aandiyallachaal reserved forest at 1:00 pm. The Q7 video (VID-20180222-WA0034 from A9's phone of 5:38 minutes duration) establishes the forest assault in its entirety, identified as Aandiyallachaal by PW53 and PW62. The Q6 photographs (from A5's phone) establish Madhu with hands tied in the forest from 1:00 pm, with A2 visible at 1:23 pm. The oral evidence of PW11 establishes A2 enquiring about Madhu from PW11. PW10 confirms seeing the group bringing Madhu from the forest. PW27 identifies the accused from the dock as among those marching Madhu through the road. PW97 (Investigating Officer) meticulously reconstructed the entire timeline. PW95's report Ext.P92 (DD-158/18) formally connects every device to the respective accused and every digital file to its



timestamp and location. On the basis of this evidence, we are of the view that the following findings can be recorded against each member of this group.

A) A3 (Shamsudheen) was the man in charge of the operation, and he was the person who mobilised the assembly, trespassed into the reserved forest, tied Madhu's hands first with his dhoti and then with MO2 zip, called PW91 twice during the operation, and coordinated the entire enterprise from start to finish. He is also stated to have assaulted Madhu with a MO24 stick.

B) A2 (Marakkar) received the initial information from PW11, triggered the entire operation through three calls to A9, entered the forest, was present during the assault as established by Q6 photograph at 1:23 pm, held the zip binding Madhu's hands during the march, and was thus the informational and logistical origin of what happened.

C) A5 (Radhakrishnan) was part of the assembly from its formation, his phone placed the group in the forest at 1:00 pm through GPS-verified metadata, he captured 11 photographs and 2 videos of the assault, and he is stated to have assaulted Madhu.

D) A6 (Aboobacker) arrived in the autorickshaw, is stated to have assaulted Madhu while in the forest, and held Madhu's shoulder at Mukkali.

E) A7 (Sidhique) was part of the original assembly, held Madhu's left hand during the descent from the forest as visible in the Q7 video, and his memory card (MO27(e)) contained photographs of the incident.



F) A8 (Ubaid) was a core forest member whose phone captured photographs and videos (Q5 file) including the critical VID-20180222-WA0091 and VID-20180222-WA0094, and who is stated to have assaulted Madhu.

G) A9 (Najeeb) is found to be the organiser of the entire operation. He is the one who received information, activating the network, provided his Marshal Jeep, and recorded the primary Q7 video in the forest.

H) A10 (Jaijumon) transported the group in his autorickshaw, placed MO3 sack on Madhu's shoulder as directly captured in the Q7 video, and fisted Madhu on the dorsum.

I) A12 (Sajeev) was part of the autorickshaw group and participated in the acts committed by the assembly throughout the forest stage and the march. His presence has been established through the Q7 video and photographs from multiple phones.

J) A13 (Satheesh) arrived on his motorcycle after discussing the plan with A9. He proceeded to the forest area, and was identified by PW27 from the dock as among those marching Madhu through the road.

16.2. The second category are accused Nos. 14 and 15, who joined the unlawful assembly at Vandikkadavu. This is established by A3's call to A14 (CDR Ext.P41 and P42 series), Q1 CCTV at 13:50:28 pm showing A15's Xylo moving toward Vandikkadavu, photograph IMG-20180222-WA0083 from A8's phone showing both



accused at Vandikkadavu with A9's Marshal Jeep, and the Q1 CCTV from 14:46:50 pm onwards showing them both actively bringing Madhu toward the road. A14 is stated to have beaten Madhu on the dorsum with his hand and filmed the incident on MO25/Q9. A15 held the zip binding Madhu's arms during the march and fisted Madhu on the shoulder. Both received full notice of the common object at the moment of joining as Madhu was visibly before them, bound and injured, being brought down from the forest by an organised group. The continuing common object they shared included further confinement, further hurt, the public parade, and the humiliation all of which continued after their joining and all of which contributed to the conjoint vicious cycle of injuries that produced Madhu's death.

16.3. The accused above were convicted by the Sessions Court of offences under Sections 143, 147, 323, 324, 326, 342, 367, and 304 Part II r/w Section 149 IPC, and Section 3(1)(d) of the SC/ST (PoA) Act r/w Section 149 IPC. The Sessions Court, however, acquitted all of them of Sections 302, 364, 368, and 352 IPC, and of Sections 3(1)(r), 3(2)(v), and 3(2)(va) of the SC/ST (PoA) Act.

16.4. The learned Sessions Judge found that the common object of the unlawful assembly constituted by the accused persons was to apprehend Madhu from the forest, wrongfully restrain and forcibly take him into their custody, subject him to physical assault causing hurt and grievous hurt, and thereafter bring him to Mukkali with the intention of handing him over to the police. The evidence on record unmistakably demonstrates that the victim was abducted and transported against his will while being subjected to violence and humiliation. In such circumstances, the essential ingredients



of the offence punishable under Section 367 IPC stand fully attracted. Upon an independent and comprehensive reappraisal of the entire oral and documentary evidence on record, we find no reason to differ from the conclusion reached by the learned Sessions Judge. The prosecution has succeeded in proving, beyond reasonable doubt, that the accused persons, acting in furtherance of their common object, committed the offence punishable under Section 367 IPC. We, therefore, concur with the findings of the trial court and hold that the conviction under Section 367 IPC is well-founded and fully supported by the evidence on record.. Therefore, the finding of the trial court that the prosecution has succeeded in establishing the commission of the offence punishable under Section 367 IPC read with Section 149 IPC, is proper and does not warrant any interference. Insofar as the offence punishable under Section 326 IPC is concerned, the learned Sessions Judge has considered Injury No.12, namely the fracture of the ribs, and the manner in which the injury was inflicted, and thereafter held that the ingredients of the offence punishable under Section 326 of the Indian Penal Code r/w Section 149 of the IPC are clearly attracted. We find no reason to interfere with the said finding. The learned Sessions Judge has also noted that injuries Nos.1, 3, and 4 to 8 could have been caused by the use of blunt weapons. On the basis of the medical evidence, the Court held that the aforesaid injuries could only have been caused by weapons. The learned Sessions Judge has, therefore, rightly held that the ingredients of the offence punishable under Section 324 r/w. Section 149 of the Indian Penal Code are also clearly made out. Insofar as the offence punishable under Section 294(b) IPC is concerned, the Court has held that there is no material available on record to attract the said offence. The said finding of the trial court is proper and does not warrant any



interference. In that view of the matter the acquittal for the offence under Section 3(1) (r) SC/ST(PoA) Act is in order. As already observed by us while considering the question as to whether the offence punishable under Section 302 IPC is made out, there is absolutely no direct or circumstantial evidence to establish that the accused persons abducted Madhu for the purpose of murdering him. Therefore, the finding that the offence punishable under Section 364 IPC is not attracted on the facts of the present case is proper and does not warrant any interference. There is also no material to hold that the accused persons concealed Madhu in any secret place so as to attract the offence punishable under Section 368 IPC. The said finding also does not warrant any interference.

16.5. The learned Special Public Prosecutor as well as the learned counsel appearing for the victim vehemently pressed for conviction under Section 302 IPC and for the enhancement of the conviction under the SC/ST (PoA) Act to include Sections 3(2)(v) and 3(2)(va) as the case may be. The learned counsel appearing for the accused urged before us that the accused be acquitted of all charges. After a thorough evaluation of the evidence we are of the view that the learned Sessions Judge was well justified in finding the above accused guilty of the offenses under Section 143, 147, 323, 324, 326, 342, 367 of the IPC. This Court, having heard all parties and having recorded its foundational findings on the questions set out above, now shall proceed to determine which offences are made out.

16.6. **Section 302 IPC or Section 304 Part II:**



The question that is raised for consideration before this Court lies within a narrow compass, that is, whether the case as set up by the prosecution would attract the offence of murder punishable under Section 302 IPC, or whether the same would fall within the ambit of culpable homicide not amounting to murder punishable under Section 304 Part II IPC, as held by the learned Sessions Judge.

16.7. In **Sitaram Kuchhbedia v. Vimal Rana**³⁰, the Apex Court after evaluating the law laid down in much cited precedents including **Daya Nand v. State of Haryana**³¹, **Rajwant v. State of Kerala**³², **Virsa Singh** (supra), **State of Andhra Pradesh v. Rayavarapu Punnayya** (supra), **Abdul Waheed Khan @ Waheed v. State of Andhra Pradesh**³³, **Augustine Saldanha v. State of Karnataka**³⁴, **Thangiya v. State of T.N.**³⁵ and **Rajinder Singh v. State of Haryana**³⁶ have succinctly elucidated the principles as under:

46. From the above conspectus, it emerges that when a Court is confronted with the question whether the offence disclosed by the proved facts is "murder" or "culpable homicide not amounting to murder," it would be appropriate to approach the issue in a structured manner comprising three stages.

47. At the first stage, the Court must determine whether the accused has committed an act which has caused the death of another, that is to say, whether the case involves a homicide. If such causal connection between the act of the accused and the death is established, the enquiry then proceeds to

³⁰ 2026 SCC OnLine SC 293

³¹ 2008 AIR SC 1823

³² 1966 SCC OnLine SC 50

³³ (2002) 7 SCC 175

³⁴ (2003) 10 SCC 472

³⁵ (2005) 9 SCC 650

³⁶ (2005) 12 SCC 322



the second stage, that is to say, whether the act so committed amounts to "culpable homicide" within the meaning of Section 299 IPC.

48. If the answer to this question is prima facie in the affirmative, the Court must then enter upon the third stage of enquiry, viz., whether the facts proved by the prosecution bring the case within the ambit of any of the four clauses of Section 300 IPC, which define murder. If the case does not fall within any of the four clauses of Section 300, the offence would be culpable homicide not amounting to murder, punishable under either Part I or Part II of Section 304 IPC, depending upon whether the case attracts the second or the third clause of Section 299 IPC.

49. Even if the case falls within the four clauses of Section 300 IPC, the Court must further examine whether any of the Exceptions to Section 300 IPC are attracted. If the case is covered by any such Exception, the offence would fall back to Section 299, that is, culpable homicide not amounting to murder.

16.8. We have already held that the death of Madhu was caused by the acts of the accused. Ext.P82 establishes that the 44 ante-mortem injuries, caused by multiple persons using blunt force, a rod-like weapon (MO24), stamps, and physical force, collectively produced intracranial tension, brain edema, and uncal grooving and the same caused the death of Madhu. The causal connection between the acts of the accused and the death is proved beyond reasonable doubt. The stage one is answered affirmatively.

16.9. Then, when we come to stage two, the question that has to be posed is whether the acts amount to culpable homicide under Section 299. We have no doubt in our mind that the third clause of Section 299 is applicable as the acts were done with the knowledge that they are likely to cause death. It has come out from the evidence



that the accused applied sustained, collective violence to a 40-kilogram, malnourished, mentally ill tribal man over several hours. The nature, multiplicity, and distribution of the injuries which include head injuries, a fractured rib, and a perinephric haematoma establish that the accused knew their acts were likely to cause death. We answer stage two in the affirmative.

16.10. The question that has to be posed at the third stage is whether culpable homicide amounts to murder under any of the four clauses of Section 300. After having carefully evaluated the four clauses, we are satisfied that none of the clauses are attracted. In order to attract clause, firstly, there has to be proof that the accused specifically desired and aimed at the causing of death of Madhu. We find that in the instant case, A3 called PW91 twice to inform that Madhu had been brought there. This can only be with the knowledge of the other accused. A person who intends to kill does not call the police in advance to arrange the handover of the victim. Second, the entire group marched Madhu openly through a busy public road for three kilometres, surrounded by bystanders, photographing and filming what they were doing and circulating the footage on WhatsApp. Persons who intend to kill do not document their act and circulate it publicly. Third, the group handed Madhu over to the police at a busy commercial junction in the presence of witnesses, local residents, and the police themselves. Fourthly, A3 gave Madhu a plantain, and A14 offered him juice at Mukkali junction which are acts of elementary human consideration wholly inconsistent with a design to kill. In that view of the matter, we are of the view that clause 1 is not attracted.



16.11. In order to attract clause secondly, the accused should have had the intention to cause such bodily injury as the offender knows to be likely to cause the death of that particular person. This would be clear if one were to read illustration (b) to section 300. This clause requires that the accused specifically knew that the injuries they were inflicting were likely to cause the death of Madhu in view of his particular physical vulnerabilities. While Madhu was malnourished and mentally ill, there is no evidence that the accused was aware of any particular physical condition or ailment to the extent of knowing that their acts were likely to cause his death, specifically as opposed to causing him serious hurt. The conduct of the accused in calling the police, handing him over, and offering food is inconsistent with a subjective appreciation of Madhu's life-threatening vulnerability. In that view of the matter clause 2 is also not attracted.

16.12. In order to attract clause thirdly, the accused should have an intention to cause a bodily injury sufficient in the ordinary course of nature to cause death. Much argument was advanced by the learned Special Public Prosecutor to persuade us to apply clause thirdly. The test laid down in the judgment which is considered as the locus classicus of Vivian Bose J in **Virsa Singh** (supra) lays down the test for Clause thirdly has four elements: (i) the injury must be caused; (ii) the injury must be specified with precision; (iii) it must be established objectively that the injury was sufficient in the ordinary course of nature to cause death; and (iv) it must be proved that the accused intended to inflict that particular injury and not some other injury. In the case on hand PW86, the doctor tendered evidence that no single injury, taken alone, was sufficient in the ordinary course of nature to cause death. The doctor gave evidence that death was caused by the conjoint vicious cycle of all the injuries together and not by any one of



them individually. It was the conjoint effect that produced the fatal brain edema. In **Rajwant Singh v. State of Kerala** (supra), the Supreme Court held that for Clause Thirdly, the prosecution must establish that "there was an intention to inflict that very injury and not some other injury." Where the death is produced by the accumulated effect of multiple injuries caused by multiple persons, and where no single injury is independently sufficient to cause death, the **Virsa Singh** test for Clause Thirdly is not met.

16.14. Now we come to clause Fourthly of Section 300. The said clause requires that the act itself be of such a nature that it must in all probability cause death thus making it a form of reckless murder. The conduct of the accused in calling the police in advance, marching Madhu in public and in openly handing him to the police is inconsistent with any appreciation that their acts must in all probability cause death. The probability of death cannot be, in their subjective appreciation, a near-certainty. Clause Fourthly is therefore not attracted.

16.15. If the case does not fall within any of the four clauses of Section 300, the offence would be culpable homicide not amounting to murder, punishable under either Part I or Part II of Section 304 IPC, depending upon whether the case attracts the second or the third clause of Section 299 IPC. The Hon'ble Supreme Court in **Anda v. State of Rajasthan** ³⁷ and **Jagriti Devi v. State of Himachal Pradesh** ³⁸, have held that Section 304 Part II applies when death is caused by an act done with the knowledge that it is likely to cause death, but without any intention to cause death or to

³⁷ 1966 AIR SC 148

³⁸ 2009 AIR SC 2869



cause such bodily injury as is likely to cause death. In the case on hand, the accused inflicted serious violence on Madhu with knowledge that violence of that severity was likely to cause death, but without a specific intention to kill him or to cause him a specific injury sufficient to cause his death. The offence attracted is culpable homicide not amounting to murder punishable under Section 304 Part II IPC r/w Section 149 IPC. In that view of the matter we confirm the findings of the learned Sessions Judge.

17. Finding on Accused No. 16:

We shall now come to the findings against A16. Insofar as A16 (Muneer) is concerned, the Sessions Court convicted him only under Section 352 IPC on the ground that no visible pain resulted from his knee-blow and that no postmortem injury could be attributed to his act. We cannot agree with the said finding for the following reasons. A16 is the son of PW31 (Latheef), the formal complainant in the theft case Cr.No.524/2016 in which Madhu was the accused. In the final report of that case (Ext.P89), A16 was cited as CW2, a person specifically expected to identify the accused (Madhu) in CCTV footage from his father's shop. This means A16 had participated in a criminal investigation in which Madhu's identity was directly at issue. He was formally expected to depose as an identifying witness. No other accused in this case came before the court with a more specific, documented, personal knowledge of who Madhu was including his tribal identity as a forest-dwelling member of the Muduka Scheduled Tribe than A16. VID-20180222-WA0091.mp4 from A8's phone (Q5 file) shows, at the 1:05-second mark, A16 emerging from behind a bound and helpless Madhu and delivering a deliberate knee-blow to his back. The Q2 visuals corroborates this act from a different angle. Madhu instinctively turns around upon receiving the blow which was a



spontaneous physical reaction with resignation and helplessness writ large in his eyes and face.

17.1. The Sessions Court's reasoning that Section 323 IPC was not attracted because Madhu's facial expression showed "annoyance rather than pain" is legally unsound. Section 319 IPC defines hurt as bodily pain, disease, or infirmity. The threshold is deliberately low; the provision does not require any visible distress, nor screaming, nor any particular outward expression. By the time A16 delivered his blow, Madhu had already sustained 44 ante-mortem injuries, including a fractured rib and was developing brain edema. He was in a state of severe neurological deterioration. His capacity to visibly register or outwardly express additional pain was profoundly compromised at that point. A deliberate knee-blow to the back of a person in this condition necessarily causes bodily pain. The anatomical and physiological reality of the act is sufficient to satisfy the ingredient of hurt under Section 319. Madhu's instinctive turn upon receiving the blow is itself evidence of physical pain. In that view of the matter the offence under Section 323 IPC is attracted as against A16.

17.2. **Application of Section 3(2)(v) and Section 3 (2) (va) to the Core Group:**

For Section 3(2)(v) of the SC/ST (PoA) Act to apply, the prosecution was required to establish the following ingredients:

- (i) that the accused is not a member of a Scheduled Caste or Scheduled Tribe;



- (ii) that the accused committed an offence under the IPC punishable with imprisonment for ten years or more;
- (iii) that such offence was committed against a member of a Scheduled Tribe;
and
- (iv) that the accused had knowledge that the victim was a member of a Scheduled Tribe.

Insofar as Accused Nos. 2, 3, 5, 6, 7, 8, 9, 10, 12, 13, 14, and 15 are concerned, all the above ingredients stand fully satisfied on the basis of the discussion in paragraph No. 12.5 above. We have already held that the offence under Section 304 Part II IPC is clearly attracted against the said accused. We further find, on an independent evaluation of the evidence, that the learned Sessions Judge was justified in holding the aforesaid accused guilty for the offences punishable under Sections 326 IPC and 367 IPC as well. The offences under Section 304 Part II IPC, Section 326 IPC, and Section 367 IPC are all offences punishable with imprisonment extending up to ten years. Consequently, once it is established that those offences were committed against Madhu, a member of a Scheduled Tribe, with knowledge of his tribal identity, the statutory requirements of Section 3(2)(v) and Section 3 (2) (va) of the SC/ST (PoA) Act stand satisfied in full. The offense is therefore clearly attracted against Accused Nos. 2, 3, 5, 6, 7, 8, 9, 10, 12, 13, 14, and 15. The contrary finding recorded by the learned Sessions Court is accordingly reversed.

17.3. Insofar as A16 is concerned, we have already concluded, on the basis of the evidence on record, that A16 is liable to be convicted only under Section 323 IPC for



his individual overt act of delivering a knee blow to the back of Madhu. Section 323 IPC carries a maximum punishment of one year imprisonment. However, Section 3(2)(va) of the SC/ST (PoA) Act specifically covers offences included in the Schedule to the Act when such offences are committed against a member of a Scheduled Tribe with knowledge of the victim's tribal identity. The Schedule to the Act expressly includes Section 323 IPC as one of the scheduled offences. The punishment prescribed under Section 3(2)(va) is the punishment provided under the IPC for the scheduled offence together with liability to fine. In the case of A16, the ingredients necessary to attract Section 3(2)(va) are also clearly established, namely:

- (i) that A16 is not a member of a Scheduled Caste or Scheduled Tribe;
- (ii) that he committed an offence specified in the Schedule to the Act, namely Section 323 IPC;
- (iii) that the offence was committed against Madhu, who was a member of a Scheduled Tribe; and
- (iv) that A16 had knowledge that Madhu belonged to a Scheduled Tribe.

In such circumstances, the finding of the Sessions Court convicting A16 under Section 352 IPC cannot be sustained and is liable to be altered to a conviction under Section 323 IPC. Consequently, A16 is also liable to be convicted for the offence punishable under Section 3(2)(va) of the SC/ST (PoA) Act.

18. Finding on Accused No. 1:



Now we shall come to the finding of guilt as against A1. The learned Sessions Judge convicted A1 under Sections 143, 147, 323, 342, and 304 Part II r/w Section 149 IPC, relying primarily on the disturbance visible in the Q2 CCTV at 3:36:10 to 3:36:13 seconds and by treating the same as res gestae evidence under Section 6 of the Evidence Act. However, insofar as the evidence let in by the prosecution by examining PW8 and PW19 are concerned, the court came to the conclusion that the evidence tendered by those witnesses was not reliable. We have independently reappraised the evidence of the said witnesses and carefully evaluated the other materials available on record.

18.1. Before evaluating the evidence of PW8 and PW19, it would be profitable to have an idea of the layout of Mukkali junction, where the alleged act of stamping is said to have taken place. This aspect assumes considerable significance because the precise location of each witness at the exact moment of the alleged incident forms the very foundation upon which the reliability of their testimony rests. The Ponmala Dharmasastha Temple is situated at Mukkali junction. In front of the temple, a Hundi (treasure box) had been installed at a distance of approximately 4.9 metres from the north-eastern corner of Sreerag Bakery. According to the prosecution, Madhu was made to sit in front of this Hundi by the accused with his back resting against the wall. It is alleged that A1 stamped on Madhu's chest while he was seated in that position, causing the back of his head to strike the concrete wall of the treasure box.

18.2. The CCTV system installed at Sreerag Bakery, the DVR of which was seized on 26.02.2018 under Ext.P120, contained footage from multiple cameras fixed on



the bakery building. The Q2 file contained in Ext.P92(a) pen drive consists of footage from Camera No. 1 and Camera No. 3 of that DVR system. These cameras captured the events at Mukkali junction simultaneously from two different angles. However, the cameras did not provide complete or 360-degree coverage of the treasure box area. Only two sides of the location were captured, while the remaining portions fell outside the field of vision of the cameras.

18.3. The alleged stamping is stated to have occurred between 3:36:10 pm and 3:36:13 pm within a span of barely three seconds. The crucial question before us is whether PW8 and PW19 were actually present in a position from which they could have witnessed the alleged act during those precise moments. The learned Sessions Judge held that the assertion made by PW8 and PW19 regarding the stamping stood contradicted by the CCTV footage itself.

18.4. An evaluation of the evidence of PW8 reveals that he had arrived at Mukkali junction from Mannarkkad on 22.02.2018. PW8 deposed that he was present at Mukkali junction between 2:30 pm and 3:00 pm on that day. According to him, he saw Madhu seated near the Hundi treasure box with a gathering of persons surrounding him. At that stage, A1 allegedly arrived in a Xylo vehicle, pushed aside the crowd and asked where the thief was. He deposed that he saw A1 stamping Madhu on his chest and that Madhu's head struck the wall of the treasure box. He identified A1 and A3 in the CCTV footage played before the court. PW8 consistently maintained throughout his evidence that he had witnessed the stamping.



18.5. However, an evaluation of the CCTV footage reveals that PW8 was visible near the Mukkali junction area from around 3:00 p.m. until 3:35:05 p.m. At precisely 3:35:05 p.m., barely a little over one minute before the alleged stamping, PW8 is seen walking away towards the Keeripara road. He completely disappears from the capturing area of the CCTV cameras. He is seen returning to the junction area only at 3:52:05 p.m., about sixteen minutes after the incident. It would be pertinent to note that the alleged act of stamping occurred between 3:36:10 p.m. and 3:36:13 p.m., that is, approximately one minute after PW8 had moved away towards the Keeripara road. When confronted with this CCTV evidence during cross-examination, PW8 attempted to explain his absence by stating that he was standing on the rear side of the treasure box at the relevant time. However, after carefully evaluating the footage and the surrounding circumstances, we are unable to accept the explanation offered by PW8. The CCTV footage does not support his assertion, and there is no independent material to establish that he remained in a position from which the alleged stamping could actually have been witnessed.

18.6. PW19, on the other hand, deposed that on 22.02.2018, he saw a gathering near the Hundi installed in front of Sreerag Bakery, where Madhu was seated. According to him, one person entered the gathering after pushing aside others and stamped on Madhu. PW19 identified that person as A1 in court. He maintained throughout cross-examination that he had personally witnessed the stamping. We have undertaken a careful analysis of both the Q2 CCTV footage from Sreerag Bakery and the Q3 CCTV footage from Ponniyammal Gurukulam. The CCTV footage corresponding to timestamp 03:19:28 from Camera No. 3 reveals that the autorickshaw seen in the



footage, admittedly belonging to PW19, was proceeding towards Silent Valley Road. Two persons can be seen travelling in the autorickshaw, and one among them alighted from the vehicle and proceeded on foot towards Mukkali. Subsequently, the CCTV footage at timestamp 03:24:38 reveals the presence of PW19. He further admitted that the person seen walking towards Silent Valley Road at timestamp 03:27:08 was himself. PW19 also admitted that he had parked his autorickshaw in front of Jolly's shop situated on Silent Valley Road. He further admitted that, as seen in the CCTV footage at timestamp 03:39:42, the person who had earlier proceeded towards Mukkali thereafter returned, and that he himself subsequently got into the autorickshaw and drove away in the direction opposite to Mukkali. The witness further admitted that the approximate distance between the spot where the autorickshaw had been parked and the place where Madhu was seated was about 30 metres. The Q3 footage further revealed that PW19 had moved towards the southern side of Jolly's shop and had remained there for a considerable period of time. The oral evidence on record established that Jolly's shop was situated approximately 50 to 100 feet away from Mukkali junction. As rightly held by the learned Sessions Judge, it would not have been realistically possible to witness the specific act of stamping allegedly committed within a crowded gathering near the treasure box from such a location.

18.7. Having found that PW8 and PW19 could not safely be relied upon on the specific issue of witnessing the alleged stamping, the Sessions Court attempted to rely upon the CCTV footage itself, particularly the visible disturbance occurring between 3:36:10 pm and 3:36:13 pm, along with the conduct of A7 suddenly rising from the spot, as forming part of the res gestae under Section 6 of the Evidence Act.



18.8. Section 6 of the Indian Evidence Act reads as follows:

“Facts which, though not in issue, are so connected with a fact in issue as to form part of the same transaction, are relevant, whether they occurred at the same time and place or at different times and places.”

18.9. In **Sukhar v. State of U.P**³⁹, the Supreme Court explained the scope of Section 6 of the Evidence Act in the following terms:

“Section 6 of the Evidence Act is an exception to the general rule whereunder hearsay evidence becomes admissible. But for bringing such hearsay evidence within the provisions of Section 6, what is required to be established is that it must be almost contemporaneous with the acts and there should not be an interval which would allow fabrication. The statements sought to be admitted as forming part of res gestae must have been made contemporaneously with the acts or immediately thereafter.”

18.10. In **Gentela Vijayavardhan Rao v. State of A.P**⁴⁰, the Apex Court elaborated upon the doctrine of res gestae and observed as follows:

“The essence of the doctrine is that a fact which, though not in issue, is so connected with the fact in issue as to form part of the same transaction becomes relevant by itself. The rationale lies in the spontaneity and immediacy of such statement or fact in relation to the fact in issue. However, if there was an interval, however slight, sufficient enough for fabrication, then the statement would not form part of res gestae.”

18.11. Sarkar on Evidence (Fifteenth Edition) summarises the law relating to Section 6 of the Evidence Act in the following manner:

1. The declarations, whether oral or written, must relate to the act in issue or relevant thereto; they are not admissible merely because they accompany an act. Moreover the declarations must relate to and explain the fact they accompany, and not independent facts previous or subsequent thereto [Aggassiz v. London Tramways Co., sup] unless such facts are part of a transaction which is continuous (see below).

³⁹ (1999) 9 SCC 507

⁴⁰ 1996 AIR SC 2791



2. The declarations must be substantially contemporaneous with the fact and not merely a narrative of a past [Thompson v. Trevanion; R v. Christie, sup ; Teper v. R, 1952, 2 All E.R 447]
3. The declaration and the act may be by the same person or by different persons, eg, the declarations of the victim, assailant and by-standers [see: ill (a)]. In conspiracy, riot & c the declarations of the victim, assailant and by-standers [see: ill (b) ;ill (f) to s 9]
4. Though admissible to explain or corroborate the act, such declarations are not evidence of the truth of the matters stated.

As already noticed, Section 6 makes acts, declarations, and omissions forming part of the same transaction admissible as relevant facts. However, what it does not do, and has never been understood to do, is substitute independent proof of the primary transaction itself.

18.12. In the present case, the CCTV footage undoubtedly shows some form of disturbance within the gathering. However, the actual act of stamping is not visible in the footage because A1 had entered the crowd and the gathering itself obscured what transpired within it. What precisely occurred during those crucial three seconds is something which the CCTV footage itself does not reveal. The only witnesses who claimed to have actually seen the stamping, namely PW8 and PW19, have already been found unreliable on the question of their presence at the relevant time.

18.13. The conduct of A7 may certainly be consistent with some disturbance occurring within the crowd. However, that circumstance alone does not establish the specific overt act attributed to A1 beyond reasonable doubt. To infer from A7's conduct that A1 must necessarily have stamped Madhu would amount to treating the res gestae evidence itself as primary proof of the transaction. Res gestae may corroborate an



independently established transaction, but it cannot stand in the place of such independent proof.

18.14. We have also considered whether A1 can be held guilty with the aid of Section 149 IPC by reason of his alleged membership in the unlawful assembly at Mukkali, independent of any conviction relating to the individual act of stamping. The Q2 CCTV footage shows A1 arriving at Mukkali at approximately 3:35:15 pm and entering the gathered crowd. The video marked as VID-20180222-WA0094 in Q5 file also shows A1 standing near the police jeep and giving instructions when Madhu was being handed over to the police. The prosecution has therefore succeeded in establishing the presence of A1 at Mukkali junction. However, mere presence at the scene is not by itself sufficient to attract liability under Section 149 IPC. Membership in an unlawful assembly requires proof beyond reasonable doubt that the person concerned shared the common object of the assembly or at least knew of such common object at the time of joining it. A1's explanation that he had come to Mukkali in connection with a family matter relating to his daughter's house cannot be conclusively disproved in the absence of a reliable finding regarding the alleged stamping. A1 was admittedly not a resident of Mukkali and had come there only on that day. His arrival at the scene may undoubtedly appear suspicious. However, suspicion, however strong, can never substitute legal proof. In a criminal trial of this nature and gravity, the prosecution is required to establish guilt beyond reasonable doubt and eliminate every reasonable hypothesis consistent with innocence. On the evidence presently available against A1, that standard has not been satisfied. Consequently, the finding of guilt recorded against A1 warrants interference.



19. Reflections of the Court:

Before we conclude, we would like to state that this case is an eye-opener for several reasons. We feel it is necessary to state them before we record our final conclusions. As stated by the learned Sessions Judge, this is the first mob lynching case to come before the courts of Kerala. It is also the first case in this State in which a tribal man was hunted down, publicly humiliated, assaulted by a group of persons who believed they were entitled to enforce their own version of community justice upon a man. They did not feel that Madhu was worthy of ordinary human dignity. This would also be one of those cases wherein the full scope of the SC/ST (PoA) Act, including the enhanced provisions introduced through Sections 3(2)(v) and 3(2)(va) by the 2015 Amendment Act, has been applied. And most importantly, it is also a case in which the prosecution was doomed to fail not because the truth was unavailable, but because a large section of the community that witnessed the incident collectively chose to look the other way.

19.1. The Supreme Court, in **Anand Rai v. State of Madhya Pradesh**⁴¹, has recently reiterated the constitutional purpose underlying the SC/ST (PoA) Act. It was observed as under:

“While the Constitution guarantees equality, freedom from discrimination, and the right to live with dignity, these ideals often remained abstract for SC and ST communities because of centuries of social exclusion, oppression, and violence. Recognizing this gap, the Act provides targeted legal protection, ensuring that the constitutional promises of equality and justice are realized in practice. At its core, the Act embodies the principle of equality before the law, as enshrined in Article 14 of the Constitution. It goes beyond formal equality, acknowledging that SC/ST communities face unique social vulnerabilities. By defining specific

⁴¹ 2026 SCC OnLine SC 187



offences such as physical assault, sexual abuse, humiliation, and social ostracism, and prescribing stricter punishments, the law ensures substantive equality, allowing these individuals to live with safety, respect, and dignity in a society that has historically denied them these rights. The Act also reinforces the constitutional mandate under Article 17, which prescribed the abolishment of untouchability. Modern forms of caste-based indignity, like forcing individuals into menial or degrading labour, denying them access to public spaces, or socially boycotting them, are specifically criminalized. These provisions help translate the ideals of the Constitution, of freedom from untouchability into actionable legal protection, restoring both social and personal dignity to victims. Furthermore, the Act embodies Article 15's prohibition against discrimination, ensuring that SC/ST persons can access education, employment, and civic life without fear of prejudice. By shielding these communities from targeted harassment and violence, the law turns the promise of non-discrimination into a lived reality. At the same time, it safeguards the right to life and dignity under Article 21, recognizing that life is not merely about survival, but about living with respect, security, and freedom from humiliation. Relief, rehabilitation, and special protective measures under the Act directly uphold this principle. Finally, the SC/ST Act advances the broader goals of social justice and positive discrimination, reflected in Articles 38 and 46. By creating a safe and supportive environment, the Act enables SC/ST communities to participate fully in social, educational, and economic opportunities, helping to break cycles of historical oppression. In this sense, the Act is a transformative instrument, bridging the gap between constitutional ideals and everyday realities, ensuring that SC/ST citizens can live as equal, dignified, and empowered members of society."

19.2. As noticed by the Apex Court, the Act embodies the constitutional guarantees flowing from Articles 14, 15, 17, 21, 38, and 46 of the Constitution of India. The legislation seeks not merely formal equality, but substantive equality. It recognises that members of Scheduled Caste and Scheduled Tribe communities continue to face social vulnerabilities and structural disadvantages that ordinary penal provisions alone are often insufficient to address. The Act criminalises not only physical violence, but also humiliation, social exclusion, public degradation, and the denial of dignity. It transforms the constitutional promise against untouchability and discrimination into an enforceable legal protection. At its core lies a principle that the Constitution declared in 1950, but which society has still not fully realised: that every individual within this Republic,



irrespective of caste, tribe, community, or social background, is entitled to live with dignity, security, and equal protection under law.

19.3. Though Madhu was entitled to all of these protections, he was granted none. His death stands as a painful reminder of the continuing distance between constitutional ideals and the lived reality of many among the most marginalised sections of society. The near-total collapse of eyewitness testimony in the present case is not a minor aspect of the matter. It is one of the most disturbing features of the entire trial, and we record our deep concern regarding the same. Approximately seventy-five persons were present at Mukkali junction when Madhu sat tied against the temple treasury box on that afternoon. Forest officials, shop employees, roadside traders, and local residents appeared before the court, watched the CCTV footage in open court, pleaded ignorance when their images and videos came up on the screen and claimed inability to identify the persons involved. The evidence on record further establishes that several accused persons had contacted witnesses during the pendency of the trial in clear violation of their bail conditions. It was only after the bail of most accused persons was cancelled and they were remanded to custody that PW11, the forest watcher, found the courage to depose before Court.

19.4. This reveals a reality which conviction alone cannot cure. It reveals that the instinct of a community to protect its own members, even in the face of grave wrongdoing, may at times become stronger than the willingness to speak the truth before a court of law. Witness protection in this country remains deeply inadequate in practice. Though the Witness Protection Scheme of 2018 as approved by the Apex Court



in **Mahender Chawla And Others v. Union Of India And Others**⁴², exists in theory, its implementation in cases involving local community pressure, economic dependence, and social intimidation has remained largely ineffective. Intervention by the judiciary or by the executive alone may not cure evil. It is for every one of us to brood about the sad plight plaguing the system and take remedial measures.

19.5. This case also demonstrates, perhaps more clearly than any recent case before this Court, the profound importance of electronic evidence in the administration of criminal justice. Ultimately, the truth regarding what transpired on 22.02.2018 was not preserved by human testimony. It survived because of three CCTV cameras, six mobile phones, a GPS chip embedded in a Xiaomi Mi A1 mobile phone, call detail records stored on servers in Pune, and the forensic analysis undertaken by Government scientists who painstakingly examined those devices. The accused themselves recorded portions of the incident. They circulated the videos through WhatsApp. They retained the files in their phones until the police seized them. In doing so, they inadvertently created one of the most complete evidentiary records of a mob assault that this Court has ever had occasion to examine. The Supreme Court in **Kailas** (Supra) has laid down that such electronic evidence is admissible, inherently reliable in its essential nature, and capable of sustaining conviction even in the absence of dependable oral testimony. That principle proved decisive in the present case. Without such evidence, several convicted accused would almost certainly have escaped criminal liability, aided by the silence of those who witnessed the incident and chose not to disclose the truth.

⁴² 2018 SCC Online SC 2679



19.6. At the same time, technology alone cannot remedy every deficiency in the criminal justice process. We must acknowledge that the investigation in the present case suffered from certain shortcomings. The forensic examination of electronic evidence was delayed because the infrastructure necessary for timely digital forensic analysis remains inadequate even today. The charge sheet initially framed did not fully capture the gravity and legal dimensions of the offences committed. The enhanced provisions of the SC/ST (PoA) Act, particularly Sections 3(2)(v) and 3(2)(va), were not pursued with the seriousness that the evidence warranted. The rejection of those charges by the learned Sessions Court, on reasoning which we have found to be legally unsustainable, reflects not merely an error in judicial analysis but also a broader difficulty in the practical understanding and application of special legislation enacted for the protection of historically marginalised communities. Investigating Officers dealing with offences under the SC/ST(PoA) Act must be specifically sensitised to the evidentiary requirements of that statute. Prosecutors must approach such cases with a clear understanding of the legislative intent and statutory presumptions contained in the Act. Courts, too, must apply the protections consciously enacted by Parliament for communities that have historically struggled to secure justice through ordinary legal processes.

19.7. There is another aspect of this case that must be stated with clarity. What happened to Madhu was not an isolated aberration. It was the product of a social atmosphere in which a group of persons believed that they possessed the authority to apprehend, punish, and publicly humiliate a tribal man accused of stealing food from nearby shops. The police had not succeeded in locating him. Criminal cases against him



remained pending. Formal institutions of the State had, in the perception of the local shopkeepers, failed to “deal with” Madhu. They therefore chose to deal with him themselves. They marched him before their shops carrying a sack of alleged stolen goods so that the public could witness his humiliation. They described it as justice. It was not justice but an exercise of raw social power, the power of the organised against the defenceless, the power of the dominant community against the outsider, and the power of those possessing resources against a man who possessed almost nothing. Madhu was not shown to be violent. In fact, the photos and videos of Madhu portray a small man with child-like innocence. All that he did was steal food to satiate his hunger. His life had already been reduced by illness and poverty to its most fragile condition. He survived in the forest and searched for food wherever he could find it. The men who assaulted him had shops, vehicles, mobile phones, community networks, and the practical protection that often accompanies social dominance in a small locality. The imbalance of power between them and Madhu was absolute. It is precisely in such situations that the law must speak with its greatest clarity and firmness.

19.8. We earnestly hope that incidents of this nature will never happen again. But hope alone is insufficient. Preventing such incidents requires consolidated effort. It requires an honest recognition of the continuing realities of caste and social discrimination, even within communities that often perceive themselves as progressive and socially advanced. Kerala’s literacy and developmental achievements do not render it immune from caste-based violence. This case itself stands as proof of that reality. It requires a genuinely effective witness protection system that assures ordinary citizens that speaking the truth in court will not cost them their livelihood, safety, or standing



within the community. It requires adequate mental health infrastructure and community care systems for persons like Madhu, whose illness drove him into the forest and whose hunger compelled him to steal, so that the collapse of social welfare mechanisms does not leave vulnerable individuals exposed to vigilante violence. Most importantly, it requires a deeper cultural transformation in the manner in which society views tribal and forest-dwelling communities. The tribals of Attappadi are not a problem to be controlled or punished. They are citizens of this country, protected by the Constitution, entitled to equal dignity under law, and deserving of the same compassion and humanity owed to every other person. Madhu's death is a stark reminder of how far society still remains from realising that promise.

19.9. We hope that this judgment serves not merely as a record of convictions and sentences imposed, but also as a reminder to courts, investigators, prosecutors, public authorities, and society at large that the distance between constitutional promise and constitutional reality is measured in human lives. Madhu's life was one such life. Let that never be forgotten.

20. Conclusion:

In the result:

- I. Crl. A. No. 601 of 2023 filed by the appellant/accused No. 1 (Hussain) is allowed. The finding of guilt, conviction, and sentence passed against the appellant/accused No. 1 in S.C. No. 265 of 2018 on the file of the Special Court for SC/ST (PoA) Act Cases, Mannarkkad for the offenses under S.304 Part II r/w Section 149, Section 143, S.147, S.323, S.342 all r/w Section 149



are set aside, and the appellant/accused No. 1 is acquitted of all charges. Bail Bond executed by him shall be cancelled and he shall be set at liberty forthwith, if his continued incarceration is not required in connection with any other case.

II. Crl. A. No. 602 of 2023 is the appeal filed by appellant No. 1/accused No. 2 (Marakkar) and appellant No. 2/accused No. 5 (Radhakrishnan); Crl. A. No. 598 of 2023 is the appeal filed by appellant No. 1/accused No. 3 (Shamsudheen), appellant No. 2/accused No. 6 (Aboobacker), appellant No. 3/accused No. 8 (Ubaid), appellant No. 4/accused No. 9 (Najeeb), and appellant No. 5/accused No. 10 (Jaijumon); Crl. A. No. 604 of 2023 is the appeal filed by appellant No. 1/accused No. 7 (Sidhique), appellant No. 2/accused No. 12 (Sajeev), appellant No. 3/accused No. 13 (Satheesh), appellant No. 4/accused No. 14 (Hareesh), and appellant No. 5/accused No. 15 (Biju). These appeals filed by the accused are dismissed, confirming the judgment of the learned Sessions Court convicting accused Nos. 2, 3, 5, 6, 7, 8, 9, 10, 12, 13, 14, and 15 under Sections 143, 147, 323, 324, 326, 342, 367 r/w. Section 149 of the IPC, and under Section 3(1)(d) of the SC/ST (PoA) Act as modified below.

III. Crl. A. No. 661 of 2023 and Crl. A. (V) No. 27 of 2024 are filed challenging the acquittal of accused Nos. 4 and 11 and also seeking conviction of the accused under Section 302 of the IPC and Sections 3(2)(v) and 3(2)(va) of the SC/ST (PoA) Act. These appeals are partly allowed as under:



- A. The finding of acquittal passed in favour of accused Nos. 4 and 11 by the trial court is confirmed and the appeals against the same are dismissed.
- B. The finding of the trial court that the offences under Sections 3(2)(v) and 3(2)(va) of the SC/ST (Prevention of Atrocities) Act, 1989 are not made out against accused Nos. 2, 3, 5, 6, 7, 8, 9, 10, 12, 13, 14, and 15 is set aside.
- C. In reversal, accused Nos. 2, 3, 5, 6, 7, 8, 9, 10, 12, 13, 14, and 15 are found guilty of and convicted for the following offences:
- (i) the offence punishable under Section 304 Part II of the IPC r/w Section 3(2)(v) of the SC/ST (PoA) Act, r/w Section 149 of the IPC;
 - (ii) the offence punishable under Section 326 of the IPC r/w Section 3(2)(v) of the SC/ST (PoA) Act, r/w Section 149 of the IPC;
 - (iii) the offence punishable under Section 367 of the IPC r/w Section 3(2)(v) of the SC/ST (PoA) Act, r/w Section 149 of the IPC;
 - (iv) the offence punishable under Section 323 of the IPC r/w Section 3(2)(va) of the SC/ST (PoA) Act, r/w Section 149 of the IPC;
 - (v) the offence punishable under Section 324 of the IPC r/w Section 3(2)(va) of the SC/ST (PoA) Act, r/w Section 149 of the IPC;



CRL.A Nos. 601/2023, 598/2023, 602/2023,
604/2023, 661/2023, 676/2023, CRA(V)No. 27/2024

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- (vi) the offence punishable under Section 342 of the IPC r/w Section 3(2)(va) of the SC/ST (PoA) Act, r/w Section 149 of the IPC;
- (vii) the offences punishable under Sections 143 and 147 of the IPC r/w Section 3(2)(va) of the SC/ST (PoA) Act.
- D. The convictions recorded by the trial court under Section 3(1)(d) of the SC/ST (PoA) Act are maintained.
- E. Crl. A No. 676 of 2023 filed by the 16th accused is dismissed. Crl. A. No. 661 of 2023 and Crl.A (V) No. 27 of 2024 are partly allowed insofar as A16 is concerned and the finding of guilt and sentence passed by the learned Sessions Judge in respect of accused No. 16 are modified, and he is found guilty of the offence punishable under Section 3(2)(va) of the SC/ST (PoA) Act r/w Section 323 of the IPC.

For hearing on the sentence under Section 235(2) of the Code of Criminal Procedure, post at 2.00 p.m. today.

**RAJA VIJAYARAGHAVAN V,
JUDGE**

**K.V. JAYAKUMAR,
JUDGE**

@S & APM/25/05/2025



21. Sentence and Operative Portion of the Judgment:

21.1. The accused Nos. 2, 3, 5, 6, 7, 8, 9, 10, 12, 13, 14, and 15 are found guilty of the offence punishable under Section 304 Part II of the IPC r/w Section 3(2)(v) of the SC/ST (PoA) Act, r/w Section 149 of the IPC; Section 326 of the IPC r/w Section 3(2)(v) of the SC/ST (PoA) Act, r/w Section 149 of the IPC; Section 367 of the IPC r/w Section 3(2)(v) of the SC/ST (PoA) Act, r/w Section 149 of the IPC; Section 323 of the IPC r/w Section 3(2)(va) of the SC/ST (PoA) Act, r/w Section 149 of the IPC; Section 324 of the IPC r/w Section 3(2)(va) of the SC/ST (PoA) Act, r/w Section 149 of the IPC; Section 342 of the IPC r/w Section 3(2)(va) of the SC/ST (PoA) Act, r/w Section 149 of the IPC; Sections 143 and 147 of the IPC r/w Section 3(2)(va) of the SC/ST (PoA) Act and under Section 3(1)(d) of the SC/ST (PoA) Act. The accused No. 16 was found guilty of the offence punishable under Section 3(2)(va) of the SC/ST (PoA) Act r/w. Section 323 of the IPC.

21.2. The judgment was rendered, and the accused were granted time for reflection. At 12:45 p.m., the accused were produced before us and they were heard on the question of sentence u/s. 235(2) of the Cr.P.C.

21.3. Accused No. 2 (Sri. Marakkur) stated that he has four minor children and an aged mother to support. He pleaded for leniency. He also stated that he is on parole and requested that sympathy be shown to him. Accused No. 3 (Sri. Shamsudheen) stated that he has a wife and three children. He submitted that his wife has no other source of income and that he also has an aged mother to support. He sought maximum leniency



and reduction of sentence. He further stated that he is on parole and is to report back to jail on 09.06.2026. Accused No. 5 (Sri. Radhakrishnan) stated before us that he has an aged mother to support. He pleaded for leniency and submitted that he is on parole. Accused No. 6 (Sri. Aboobacker) submitted that he is innocent of the allegations and pleaded for leniency. According to him, he is on parole and is to report back to jail on 29.05.2026. Accused No. 7 (Sri. Sidhique) submitted that he has an aged and ailing mother, a wife, and four children to support. He pleaded that maximum leniency be shown to him. According to him, he is on parole and is to report back to jail on 30.05.2026. Accused No. 8 (Sri. Ubaid) stated before us that he has aged parents, a wife, and two children. He also pleaded for maximum leniency and stated that he is on parole and is to report back to jail on 29.05.2026. Accused No. 9 (Sri. Najeeb) stated that he has a wife and three children and pleaded for leniency. He submitted that he is on parole and is to report back to jail on 30.05.2026. Accused No. 10 (Sri. Jaijumon) stated before us that he has three children. According to him, one of his sons is suffering from a heart ailment and requires valve replacement surgery. He stated that his wife is unemployed. He also submitted that he is on parole and is to report back to jail on 31.05.2026. Accused No. 12 (Sri. Sajeev) stated that he is innocent. According to him, he is on parole and pleaded for leniency. Accused No. 13 (Sri. Satheesh) stated that he has already undergone more than three years of imprisonment. He pleaded for leniency. He also submitted that he is on parole and is to report back to jail on 01.06.2026. Accused No. 14 (Sri. Hareesh) submitted that he has a wife and a small child. According to him, there is no one to support them. He also pleaded for leniency. Accused No. 15 (Sri. Biju) stated that he has a wife and two children who rely on him for sustenance. According to him, his



wife is unemployed. He also pleaded for leniency. Accused No. 16 (Muneer) stated that he has already undergone imprisonment for about 130 days. He further submitted that his father is ill and that he has a small child to take care of.

21.4. In **Ravji v. State of Rajasthan**⁴³, the Apex Court has held that it is the nature and gravity of the crime but not the criminal, which are germane for consideration of appropriate punishment in a criminal trial. The court will be failing in its duty if appropriate punishment is not awarded for a crime which has been committed not only against the individual victim but also against the society to which the criminal and victim belong. The punishment to be awarded for a crime must not be irrelevant but it should conform to and be consistent with the atrocity and brutality with which the crime has been perpetrated, the enormity of the crime warranting public abhorrence and it should "respond to the society's cry for justice against the criminal". If for an extremely heinous crime of murder perpetrated in a very brutal manner without any provocation, most deterrent punishment is not given, the case of deterrent punishment will lose its relevance."

21.5. In **Santa Singh v. State Of Punjab**⁴⁴, Bhagwati, J. (as his Lordship then was), speaking for the Court, while interpreting the words used in Section 235(2) of the Code of Criminal Procedure, adverted to the concept of proper sentence and opined thus:

"3. ... a proper sentence is the amalgam of many factors such as the nature of the offence, the circumstances—extenuating or aggravating—of the offence, the prior criminal record, if any, of the offender, the age of the

⁴³ [(1996) 2 SCC 175]

⁴⁴ [(1976) 4 SCC 190]



offender, the record of the offender as to employment, the background of the offender with reference to education, home life, sobriety and social adjustment, the emotional and mental condition of the offender, the prospects for the rehabilitation of the offender, the possibility of return of the offender to a normal life in the community, the possibility of treatment or training of the offender, the possibility that the sentence may serve as a deterrent to crime by the offender or by others and the current community need, if any, for such a deterrent in respect to the particular type of offence. These are factors which have to be taken into account by the court in deciding upon the appropriate sentence, and, therefore, the legislature felt that, for this purpose, a separate stage should be provided after conviction when the court can hear the accused in regard to these factors bearing on sentence and then pass proper sentence on the accused.

Even otherwise, as per the Section 3 (2) (v) of the Act, a person who commits any offence under the Indian Penal Code (45 of 1860) punishable with imprisonment for a term of a ten years or more against a person or property knowing that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member shall be punishable with imprisonment for life and with fine;

And under Section 3 (2) (va) a person who commits any offence specified in the Schedule, against a person or property, knowing that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with such punishment as specified under the Indian Penal Code (45 of 1860) for such offences and shall also be liable to fine.

21.6. We have carefully considered the submissions made by the accused when they were heard on the question of sentence. Madhu, a young man belonging to the tribal community was hunted, paraded and was displayed as a trophy of community vengeance. The men who did this did not believe they were committing a crime but they believed they were rendering justice. What they were actually doing was demonstrating, in its most naked form, the power of the organised over the defenceless. Madhu stole food because he was hungry. His life had been reduced by illness, poverty, and social abandonment to its most fragile condition. The men who surrounded him had vehicles, mobile phones, shops, and the power of social dominance.



21.7. It is in this context that the scope and purpose of the Scheduled Castes and Scheduled Tribes (PoA) Act, 1989, must be examined before the question of sentence is addressed. The Statement of Objects and Reasons accompanying the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Bill, 1989, as noted by the Hon'ble Supreme Court in **State of M.P. v. Ram Krishna Balothia**⁴⁵, sets out with stark clarity the social evil which the statute was enacted to remedy. It would be apposite to extract the same below:

"Despite various measures to improve the socio-economic conditions of the Scheduled Castes and the Scheduled Tribes, they remain vulnerable. They are denied a number of civil rights. They are subjected to various offences, indignities, humiliations and harassment. They have, in several brutal incidents, been deprived of their life and property. Serious crimes are committed against them for various historical, social and economic reasons

2. ... When they assert their rights and resist practices of untouch-ability against them or demand statutory minimum wages or refuse to do any bonded and forced labour, the vested interests try to cow them down and terrorise them. When the Scheduled Castes and the Scheduled Tribes try to preserve their self-respect or honour of their women, they become irritants for the dominant and the mighty. Occupation and cultivation of even the Government allotted land by the Scheduled Castes and Scheduled Tribes is resented and more often these people become victims of attacks by the vested interests. Of late, there has been an increase in the disturbing trend of commission of certain atrocities like making the Scheduled Caste persons eat inedible substances like human excreta and attacks on and mass killings of helpless Scheduled Castes and Scheduled Tribes and rape of women belonging to the Scheduled Castes and the Scheduled Tribes.... A special legislation to check and deter crimes against them committed by non-Scheduled Castes and non-Scheduled Tribes has, therefore, become necessary."

21.8. The facts of the present case are a grim illustration of precisely the social conditions that moved Parliament to enact this legislation. The Statement of Objects and

⁴⁵ [(1995) 3 SCC 221]



Reasons identifies a recurring pattern. When members of the Scheduled Castes and Scheduled Tribes assert their rights and demand statutory protection, the dominant and the vested interests respond with violence and terror. It is to break that pattern and to signal, unambiguously, that the law will not treat such violence as ordinary crime that Parliament incorporated stringent and mandatory penal provisions into the Act. The Hon'ble Supreme Court in **Ram Krishna Balothia** (supra) upheld the constitutional validity of the provisions and held that the legislature's deliberate choice to remove judicial discretion in such cases reflects a conscious policy decision to treat atrocities against members of the Scheduled Castes and Scheduled Tribes with special severity. The purpose of the enhanced punishment under the Act is not merely punitive. As the Hon'ble Supreme Court held in **Patan Jamal Vali** (supra), it is restorative of constitutional dignity. An affirmation, by the State through its courts, that the victims of such atrocities are full citizens entitled to the equal protection of the law, and that those who deny them that dignity will face consequences that the ordinary law of crimes does not contemplate.

21.9. Section 3(2)(v) of the SC/ST (PoA) Act provides that whoever, not being a member of a Scheduled Caste or a Scheduled Tribe, commits any offence under the Indian Penal Code punishable with imprisonment for a term of ten years or more, against a person knowing that such person is a member of a Scheduled Caste or a Scheduled Tribe, shall be punishable with imprisonment for life and with fine. The word "shall" is unambiguous. Once we hold that the ingredients of Section 3(2)(v) of the SC/ST (PoA) Act are established, the sentencing consequence is not a matter of discretion. A contention was advanced before us that Section 304 Part II of the IPC carries only imprisonment for a term which may extend to ten years or with fine, or with both, and



hence Section 3(2)(v) will not have any application. We are afraid that the said contention cannot be accepted. Section 304 Part II of the IPC carries a maximum of exactly ten years and this according to us will squarely satisfy the "ten years or more" threshold in Section 3(2)(v) of the SC/ST (PoA) Act. There is no residual power in this Court to impose a lesser sentence on grounds of equity, sympathy, or mitigating circumstances. The mandatory sentence is the legislative policy. The SC/ST (PoA) Act, being a special statute enacted for a specific protective purpose, overrides the general sentencing discretion available under the IPC and the Code of Criminal Procedure. The sentence of imprisonment for life is, in these circumstances, not a choice this Court makes, but it is what the law insists and commands.

21.10. We would like to record that this insistence of the law carries a meaning beyond the fate of the convicted accused. It is addressed to every person who was present at Mukkali junction that afternoon and looked away. It is addressed to every witness who watched a CCTV recording of themselves and pleaded ignorance. It is addressed to every locality that believes it may constitute itself into a village court and pronounce its own justice upon those it considers lesser. The sentence imposed today is the Constitution's answer to that belief. Madhu deserved to live. He deserved the protection of every provision that Parliament enacted for persons in his position. He received none of it in life. This Court, in its sentence, endeavours to ensure that his death is not without legal consequence.



21.11. In the result, the following sentence is passed:

- I. The convictions recorded by the trial court under Section 3(1)(d) of the SC/ST (PoA) Act and under Sections 143, 147, 149, 304 Part II, 323, 324, 326, 342, and 367 of the IPC are maintained. The sentences imposed thereunder, however, shall stand subsumed in the sentences now awarded under Sections 3(2)(v) and 3(2)(va) of the SC/ST (PoA) Act, as the latter provisions, being special and more stringent, shall prevail in accordance with the principle that a special statute operates in derogation of a general one.
- II. In view of the mandatory language of Section 3(2)(v) of the SC/ST (PoA) Act, the accused Nos. 2, 3, 5, 6, 7, 8, 9, 10, 12, 13, 14, and 15 are sentenced to undergo:
 - (a) imprisonment for life and to pay a fine of ₹2,00,000/- (Rupees Two Lakhs Only) each, and, in default of payment of fine, to undergo simple imprisonment for six months for the offences under Section 304 Part II r/w Section 3(2)(v) of the SC/ST (PoA) Act r/w Section 149 IPC;
 - (b) imprisonment for life and to pay a fine of ₹50,000/- (Rupees Fifty Thousand Only) each, and, in default of payment of fine, to undergo simple imprisonment for three months for the offence under Section 326 r/w Section 3(2)(v) of the SC/ST (PoA) Act r/w Section 149 IPC;



(c) imprisonment for life and to pay a fine of ₹50,000/- (Rupees Fifty Thousand Only) each, and, in default of payment of fine, to undergo simple imprisonment for two months for the offence under Section 367 r/w Section 3(2)(v) of the SC/ST (PoA) Act r/w Section 149 IPC.

(d) The imprisonment and fine for the offences under 143, 147, 323, 324, 342 of the IPC are maintained but modified as r/w Section 3(2)(va) r/w Section 149 of the IPC.

III. The finding of guilt, conviction, and sentence passed by the learned Sessions Judge in respect of accused No. 16 are modified, and he is found guilty of the offence punishable under Section 323 of the IPC r/w Section 3(2)(va) of the SC/ST (PoA) Act and sentenced to undergo Simple Imprisonment for one year and to pay a fine of ₹1000/- (Rupees One Thousand Only), and in default, to undergo Simple Imprisonment for two months

IV. All sentences shall run concurrently.

V. The period of imprisonment, if any, already undergone by the convicted accused shall be set off against the sentence now awarded, in accordance with Section 428 of the Code of Criminal Procedure, 1973.

VI. We note that all the accused except Accused No 16 are undergoing their sentence. Some of them are on parole. The accused who have been lawfully released on parole shall report back to Jail as ordered in the Parol



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Order and serve the sentence. Accused No. 16 shall surrender forthwith and serve the sentence. As stated above, 16th accused shall also be entitled to setoff for the period undergone in custody while as an undertrial.

VII. If the fine amount is realized from the accused, an amount of ₹30,00,000/- (Rupees Thirty Lakh only) shall be paid to PW70, the mother and the balance to the legal heirs, if any, of Madhu. In the absence of legal heirs, the said amount shall also be paid to PW70.

VIII. The learned Sessions Court had also addressed the District Legal Services Authority, Palakkad, for victim compensation. If the compensation has not been determined or paid, the same shall be expedited, and the compensation shall be paid to PW70 within an outer limit of 3 months from today.

sd/-
**RAJA VIJAYARAGHAVAN V,
JUDGE**

sd/-
**K.V. JAYAKUMAR,
JUDGE**