

T A B U L A R F O R M

1.	Serial Number	:	Sessions Case No. 525/2013
2	Name of the Police Station and Crime No. of the offence	:	Thalassery Police Station, Crime No.768/2010.

DESCRIPTION OF THE ACCUSED

	3. Name and Rank	4. Father's Name	5. Occu- pation	6. Residence	7. Age
1.	Sujith.T.@ Balan	ENT Suren- dran	Furni- ture Work	Sushi Nivas, Koyyod Theru, Palloor, Mahe.	24/12
2.	N.K.Sunil Kumar @ Kodi Suni	Surendraan	Coolie	Meethale Chalil, Sharon Villa, Chokli, Nidumbram.	28/12
3.	T.K.Sumesh @ Kochakalan Sumesh	Rameshan	Coolie	Manduparambath Colony, Naluthara, Chalakkara.	31/12
4.	K.K.Muham- mad Shafi	Moidu	Coolie	Parambath House, Chokli, Near Oriental School.	27/12
5.	Shamil.T.P.	Mahamood	Meat work	Shamil Nivas, Palloor, Near St. Theras School.	25/12
6.	Shammas.A.K	Abdulla	Meat work	Koodentavida House, Chokli, Kaviyoor Road.	23/12
7.	Abbas.K.K.	Muhammed	Sales- man	Kuniyil House, East Palloor.	23/12
8.	Parayulla Parambath Rahul	Prabhaka- ran	Student	Chembra, Naluthara, Near Ration Shop.	21/12
9.	Vineesh @ Thenga	Balakrish- nan	Coolie	Kunnummal Veedu, Palloor, Naluthara, Chalakkara.	32/12
10.	C.K.Rajikanth @ Koorappan (Died)	--	--	--	--

11.	Vijith.P.V.	Vijayan	Coolie	Padinjare Palullathil House, Naluthara, Palloor.	28/12
12.	Muhammad Rajees @ Assu(Died)	--	--	--	--
13.	Shinoj.K.	Achuthan	Coolie	Kannattinkal Ashirvad Nivas, Palloor, Kohinoor.	24/12
14.	Faizal	Azeez	Coolie	Meethale Edakkadentavida House, Azheekkal, New Mahe.	30/12
15.	Kattil Puthiya Veettil Sareesh	Purushot-haman	Loading work	Thanal House, Chokli asmom, Olavilam.	28/12
16.	Sajeer.T.P.	Ismail	Driver	Thavakkal Manzil, Chokli, Near Kannothe Pali.	26/12

DATE OF

8.	Occurrence	:	28-05-2010.
9.	Complaint	:	28-05-2010.
10.	Apprehension of the accused A1 : 08-09-2010 A2, A3, A4 & A14 : 12-07-2010(Surrendered before court and remanded) A5 : 31-05-2010 A6 & A8 : 04-06-2010 A7 :04-06-2010 & 17-11-2021 A9 : 23-06-2010		11. Release on bail A1 : 09-12-2010. A2, A3, A4 & A14 : 12-10-2010. A5 : 31-08-2010. A6 & A8 : 03-09-2010. A7 :03-09-2010 & 04-12-2021. A9 : 24-09-2010.

	A11, A13 & A15 : 02-09-2010 (Surrendered before court and remanded) A16 - 27-09-2010 & 29-08-2016		A11, A13 & A15 : 04-12-2010. A16 : 15-10-2010 & 08-09-2016.
12.	Commitment	:	CP No.87/2012 : 08-07-2013. CP No.87/2016 : 30-11-2016. CP No.61/2021 : 31-01-2022.
13.	Commencement of trial	:	16-11-2024.
13A.	Commencement of evidence	:	22-01-2025.
14.	Close of trial	:	06-10-2025.
15.	Sentence/Order	:	08-10-2025.
16.	Service of copy of judgment or finding on Accused	:	--
17.	Explanation for delay	:	B Diary extract attached.
18.	Period of detention undergone during investigation, inquiry or trial for the purpose of Section 428 Cr.P.C.	:	--

Additional Sessions Court-III,
Thalassery, Dated : 08-10-2025.

ADDL. SESSIONS JUDGE- III

IN THE COURT OF SESSION, THALASSERY

Present :- Smt. Ruby K Jose, Addl. Sessions Judge-III

Wednesday, the 8th day of October, 2025/16th Aswina, 1947**SESSIONS CASE No. 525 OF 2013**

(Committed by Sri.Suraj.S., Judl. First Class Magistrate, Thalassery in CP No.87/2012, Smt.Vinitha.C., Judl. First Class Magistrate, Thalassery in CP No.87/2016 and of Smt.Rukma S.Raj, Judl. First Class Magistrate, Thalassery in CP No.61/2021 in Crime No.768/2010 of Thalassery Police Station)

Complainant	:	State : (SHO Thalassery Police Station) (Prosecution Conducted by Sri. P.Premarajan, Spl. Public Prosecutor, Thalassery.	
Accused:	:	1.	Sujith.T @ Balan, S/o.ENT Surendran, Aged 24/12, Furniture Work, Sushi Nivas, Koyyod Theru, Palloor, Mahe.
		2.	N.K.Sunil Kumar @ Kodi Suni, S/o. Surendran, Aged 28/12, Coolie Meethale Chalil, Sharon Villa, Chokli, Nidumbram.
		3.	T.K.Sumesh @ Kochakalan Sumesh, S/o. Rameshan, Aged 31/12, Coolie, Manduparambath Colony, Naluthara, Chalakkara.
		4.	K.K.Muhammed Shafi, S/o. Moidu, Aged 27/12, Coolie, Parambath House, Chokli, Near Oriental School.
		5.	Shamil.T.P., S/o.Mahamood, Aged 25/12, Meat work, Shamil Nivas, Palloor, Near St. Theras School.
		6.	Shammas.A.K., S/o.Abdulla, Aged 23/12, Meat work, Koodentavida House, Chokli, Kaviyoor Road.
		7.	Abbas.K.K., S/o. Muhammed, Aged 23/12, Salesman, Kuniyil House, East Palloor.

		8.	Parayulla Parambath Rahul, S/o. Prabhakaran, Aged 21/12, Student, Chembra, Naluthara, Near Ration Shop.
		9.	Vineesh @ Thenga, S/o. Balakrishnan, Aged 32/12, Coolie, Kunnummal Veedu, Palloor, Naluthara, Chalakkara.
		10.	C.K.Rajikanth @ Koorappan, (Died)
		11.	Vijith.P.V., S/o. Vijayan, Aged 28/12, Coolie, Padinjare Palullathil House, Naluthara, Palloor.
		12.	Muhammed Rajees @ Assu, (Died)
		13.	Shinoj. K, S/o. Achuthan, Aged 24/12, Kannattinkal Ashirvad Nivas, Palloor, Kohinoor.
		14.	Faizal, S/o. Azeez, Aged 30/12, Meethale Edakkadentavida House, Azheekkal, New Mahe.
		15.	Kattil Puthiya Veetil Sareesh, S/o.Purushothaman, Aged 28/12, Loading work, Thanal House, Chokli asmom, Olavilam.
		16.	Sajeer. T.P, S/o. Ismail, Aged 26/12, Driver, Thavakkal Manzil, Chokli, Near Kannothe Pali.
		(Accused defended by S/Sri.C.K.Sreedharan and K.Viswan Advocates.	
Charge	:	U/s.143, 147, 148, 341, 435, 109, 120(B), 201, 302 r/w 149 of IPC and Sec.3 & 5 of Explosive Substances Act.	
Plea of the accused	:	Not guilty.	
Finding of the Judge	:	Not guilty.	

Sentence/Order:- In the result, the accused Nos. 1,2, 3, 4, 5, 6, 7, 8, 9, 11, 13, 14, 15 and 16 are acquitted of the aforesaid offences under Section 235(1) Cr.PC. They shall be set at liberty forthwith and the bail bonds executed by them stand cancelled. The material objects produced and identified during the course of the trial shall be disposed of in accordance with the law. Accused Nos. 10 and 12 no more and charge against them stood abated.

J U D G M E N T

The accused persons in this case face indictment for the offences punishable under Sections 143, 147, 148, 341, 435, 120B, 201, 109 and 302 read with Section 149 of the Indian Penal Code and Sections 3 and 5 of the Explosive Substances Act.

Prosecution Case

2. On 28th May 2010, at Naluthara Amsom, Palloor Desom, near Chembra Sree Narayana Madham, with the intention and preparation to murder Vijith of Madomburankandi Veedu and Sinoj of Kurunthorathu Veedu, who were BJP/RSS workers, due to political enmity, accused Nos. 1 to 16, who were CPM workers, entered into a conspiracy and accused Nos. 9 and 15 instigated the crime.

3. It was known to the accused that the said Vijith and Sinoj, along with other BJP/RSS workers, were to appear before the Mahe

Court in connection with a case. The accused No. 1, waiting at Mahe Church ground, informed the movements of the victims to the accused persons who were in the Scorpio car bearing No. KL-18-C-1105, belonging to the accused No. 16, passed on the information to the accused waiting at the spot, by making a call to the accused No.15 on his mobile phone No.9847722045. Thereafter, the information was conveyed to the accused No.2, who was waiting at the by-lane near the scene.

4. After appearing before Court, when the deceased Sinoj and Vijith were proceeding towards Perungadi side on motorcycle No. PY-03-7187, accused Nos.9 and 15, in the Scorpio car bearing No. KL-18-C-1105 of the accused No. 16, followed and gave information, instigation and assistance.

5. At about 11.00 a.m., at Kallayi Chungam, New Mahe, the accused, armed with bombs and deadly weapons, intercepted the victims. Accused No. 3 allegedly cut Vijith's hand with a sword, accused No. 2 threw a bomb at the motorcycle, causing it to catch fire and several accused surrounded the victims and inflicted multiple cut injuries, resulting in their death.

6. Thereafter, the accused escaped in the Scorpio vehicle owned by accused No. 16, later repairing damage to it and destroying their blood-stained clothes to screen themselves from legal punishment. Accused No.4, who sustained injuries during the incident, was taken by the other accused persons to Kannur for medical treatment in an attempt to conceal his involvement. The motorcycle was destroyed, resulting in an estimated loss of ₹18,000.

7. According to the prosecution, all the accused acted in furtherance of their common object, unlawfully using bombs and committing the murders, thereby liable under Sections 143, 147, 148, 341, 435, 120B, 201, 109 and 302 read with Section 149 IPC and under Sections 3 and 5 of the Explosive Substances Act.

Committal Proceedings and Course of Trial

8. The Addl. Sub Inspector of Police, Thalassery Police Station registered Crime No.768/2010 against the accused persons. PW39 and PW43 conducted the investigation and PW44 completed the investigation and filed the final report against the accused persons.

9. On completion of the investigation, a final report was filed before the Judicial First Class Magistrate Court, Thalassery. The

case was taken on file as CP 87/2012. Accused Nos. 1 to 6, 8 to 11 and 13 to 15 appeared before the Court. Accused No. 12 is no more. The charge against A12 is abated. Accused Nos.7 and 16 did not appear before the Trial Court despite repeated coercive steps taken against them. Hence, the case against them was split up and refiled as CP 46/2013.

10. When the accused Nos.1 to 6, 8 to 11 and 13 to 15 appeared before the Committal Court, copies of all the records relied on by the prosecution were supplied to them under Section 207 Cr.PC. After complying with the formalities, the learned Magistrate committed the case for trial to the Court of Session, Thalassery. The case was taken on file as SC 525/2013 for disposal.

11. The accused Nos.7 and 16 did not appear before the committal proceedings as CP 46/2013; the cases against them were transferred to the Long Pending Register as LPC 64/14. Thereafter, accused No.16 surrendered before the Court and the case was taken on file as CP 87/2016. When the accused No.16, appeared before the Committal Court, copies of all the records relied on by the prosecution were supplied to him under Section 207 Cr.PC. After complying with the formalities, the learned Magistrate

committed the case for trial to the Court of Session, Thalassery. The case was taken on file as SC 275/2017 for disposal. Thereafter, on 06.07.2017, SC 275/2017 was clubbed with SC 525/2013.

12. Accused No.7 surrendered before the Court and the case was taken on file as CP 61/2021. When the accused No.7, appeared before the Committal Court, copies of all the records relied on by the prosecution were supplied to him under Section 207 Cr.PC. After complying with the formalities, the learned Magistrate committed the case for trial to the Court of Session, Thalassery. The case was taken on file as SC 208/2022 for disposal. Thereafter, on 31.08.2022, SC 208/2022 was clubbed with SC 525/2013.

13. The accused persons appeared before this Court. The accused persons are on bail. A lawyer of their choice defended them. After hearing both the prosecution and the defence, the learned predecessor framed the charges. In the meantime, since accused No. 10 had passed away, the proceedings against him stood abated. Subsequently, the charges were altered against the accused persons for the offences punishable under Sections 143, 147, 148, 341, 435, 120B, 201, 109 and 302, read with Section 149 of the Indian Penal Code and under Sections 3 and 5 of the

Explosive Substances Act. The charges were read over and explained to accused Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 13, 14, 15 and 16. All the accused pleaded not guilty and claimed to be tried.

14. The prosecution examined PW1 to PW44 and marked Exts.P1 to P140 and MO1 and MO65 were marked. CW10, 17, 20, 21, 23, 53, 56, 59, 78 were no more and CW3, 5 to 9, 12 to 15, 18, 19, 22, 24, 26, 27, 32, 33, 35 to 39, 41 to 46, 48, 50, 52, 54, 55, 57, 58,73 were given up by the learned Special Public Prosecutor. After the closure of the prosecution evidence, the accused persons were examined under Section 313 Cr.PC. They denied the incriminating evidences put to them and claimed innocence. The prosecution and the defence were then heard. As there was no scope for acquitting the accused under Section 232 Cr.PC., they were called upon to enter on their defence. On the defence side, DW1 and 2 were examined, along with Exts D1 to D27 and D27(a).

15. *Before formulating the points for determination, this Court deems it appropriate to place on record its appreciation for the sincere and meticulous efforts of the learned Special Public Prosecutor, Sri. P. Premarajan, as well as the learned defence counsel, Sri. C.K. Sreedharan, Sri. K. Viswan and their colleagues,*

in the effective conduct of this trial. Their diligence has greatly assisted the Court in navigating the voluminous record and complex factual matrix. With this acknowledgment, the Court now proceeds to examine the evidence on record in detail.

16. Points that arise for consideration

- 1) *Has the prosecution proved that the deaths of Vijith and Sinoj were homicidal in nature?*
- 2) *Has the prosecution proved that the accused entered into a criminal conspiracy to commit murder, Vijith and Sinoj, punishable under Section 120B IPC?*
- 3) *Has the prosecution proved that the accused persons formed themselves into an unlawful assembly, the common object of which was to murder Vijith and Sinoj and thereby committed an offence punishable under Section 143 r/w 149 IPC?*
- 4) *Has the prosecution proved that the accused murdered Vijith and Sinoj, thereby committing an offence punishable under Section 302 IPC?*
- 5) *Has the prosecution proved that the accused persons, being members of such unlawful assembly, committed the offence*

of rioting armed with deadly weapons, punishable under Section 147,148 r/w 149 IPC?

6) Has the prosecution proved that the accused persons wrongfully restrained Vijith and Sinoj, thereby committing the offence punishable under Section 341 r/w 149 IPC?

7) Has the prosecution proved that the second accused unlawfully and maliciously caused an explosion by a country bomb, an explosive substance of such a nature as was likely to endanger life and cause serious injury to property?

8) Has the prosecution proved that the second accused had in his possession or under his control explosive substances under circumstances giving rise to a reasonable suspicion that the same were not for a lawful object?

9) Has the prosecution proved that the second accused committed mischief by fire or explosive substance with intent to cause, or knowing it to be likely to cause, damage to property valued at one hundred rupees or upwards, punishable under Section 435 IPC?

10) Has the prosecution proved that the accused abetted the murder of Vijith and Sinoj and that the offence was committed in

consequence of such abetment, thereby making them liable under Section 109 IPC?

11) What, if any, are the offences proved to have been committed by the accused persons?

12) What sentence or order is to be passed?

17. **Points 1 to 12:-** These points are taken up together for consideration, for the sake of brevity and in view of the facts and circumstances of the case.

Before proceeding to analyse whether the deaths of Vijith and Sinoj were homicidal in nature, it is apposite to advert to the foundational aspects of the prosecution case, particularly the earliest version as reflected in the First Information Statement. PW28/P. Vasudevan Moosath, the then GD Charge Officer at Thalassery Police Station, recorded Exhibit P2 FIS given by PW2/O.P. Rajeesh at 12:15 p.m. on 28.05.2010, based on which Crime No. 768/2010 was registered and Exhibit P37 FIR prepared. His testimony formally establishes the prompt registration of the case, as stated by PW2. Upon careful consideration, this Court finds that the reliance placed by the learned defence counsel on the cases of **Thulia Kali v. State of Tamil Nadu [1972 KHC 592]**

and **Kailash Gour v. State of Assam [2011 KHC 511]** does not strengthen the defence case. These decisions highlight the negative impact of unexplained delays in lodging the First Information Report (FIR), which can raise the possibility of false implications or embellishments. However, in the present case, the FIR was filed promptly and without delay, thereby eliminating such a possibility. Consequently, the defence argument regarding this issue is without merit. However, the cross-examination brought out significant omissions in Exhibit P2, notably the absence of any mention of the goat-farm compound, its gate, or the hacking inside the premises. While the evidence of PW28 is reliable to prove the factum of registration of the FIR, the omissions in Exhibit P2 assume importance as they cast doubt on the completeness of the earliest version of the prosecution story.

18. It is further relevant to note that Sajayan of East Palloor, Shamseer of Gramathipalli, Sreekanth of Cherukallayi, Samad of Chalakara Mandapparambu Colony, Mufeeda of Kaviyoor, Lijish of Palloor Spinning Mill, Vijish, Sangeesh, Jithin, Rajeesh Babu of Kallayi Angadi, C.V. Vinodan and Nameem of Chalakara were arrayed initially as accused in Exhibit P37 FIR. Subsequently, by

Exhibit P137 report filed before the Court on 25.08.2012, the names of the above 12 accused were deleted at the time of submission of the final report. The learned Defence Counsel vehemently contended that the Investigating Officer has not furnished any cogent explanation either for the deletion of the names of the twelve persons initially implicated, or for the subsequent inclusion of the present thirteen accused, whose names, it is pointed out, had not been disclosed by any of the witnesses.

19. The prosecution seeks to establish the guilt of the accused through a combination of ocular testimony, medical evidence, the recovery of material objects, forensic reports and proof of motive arising from political enmity.

20. The learned Public Prosecutor relied on a catena of decisions to contend that the prosecution evidence, although emanating from partisan or related witnesses, cannot be discarded if otherwise trustworthy. Reliance was placed on **2025 KHC Online 6042 (Govardhan v. State of Chhattisgarh)** to argue that in a criminal trial, the assessment of evidence cannot be undertaken in a hyper-technical manner and that the Court must

keep in view the realities of life in its quest for the truth. Reliance was also placed on **1965 KHC 476/AIR 1965 SC 202 (Masalti v. State of U.P.)**, where it was held that mechanical rejection of evidence on the sole ground that it is partisan would invariably lead to failure of justice and that such testimony should be evaluated with caution rather than discarded in toto.

21. Placing further reliance on **2024 (1) KLD 45 (Madan v. State of U.P.)**, it was argued that if the evidence of an interested witness is otherwise consistent and accurate, the mere fact of a relationship with the victim cannot, by itself, discredit such testimony. Reliance was also placed on **2024 KHC Online 126 (Ramachandran K.C. v. State of Kerala)** to contend that in a case of political murder, the political affiliation of the witness alone should not be a basis for weighing against the credibility of their evidence. The Public Prosecutor also referred to **2013 KHC 4261 (Subal Ghorai & Ors. v. State of West Bengal)** to submit that an interested witness is not necessarily a bad witness and **2010 KHC 4495 (Bipin Kumar Mondal v. State of West Bengal)** to emphasise that it is the quality of evidence and not the quantity, that matters in proving a fact.

22. Further reliance was placed on **2025 KHC Online 7016 (Edakkandi Dineshan v. State of Kerala)** to contend that the principle of *falsus in uno, falsus in omnibus* ought to be applied. The learned Prosecutor also cited **1999 KHC 618 (State of Karnataka v. Yarappa Reddy)** to argue that even if there are lapses or suspicion regarding the role of the Investigating Officer, if the Court is otherwise convinced that the testimony of an occurrence witness is true, it is free to act upon such evidence.

23. The Public Prosecutor further relied on **2024 KHC Online 679 (Varghese v. State of Kerala)** and **2019 KHC 7234 (Ramji Singh & Ors. v. State of U.P.)** to argue that the FIR is not an encyclopedia and the absence of minute details in the FIR would not render it invalid. It was submitted that in the present case, PW2, who furnished the First Information Statement (Exhibit P2), specifically mentioned names, localities and overt acts of the twelve accused. However, those very accused were deleted from the array of accused based on subsequent versions of PW2. PW2, while admitting to having given Exhibit P2, has later resiled from it and sought to introduce an entirely new version. The learned

Prosecutor therefore urged that these contradictions be appreciated in the light of *falsus in uno, falsus in omnibus*.

Proof of Homicidal Death of Vijith and Sinoj

24. This Court now proceeds to examine Point No.1 - whether the prosecution has proved that the deaths of Vijith and Sinoj were homicidal.

25. The term "homicide," derived from the Latin *homo* (man) and *caedere* (to kill), literally denotes the act of killing a human being. In criminal jurisprudence, homicidal death encompasses an unlawful killing committed with the requisite *mens rea*.

Medical Evidence Relating to the Death of Sinoj

26. PW13, Dr. Sujith Sreenivas, conducted the post-mortem examination on Sinoj and issued Exhibit P13 post-mortem certificate. He noted multiple incised wounds of extreme severity, predominantly on the head and extremities, involving vital structures such as the brain and major blood vessels. The nature and location of the wounds indicated a violent event, underscoring the tragic circumstances surrounding the death of Sinoj. The following are the antemortem injuries, as deposed by PW13:

1. Incised wound, horizontal 12.5 cm long, gaping on the back of head horizontally placed more towards the left at a level 8.5 cm above the hair line. The margin were sharply cut and end pointed. The left end was 5 cm behind the top of left ear. The underlying skull was sharply cut for 12.5 cm all along the external injury. There were depressed bone fragment along the upper margin of the cut on the skull. The underlying durometer was cut and the occipital lobes were sharply cut with surrounding blood infiltration. The cut on the right lobe and left lobe measured 3x2.5x2cm and 4x3x2.5cm respectively. There was surrounding thin subarachnoid haemorrhage and subdural blood.
2. Incised wound, 8.5 cm long gaping transversity placed with slight obliquity on the back of head just above the Injury No.1 (middle portion of the injury was 1.5 cm above Injury No.1). The left end of the injury was 3cm inner to the left end of Injury No.1 and 2.5cm on above Injury No.1. The margins were sharply cut and ends pointed. The underlying skull was cut along the entire length of the wound. The durometer and underlying occipital lobes of brain was cut. The injury on the

right and left occipital lobes measured 1.5x0.5x0.5cm and 2x0.5x0.5 respectively.

3. Incised wound 7cm long, gaping obliquity placed on the top of head towards the back, more towards the left with left back and right front end. The injury was placed on either side of midline and 19cm above the hairline at back. The ends were pointed and margins sharply cut. The outer table of underlying skull was cut over a length 4.5cm.
4. Incised wound, 7cm long, gaping obliquity placed on the top of head parallel to the left half of Injury No.3, 8cm in front of it with a left back end and right front end. Margins were sharply cut and ends were pointed the underlying outer table of skull was cut over a length 5cm. The injury was placed 11cm away from the top of the left ear.
5. Incised wound 6cm long, gaping 4cm deep seen on the back of right shoulder blade obliquity placed with a right upper end and left lower end 10cm below the top of shoulder and 9cm outer to midline. The injury was deeper towards the right side and progressively shallow towards the left with a superficial linear skin cut 23cm long extending from the left lower end in

continuity towards the left side of back of trunk. The left half of the injury showed beveling downwards. The margins were sharply cut with the right end less pointed.

6. Incised wound, 1.2cm long gaping obliquity placed on the right side of back of shoulder parallel to Injury No.5 and 5cm below its middle portion. There was a superficial skin cut 41cm long extending from the left end of the wound towards the left side of trunk placed parallel to Injury No.5
7. Superficial lacerated wound 0.8x0.8x0.5cm on the right side of back of trunk, 7cm out to midline and 6cm below the top of shoulder. There was an abrasion 2cm long extending from its left end.
8. Two imprint abrasions 0.4x0.4cm each seen on the right side of back of trunk, 19cm and 17cm below the root of neck and 2cm and 4cm outer to midline respectively. There were aluminium coloured flower patterned metal pieces over the abrasions.
9. Incised wound, 6.5 cm long, transversely placed, gaping on the back of left shoulder, 4cm deep cutting the underlying bone. The injury was 3cm below the middle of left shoulder.

The upper margin was contused and lower margin sharply cut. There was a transverse linear abrasion 15cm long extending from the right end of the wound up to a point 1cm below right side of root of neck. A superficial skin cut (.4x0.1cm) seen extending obliquity from the left end of the wound. The lower edge of the wound was sloping.

10. Abrasion 3x0.1cm oblique over the outer aspect of left shoulder joint.
11. Abrasion 10x0.3cm vertical on the left side of trunks, 13cm below the armpit.
12. The right hand was managed due to multiple incised wounds involving the entire hand, vertically over the finger and back of wrist. The injuries were seen over an area 14x8cm more towards the back sharply cutting the carpal bones, 1st, 2nd and 3rd metacarpal bones and phalanges of index and middle finger. The index finger and middle finger found hanging by the skin attachment. The margins were sharply cut. The entire hand was separated into two hands in between the 2nd and 3rd metacarpal. The blood vessels of the hand were cut at multiple places (Defence cut).

13. Incised wound, 10cm long on the back outer aspect and front of left forearm, 4cm above the wrist sharply cutting the underlying soft tissues and both bones. The hands were found hanging attached to the forearm by the skin and soft tissues on the front of forearm. The nerves, vein and arteries of forearm were transected. (Defence cut).
14. Incised wound, 7cm long, gaping on the back of left forearm, obliquely placed 8cm above the wrist cutting the underlying soft tissues major blood vessels and both bones partially (Defence cut).
15. Incised wound, 6cm long on the back of left forearm, 6cm above the wrist obliquely placed parallel to Injury No. 14 with an inner lower end. The underlying soft tissues were cut. The underlying both the forearm bones were partially cut (Defence cut).
16. Abrasion 5x0.2cm on the front of right forearm vertically placed at its middle.
17. Abrasion 3x1cm on the backs of right elbow.
18. Superficial incised wound 2x0.5cm on the top of right shoulder joint.

19. Multiple dark small circular areas of charring due to burns over an area 14x7cm on the inner aspect of left upper arm at its middle. The circular areas measured 0.4x0.4cm each.
20. Laceration over an area 41x30cm on the back and outer aspect of left thigh exposing the darkened blackish split thigh muscles. There were avulsions of the skin and subcutaneous fat. The ileo tibial tract was exposed. The injury was 5cm below the buttocks at back and extending upwards along the outer aspect. At the depth of the injury there was punctured laceration extending up to the subcutaneous plain on the front of thigh, where there was a stone like piece 2x2.5x1.5cm at the end of the track. The underlying blood vessels (arteries and veins) were found torn (Explosion Injury).
21. Lacerated wound 4.5x3cm on the back of left leg, 20 cm above the heel with marginal abrasion. Singeing of hair and superficial burns seen over 8x3cm towards the outer aspect. The wound extended as a punctured laceration downwards for a length 3cm. At the depth of the injury there was a stone like piece 3x3x2.5cm (Explosion Injury).

22. Multiple superficial burns over 20x10cm on the back of left leg overlying the back of knee and calf muscles. The surrounding hair was singed. At the lower end of the injury there was a laceration 2.5x2x1cm (Explosion Injury).

27. **The short analysis of the injuries is as follows:**

Fatal head injuries:

- a) Injury No.1: A horizontal incised wound, 12.5 cm in length, on the back of the head, sharply cutting the skull, dura mater and both occipital lobes of the brain, with associated intracranial haemorrhage.
- b) Injury No.2: A similar deep incised wound above Injury No.1, again transecting the skull, dura mater and brain. Both were independently sufficient in the ordinary course of nature to cause death.
- c) Injury Nos. 3 and 4, also located on the head, further contributed to death through cranial damage.

Defence wounds on the upper limbs:

- a) Injury Nos. 12, 13, 14 and 15 were deep incised wounds, severing major blood vessels, soft tissues and in some cases, bones.

These were consistent with defence injuries sustained while warding off blows and were sufficient to cause death in the ordinary course of nature.

b) The right hand was extensively mangled, with partial amputation of fingers and near-division of the hand into two parts.

Lower limb injury(blast related injury):

Injury No.20: A deep wound lacerating and rupturing major blood vessels, also independently sufficient to cause death due to haemorrhage.

Blast-related injuries:

PW13 observed burns, singeing of hair, embedded metallic fragments and punctured lacerations consistent with the effects of an explosion. Injury Nos.19, 20, 21 and 22 can be due to the impact of the explosion.

28. The doctor deposed that a few aluminium coloured flower pattern metal pieces were collected from Injury No.8 and stone pieces were collected from Injury No. 21. The doctor categorically opined that the incised wounds were possible with MO1 to MO6 weapons. PW13, the doctor who conducted the post-mortem

examination, deposed that the deceased died of multiple cut injuries to the head and extremities involving the brain and major blood vessels of the limbs, in addition to explosive injuries and that the death of Sinoj was an unmistakable case of deliberate homicidal assault.

Medical Evidence Relating to the Death of Vijith

29. PW37, the doctor who conducted the post-mortem examination on Vijith and issued the post-mortem certificate, which is marked as Exhibit P61 and the same bears his signature and seal. He recorded 32 injuries, of which 23 were incised wounds, besides blast-related trauma and abrasions. The following are the antemortem injuries as deposed by PW37:

1. Incised wound 13x1cm on top of head, bone deep, oblique, left front end 5cm in front of left parietal eminence and right back end 6cm above occiput. In depth this injury produced a cut fracture involving skull corresponding to external injury.
2. Avulsed incised wound 'C' shaped, 32cm long on right side of head involving fronto temporal area, underneath the fractured piece of bone attached with scalp tissue and the same seen hanging downwards (attached to zygomatic arch through a tag

of skin). The back end was 7cm above root of right ear. Brain matter showed a cut injury over an area 13x5-6x0.5-1cm involving right frontoparietal lobes, through a corresponding tear of dura. Margin of this injury showed beveling downwards and to right.

3. Incised wound on left side and top of head 17x1cm, front end 9cm above root of nose, coursed left reaching parietal eminence, further curved down and back and terminated 3cm above left mastoid. Lower front end seen merged with previous injury (No. 2). The lower margin showed a side cut 1.5x0.3cm, 5cm behind the front end. Margins showed beveling upwards and to right. Underneath skull showed cut fracture corresponding to external injury involving left parietal and occipital bone. Through the fracture dura matter seen cut exposing the brain tissues.
4. Incised wounds 6 in number, grouped together over all area 23x10cm on left-face, involving forehead, malar eminence, cheek, ear and mastoid. Largest one measured 22x3cm and smallest being 3x0.5cm. Margin of the lowest one which was the largest showed two side cuts 1cm each on its lower margin

at malar area 2cm apart. Underneath these injuries, left mastoid, left frontal, left temporal bone and left maxilla showed multiple cut fractures. The cut fracture of frontal bone showed beveling towards right. The underlying muscles over these area showed multiple cut injuries. These injuries in depth communicated with cranial cavity and left orbit producing cut injury to eye ball and the same seen displaced down and back.

5. Superficial incised wound 2.5x0.3cm, oblique left side of face, lower inner end 2cm above angle of jaw.
6. Superficial incised wound 5x0.2cm left malar area almost vertical, upper end reaching orbit, underneath lower margin of left orbit showed fracture.
7. Superficial incised wound 5x0.5cm, left side of face, vertical, 4cm away ala of nose.
8. Incised wound 2.5x0.5cm, right half of under chin, 1cm outer to midline.
9. Superficial incised wound 3x0.8cm, front of right forearm, oblique upper right end 10cm below elbow. There was tailing for 2cm, in the same line, with a gap of 2cm.

10. Incised wound, avulsed with beveling upwards 7x1cm exposing the flexor tendons, over front of right forearm, at its outer border, 3cm above wrist.
11. Superficial incised wound 1x0.2cm at web space between thumb and index fingers of right hand.
12. Incised wound 1.5x0.3 bone deep, at right hand involving palmar aspect of right little finger. oblique, upper left end 2.5cm below its root.
13. Abrasion over an area 3x0.5cm back of knuckles of right middle and ring fingers.
14. Multiple abrasions, some are linear, some discrete over an area 18x10cm front of right thigh, 15cm below top of hip.
15. Abrasion 4x2cm outer aspect of right knee.
16. Abrasion 3.5x0.5cm, inner right leg, 18cm below knee.
17. Multiple abrasions, contusions and superficial lacerated wounds over an area 50x8-12-16cm involving left shin, front of knee, front and outer aspect of thigh, 24cm below top of hip (singeing of hair mentioned). Thread of jute fibers seen penetrating the skin through a lacerated wound 0.8x0.8cm within this injury, subcutaneous tissue deep, 12cm above knee.

18. Incised wound 12x2.5cm, oblique, on left palm, through web space between little and ring fingers to root of thenar eminence cutting muscles and fracturing bones underneath.
19. Multiple abrasions, contusion and punctate lacerations over an area 25x4-8cm on back of left forearm, 5cm below elbow.
20. Grazed abrasion, vertical, 4x3cm outer aspect of left arm, just above elbow.
21. Abrasion 11x0.5-1.5cm on front and outer left arm, 6cm above elbow.
22. Incised wound 4x1x2cm, oblique, on left side of chest, lower front end blunt, upper back end sharp and 13cm, below axilla.
23. Incised wound 13x4x4cm, transverse on front of left shoulder, inner end blunt, margins showed beveling down and back, underneath the muscle seen cut.
24. Incised wound 1.5x1x1cm, transverse, on left front chest, 4cm below collar bone and 10cm outer to midline showing a tailing 15cm towards right and slightly upwards involving front of upper chest and root of neck.

25. Incised wound 7x2.5x2.5cm transverse, over top of tip of left shoulder, underneath outer end of left collar bone showed a cut fracture. Inner end of injury was 6cm away root of neck.
26. Incised wound 4x1x1cm, oblique on outer aspect of tip of right shoulder, front upper end blunt. There was a tail of 3cm underneath muscle fibers of deltoid seen cut.
27. Incised wound 2x1x2cm, transverse back of tip of left shoulder, having a tail of 8cm towards the tip of left shoulder. This injury was 6cm below tip-of acromion.
28. Incised wound 10x3.5x2.5cm back of left shoulder, 2cm outer to root of neck and lower end over spine of scapula. Muscles seen cut and crushed with beveling down and back.
29. Incised wound 4x1x0.8cm, vertical 1cm below the previous (Injury No.28) with beveling to right.
30. Superficial Incised wound 8cm transecting Injury No. 29, near its outer left border with a tailing of 5cm vertical.
31. Incised wound 1x0.2x0.8cm, 0.5cm above Injury No.28.
32. Abrasion 2x1 cm left side of scrotum.

All the above incised wounds showed contusion along their margins. Injury Nos. 22, 24, 29 and 31 were terminated by cutting the muscles underneath.

30. **The short analysis of the injuries is as follows:**

Fatal craniofacial injuries:

- a) Injury Nos. 2 and 3: Deep incised wounds severing the skull bones, dura mater and brain tissue, independently sufficient to cause instantaneous death.
- b) Injury No.4: A cluster of six distinct cuts over an area of 23 x 10 cm on the left side of the face, involving the forehead, cheek, ear and mastoid region, with multiple cut fractures of the frontal, temporal and maxillary bones, displacement of the left eyeball and communication with the cranial cavity. This was also sufficient to cause death in the ordinary course of nature.

Defence wounds:

Injury Nos. 9, 10, 11, 12 and 18 were deep incised wounds on the hands and upper limbs, consistent with attempts to ward off the assault.

Explosion-related injuries:

Injury Nos. 17 and 19 bear features of blast trauma.

Abrasions:

Injury Nos. 13, 14, 15, 16, 20 and 21 were abrasions suggestive of the victim having been dragged after the attack.

31. PW37, the doctor who conducted the autopsy on the body of the deceased Vijith, deposed that the fatal injuries noted in the post mortem certificate were consistent with the use of sharp edged and heavy weapons which were marked as MO1 to MO6. PW37, the doctor who conducted the post-mortem examination, deposed that the deceased died due to multiple incised wounds on the head, with evidence of blast injuries in addition. The multiplicity and severity of the injuries ruled out any possibility of accidental or self inflicted harm. The nature, location and extent of the wounds clearly indicate that they were inflicted with considerable force and lethal intent. The doctor opined that the death of Vijith was homicidal in nature.

32. The prosecution, through the clear, cogent and mutually corroborative testimonies of PW13 and PW37, reinforced by the documentary evidence marked as Exhibits P13 and P61, has

conclusively established the precise medical cause of death of both victims.

33. After analysing the medical evidence, this Court finds that the death of Sinoj was the direct consequence of the combined effect of multiple incised wounds inflicted on the head, which penetrated and damaged the brain, together with extensive incised injuries on the upper and lower limbs that severed major blood vessels, causing massive haemorrhage and instantaneous collapse.

34. The death of Vijith, on the other hand, was occasioned by multiple deep incised wounds on the head and face, which fractured the skull bones, lacerated the dura mater, cut through the brain tissue and were compounded by blast-related injuries, resulting in instantaneous death.

35. In both cases, several of the injuries were individually sufficient in the ordinary course of nature to cause death. The presence of defensive wounds on both victims clearly establishes that they offered resistance and attempted to ward off the attack until they succumbed to the fatal blows. The blast-related injuries and embedded metallic fragments further corroborate the

prosecution allegation that explosives were used in the commission of the crime.

36. The multiplicity, severity and strategic location of the injuries particularly the devastating craniofacial and cranial wounds, the severance of major blood vessels in the limbs, the unmistakable defensive injuries and the explosion-related trauma admit of no other hypothesis except that both Sinoj and Vijith were subjected to a calculated, deliberate and premeditated homicidal attack carried out with lethal sharp-edged weapons and explosive devices.

37. Thus, the medical evidence and the nature, multiplicity and distribution of the injuries conclusively confirm the homicidal nature of the deaths of Sinoj and Vijith.

Inquest Proceedings and Seizure of Material Objects

38. In **Pedda Narayan Vs State of A.P 1975 SCC (cri)427**, the Supreme Court held that the object of inquest proceedings is merely to ascertain whether a person has died under suspicious circumstances or an unnatural death and, if so, what is the apparent cause of the death. The question regarding the details as to how the deceased was assaulted or who assaulted him, or under

what circumstances he was assaulted, is foreign to the ambit and scope of the proceedings under Section 174.

39. PW16 conducted an inquest on the body of deceased Sinoj in the presence of PW4 and other Panchayat members. The inquest report is marked as Exhibit P5. PW22/K.C. Shivan took photographs of the body, which are marked as Ext. P25 series. During the inquest, MO26 shirt, MO27 kavimundu, MO28 black belt with steel buckle and MO29 underwear were seized from the body of Sinoj and these articles were produced before the Court through the property list Ext. P64.

40. PW31 conducted the inquest on the body of the deceased Vijith in the presence of PW14 and other Panchayat members. The inquest report is marked as Exhibit P14. PW22/K.C. Shivan also took photographs of this body, which are marked as Ext. P24 series. MO36, a maroon shirt and MO37, a blue lungi, were seized at the time of the inquest and these were produced through the property list Ext. P63.

41. PW35, then Civil Police Officer, deposed that after the inquest on Vijith, he accompanied the ASI to Kozhikode Medical College, handed over the body for post-mortem and thereafter

delivered it to a close relative named Senthil. He further stated that the sealed packet handed over by the doctor was produced before the Investigating Officer, seized under mahazar Ext. P58 and identified in Court as MO44.

42. PW17 is the attestor to Exhibit P15 mahazar. The seizure of the registered cover containing photographs and negatives of the deceased Vijith and Sinoj is proved through Exhibits P16 and P17, respectively. These inquest proceedings, along with the seizure of clothing and other material objects, thus form an essential part of the contemporaneous record.

Having examined and found that the deaths of Vijith and Sinoj were homicidal in nature, this Court now proceeds to consider Points 2 to 12, which rest primarily upon the testimony of PWs 1 to 3, supported by the surrounding circumstances and other evidence on record.

43. In the facts and circumstances of the case, it becomes necessary at this stage to closely scrutinise the credibility of PW2 and to assess whether the testimonies of PW1 and PW3 are reliable and trustworthy so as to implicate the accused persons who now stand charge-sheeted.

44. The prosecution places chief reliance on the ocular version of PWs 1 to 3. Their depositions will therefore be examined individually, followed by a joint appreciation in the light of the medical, forensic and investigative materials in accordance with the principle of falsus in uno, falsus in omnibus.

Appreciation of Evidence of PW2

45. PW2 is a vital witness for the prosecution, who situates himself near the place of occurrence at Kallayi Chungam on 28.05.2010 and furnishes a direct ocular account of the explosion followed by a group assault which culminated in the deaths of the two victims. PW2 deposed that he was a close associate of the deceased Vijith and Sinoj, being their neighbour, friend and fellow political activist.

46. PW2 states that on the morning of 28.05.2010, he travelled along with the deceased and others from the Mahe Court. He mentioned that three or four CPM members from the Panthakkal area were also present. Sujith (A1), the son of ENT Suran from Pallur, was there as well. He said Sujith looked at each of them in turn and was seen making phone calls. Sujith did not have a case at the Mahe Court that day. He said he, Nijesh/CW3,

Sinoj and Vijith were leaving on two bikes and PW1/Sunilkumar, Vijesh @ Biju/CW6 and Chittaripparambu Biju/CW9 were leaving in an auto-rickshaw. Due to political threats and suspicions regarding Sujith's phone calls, they left home together. He described that Vijith and Sinoj rode ahead on one bike, while he and Nijesh followed behind on another bike, with the auto-rickshaw following them. They travelled via the Mahe bridge toward the Peringadi route. Near a place called Kallayi Chungam on the Peringadi road, close to the gas house, they saw a small path on the north side of the road. Some people were standing there. From that group, Kodi Suni threw bombs directly at Vijith and Sinoj, who were riding the bike. After the bomb exploded, both fell on to the road. He said they stopped their vehicle and ran towards the place where the bomb exploded. On the south side of the road was a goat farm. Vijith and Sinoj ran inside the goat farm, while Kodi Suni and others ran inside the farm with weapons. He stated that Kodi Suni, Muhammad Shafi, Kochakkalan Sumesh, Sujith and a few others were also seen attacking Vijith and Sinoj. He said he saw them being stabbed and falling to the ground and then he saw them being stabbed again while lying on the ground. The witness stated

that Kodi Suni, Muhammad Shafi, Kochakkalan Sumesh, Sujith and a few others were seen attacking Vijith and Sinoj. He said he saw them stabbing Vijith and Sinoj and saw them fall to the ground and then saw them being stabbed again while lying on the ground. He further stated that at that time, he heard them calling out “Amme, Amme” (mother, mother). He saw some people standing inside the gate with weapons, so he could not go closer to help. After that, the attackers emerged from the goat farm gate and took a side path on the north side of the road. He saw Muhammad Shafi limping, as if he was injured, with his leg dragging as he walked. He noticed blood-stained swords in the hands of Shafi and five other attackers. He identified the weapons in the hands of Kodi Suni, Muhammad Shafi, Sujith, Kochakkalan Sumesh and two others whose names he did not know but could recognise. He also saw a few more people holding swords, though without visible blood. He estimated the number of attackers to be around 10 to 12. He stated that he, CW3/Nijesh, Sunil (PW1), Ajish Kumar (PW3), CW6/Biju from Kaviyoor and CW9/Biju from Chittarippamb entered the goat farm. He saw Vijith badly stabbed with his skull fractured and brain exposed, breathing faintly. He saw Sinoj crying and saying, “take

me” with injuries on both his hands and a wound on the left side near his armpit and shoulder. PW1 Sunil and PW3 Ajeesh attempted to carry Sinoj, while Nijesh and he helped them. Sinoj was taken in an auto rickshaw to Mahe Government Hospital by PW1/Sunil and PW3/Ajeesh and Vijith was taken by him and Nijesh in another auto. He said he moved Vijith to a wheelchair and Ajeesh supported Vijith’s fractured head while taking him inside the hospital. After examination, the doctor declared Vijith dead and after a while, the doctor also said Sinoj had died. He waited outside the hospital for some time and then told Nijesh that he was going to the Thalassery Police Station to report the matter. When leaving, he had blood stains on his clothes. The Sub-Inspector present enquired about the occurrence, whereupon he narrated the incident to the officer. When questioned about his mental state at that time, the witness stated that, as those with whom he had grown up had been attacked, he mentioned the names of certain accused persons only based on doubt. He further explained that he had given the names of Sajayan, Vijeesh, Lijeesh, Shamseer, Rajeesh Babu, Jithin, Nameem, Sreekanth, Vinodan and Samad as persons he had seen at the scene, although with some doubt. However, he stated that he

mentioned the names of Kodi Suni, Muhammad Shafi @ Mufeed, Kochakkalan Sumesh and Sujith without any doubt, as he knew them personally. He said if he sees the attackers again, he would recognise them. He identified A1/Sujith, A3/Kochakkalan Sumesh, A14/Faisal, A6/Shamas, A2/Kodi Suni and A4/Muhammad Shafi. He confirmed that he signed the statements he gave and the signature was marked as Exhibit P2. He identified the material objects, including weapons (MOs 1 to 6), clothes (MOs 22 and 23), slippers (MOs 7 and 8) and mobile phones (MOs 9 to 11). He attributed political enmity between CPM and BJP/RSS workers as the motive for the attack.

The first point to be considered is the overt act of each accused person.

47. PW2 is the prime eyewitness and he is the one who informed the police about the incident; his first information statement is recorded as Exhibit P2.

48. Testimony of PW2 with respect to the first overt act is as follows: PW2 deposed before the Court that near a place called Kallayi Chungam on the Peringadi road, near the gas house, they saw a small path on the north side of the road. Some people were

standing there. From that group, Kodi Suni threw bombs directly at Vijith and Sinoj, who were riding the bike. After the bomb exploded, both fell onto the road. He said they stopped their vehicle and ran toward the place where the bomb exploded. It is pertinent to note that soon after the incident on 28.05.2010 at 12.15 p.m., PW2 deposed as follows and the same is recorded and marked as Exhibit P1.

49. PW2 stated that while passing Rajeev Hotel, New Mahe, at approximately 11 a.m., he suddenly heard the sound of an explosion and the relevant portion of FIS is marked as Ext.D10. As a result, the road became blocked and he also heard a commotion of people. He then stopped his vehicle and, along with his companion, ran towards the spot; the relevant portion of FIS is marked as Exhibit D14. At that time, he saw the motorcycle in which the victims were travelling lying overturned on the road and burning and the said portion of FIS is marked as Exhibit D11. The contradictions mentioned above were proved through PW28.

50. If we analyse the first version and the version after 14 years, it is revealed that the version that he had seen hurling a bomb is an improvement and a material omission. In Exhibit P6, the

scene mahazar and Exhibit P32 site plan reveal that from the scene of occurrence, the road extends straight west for approximately 150 metres and thereafter turns southwards. Just beyond that curve, on the southern side of the road, the Rajeev Hotel is located. Rajeev Hotel is indexed in the site plan as index no.16. According to his first version, he heard the noise around 150 meters away from the spot. At this juncture, it is pertinent to note that, as per **Exhibit D13, he stated that he did not witness anyone hurling a bomb at Vijith and Sinoj. Exhibit D13 proved through PW39.**

51. PW1 and PW2 have not stated that any explosion took place inside the goat farm; indeed, they say the victims ran after the explosion on the road. In this context, the recovery of blast remnants from within the compound, without any corresponding recovery from the road, appears surprising. Another aspect is that the prosecution does not advance independent forensic proof establishing that a bomb was hurled at the road and exploded at the road location in particular. The Scientific Assistant (PW-20) did not seize remnants from the road; instead, remnants (MO42 series) were collected from the goat farm compound. The

unexplained absence of remnants on the road, when witnesses claim the blast occurred on the road, strengthens the inference that the forensic picture does not corroborate the oral testimony.

52. Conjoint reading of Exhibit D10, D11, D13 and D14, along with Exhibit P6 scene mahazar and Exhibit P32 site plan, reveals that the surrounding facts and forensic evidence do not corroborate the oral testimony of hurling a bomb. It is pertinent to note that the prosecution has not set up a case of any bomb being hurled inside the goat farm compound and neither PW1 nor PW2 has deposed to having seen or heard any explosion therein. A contemporaneous or near-contemporaneous statement (FIS / 161) which omits a crucial fact later asserted at trial after a lapse of 14 years is a material omission. The combined effect of the omissions, the inconsistency between ocular and forensic evidence and the absence of direct forensic linkage (thrower-to-device) is to generate reasonable doubt on the discrete issue of (a) whether a bomb was hurled at the road by the person named Kodi Suni/ A2 and (b) whether any particular accused is responsible for the throwing. The hurling of the bomb is not merely collateral. It constitutes the initiating

criminal act which, according to the prosecution, directly occasioned the fall of the victims and their subsequent hacking.

53. The learned defence counsel placed reliance on the decision reported in **2022 LiveLaw (SC) 856 (Md. Ajmot Ali v. State of Assam)** and argued that, while considering discrepancies in evidence, the Court must categorise them to ascertain whether they are trivial or material, for it is only the material discrepancies that corrode the credibility of the prosecution case.

54. Keeping in view the settled principle that each omission and contradiction must be specifically categorised, labelled and analysed, this Court has carefully examined the testimony of PW2 in relation to the first overt act, namely the alleged hurling of the bomb by the second accused and finds the same to be not believable and the discrepancy is material enough to shake the foundation of the prosecution case.

55. The next plank of argument put forward by the prosecution and defence is with regard to the alleged attack on Vijith and Sinoj. Prosecution relied on the following testimony, PW2, with respect to the second overt act and the relevant portion of his deposition reads as follows: - PW2 stated that on the

southern side of the road, there existed a goat farm. According to him, Vijith and Sinoj ran into the said goat farm and simultaneously, Kodi Suni and others chased them inside, armed with swords. PW2 further deposed that inside the farm, he saw Kodi Suni, Muhammad Shafi, Kochakkalan Sumesh, Sujith and a few others attacking Vijith and Sinoj. He specifically stated that he witnessed them stabbing the victims, who fell to the ground and thereafter continuing to stab them even while lying on the ground. PW2 also stated that at that time he heard the victims crying out "Amme, Amme" (mother, mother). He added that he saw certain accused persons standing near the gate of the goat farm holding weapons, which prevented him from venturing closer to render assistance. After that, the attackers emerged from the goat farm gate and took a side path on the north side of the road. He also noticed that Muhammad Shafi was limping, as if he had an injury in his leg and was dragging it while walking. He further deposed that he saw blood-stained swords in the hands of Shafi and five others, including Kodi Suni, Sujith and Kochakkalan Sumesh, apart from two others whom he could recognise by sight but not name. He also noticed several

others holding swords, though without visible bloodstains. PW2 estimated the total number of attackers to be around 10 to 12.

56. Per contra, the learned defence counsel contended that the testimony now tendered by PW2 is nothing but an embellishment and improvement made after 14 years, containing material omissions and contradictions and therefore cannot be safely relied upon. The learned defence counsel further relied on **2025 KHC Online 7082 (Vino Bhai v. State of Kerala)** and **2010 KHC 4880 (Sunil Kumar Sambhudayal Gupta & Ors. v. State of Maharashtra)**, particularly paragraphs 15 to 17, to contend that material omissions which amount to contradictions go to the root of the matter and in such circumstances, the version of such a witness cannot be safely relied upon.

57. The defence emphasised that **Exhibits D7, D8 and D9** represent the earliest version of PW2 and therefore assume great significance in assessing the credibility of his subsequent testimony. The said exhibits, which were put to PW2 in cross-examination, read as follows: PW2 stated that among the group of assailants, Sujith s/o Suran, **Sajayan of East Palloor and Shamseer of Gramathipalli**, who were armed with swords, were

seen attacking Vijith. The relevant underlined portion of FIS is marked as Exhibit D7, is proved through PW28. Simultaneously, on the riverside, Sinoj was being attacked with swords by Kodi Suni, **Sreekanth of Cherukallayi, Samad of Chalakara Mandapparambu Colony and Mufeed of Kaviyoor.** This relevant underlined portion of his FIS is marked as **Exhibit D8** and is proved through PW28. PW2 further stated that, in the group of assailants, he identified Kochakalan Sumesh, **Lijeesh of Palloor Spinning Mill, Vijeesh, Sangeesh, Jithin, Rajeesh Babu of Kallayi Angadi, C.V., Vinodan and Nameem of Chalakara,** along with two others whom he recognised by sight. This relevant underlined portion of his FIS is marked as Exhibit D9 and is proved through PW28. The learned defence counsels highlighted the fact that PW2, in his earliest version, had identified specific assailants with specific overt acts, named their localities and alleged that they attacked Vijith and Sinoj with swords. On the basis of his statement, persons such as **Sajayan of East Palloor, Shamseer of Gramathipalli, Sreekanth of Cherukallayi, Samad of Chalakara Mandapparambu Colony, Mufeeda of Kaviyoor, Lijeesh of Palloor Spinning Mill, Vijeesh, Sangeesh, Jithin,**

Rajeesh Babu of Kallayi Angadi, C.V. Vinodan and Nameem of Chalakara were arrayed as accused in **Exhibit P37 FIR**.

58. However, the names of the above **12 accused persons were later deleted through the Exhibit P137** report, which was filed before the Court on 25th August 2012, at the time of submission of the final report. The defence counsel vehemently argued that the Investigating Officer had offered no satisfactory explanation for either deleting the names of the 12 accused or for including the remaining 13 accused, whose names PW2 had not identified at the time of the occurrence.

59. The learned defence counsel argues that the unexplained alterations in the list of accused gravely impair the credibility of the prosecution case.

60. **At this juncture, it is apposite to note that D 26 is the certified copy of the Judgment in SC 2/2014 in PRC No.5/2012, wherein the PW2 was arrayed as accused No. 2, deceased Vijith was accused No.7 and Sinoj was accused No.18. It reflects that C.V Vinodhan was the PW1 and Mufeed was PW13.** In the present case, PW2 deposed that the “Mufeed of Kaviyoor” mentioned in Exhibit D8 was in fact the fourth accused

herein, namely Muhammad Shafi. However, Mufeed was examined as DW2 before this Court and his physical features are entirely different from those of A4. PW2, in his cross-examination, admitted that he had a previous acquaintance with A4/Muhammad Shafi. In this backdrop, his explanation of mistaken identity between DW2/Mufeed and A4/Shafi cannot be accepted. **The fact that Mufeed was a prosecution witness in S.C. No.2/2014 further fortifies the subsequent attempt by PW2 to substitute A4 in place of Mufeed as a belated and artificial improvement.** It is significant that in Exhibit P2 FIS, PW2 did not mention the name of A4/Muhammad Shafi; instead, he named Mufeed of Kaviyoor, who is none other than DW2. Furthermore, Mufeed's name has been removed from the list of accused by PW43 in Exhibit P137. This discrepancy casts a serious doubt on PW2's later deposition, wherein he attributed overt acts to A4. Thus, the testimony of PW2, insofar as it implicates the fourth accused, does not inspire confidence and cannot be relied upon.

61.The learned defence counsel argued that the prosecution version as presented in Exhibit P2 FIS and Exhibit P37 FIR and the

case now sought to be established through the ocular testimony of PW2 before the Court, are two entirely different stories.

62. On a meticulous consideration of the rival submissions and the materials brought on record, this Court finds that the testimony of PW2, insofar as it relates to the alleged attack on Vijith and Sinoj, suffers from serious infirmities. His deposition before the Court, in which he attributed specific overt acts to A4/Muhammad Shafi and others, stands in stark contrast to his earliest version, as recorded in Exhibit P2 FIS and reiterated in Exhibit D8. The prosecution, in an attempt to corroborate the presence of A4, relied on the alleged injury sustained by him and examined PW11, Dr. Gopalakrishna Pillai, to prove the age of the injury. However, PW11 categorically deposed that he could not ascertain the age of the injury, thereby failing to support the prosecution case. The attempt of PW2 to reconcile this glaring inconsistency by asserting that "Mufeed of Kaviyoor" mentioned in Exhibit D8 was, in fact, A4/Shafi is wholly untenable, especially since DW2/Mufeed was examined before this Court and his physical features are entirely different from those of A4. The further admission of PW2 in cross-examination that he had prior

acquaintance with A4 renders his plea of mistaken identity wholly unbelievable.

63. In his first version, PW2 had named an entirely different set of persons, identified them by their localities and even attributed specific roles in the assault. Those persons were initially arrayed as accused in Exhibit P37 FIR but subsequently deleted through Exhibit P137 report. These aspects, coupled with PW2's own admission that he gave the names of certain persons he saw at the scene "with doubt," including Sajayan, Vijeesh, Lijeesh, Shamseer, Rajeesh Babu, Jithin, Nameem, Sreekanth, Vinodan and Samad, throw serious doubt upon the reliability of his testimony. The prosecution has also failed to provide a satisfactory explanation for why the names of those persons initially included in the FIR were deleted from the list of accused. It is further noted that another set of thirteen accused persons (A4 to A16) was introduced only on 22nd June 2010 through Exhibits P96 and P106. PW43 did not give any proper explanation of how he arrayed or on what basis he arrayed A4 to A16. PW2, however, had not stated anything in his earlier statements or in Court about these newly added accused persons ranked as A4 to A16, nor did he attribute

any overt acts to them. This omission materially affects the credibility of his version and renders it doubtful. Though PW2 identified A1, A2, A3 and A4 and attributed acts of attacking Vijith and Sinoj, he identified A14 and A6 without attributing any overt act to their role. Such omissions amount to material contradictions.

64. On a meticulous consideration of the testimony of PW2 with respect to A1, A2 and A3, it is seen that his deposition before the Court materially departs from his earliest version. Before this Court, PW2 stated that inside the goat farm, he saw Kodi Suni, Muhammad Shafi, Kochakkalan Sumesh, Sujith and a few others attacking Vijith and Sinoj. However, in his earliest statement (Exhibit P2 FIS, Exhibit D7, 8 and D9), he had deposed that, among the group of assailants, Sujith S/o Suran, Sajayan of East Palloor and Shamseer of Gramathipalli, who were armed with swords, were attacking Vijith. In contrast, simultaneously, near the river side, Sinoj was being attacked with swords by Kodi Suni, Sreekanth of Cherukallayi, Samad of Chalakara Mandapparambu Colony and Mufeeda of Kaviyoor.

65. It is significant that although the names of A1 and A2 appear in Exhibits D7 and D8, the overt acts attributed to them are

entirely different and there is no mention of such acts having occurred inside the goat farm. Thus, while PW2 attributed overt acts in Court to Sujith and Kodi Suni, this attribution differs from his earliest version and the place of occurrence also varies. With respect to A3, Kochakkalan Sumesh, PW2 further stated in his earlier statement that he identified him among the group of assailants, together with Lijeesh of Palloor Spinning Mill, Vijeesh, Sangeesh, Jithin, Rajeesh Babu of Kallayi Angadi, C.V. Vinodan and Nameem of Chalakara, along with two others recognised by sight, which was recorded as Exhibit D9. Insofar as A3 Sumesh is concerned, the overt act is attributed for the first time only before the Court. In contrast, in the earlier statement, he was only seen as part of the group of assailants without any specific role. These contradictions affect the credibility of PW2.

66. In so far as A4 is concerned, the veracity of statements of PW2 has already been discussed above and found not believable; and with respect to A1 to A3 and A5 to A16 also, his testimony does not inspire confidence and cannot be relied upon.

67. The omission to name A4 in the first instance, the mistaken identity sought to be explained belatedly and the

wholesale shifting of names of several assailants between the FIS and the oral testimony, all taken together, seriously undermine the reliability of the testimony of PW2. In such circumstances, the testimony of PW2 cannot be safely relied upon to establish the culpability of the accused persons. These material contradictions cannot be dismissed as trivial discrepancies. This Court finds that the testimony of PW2 lacks credibility, particularly given the significant contradictions between his initial statements and his later testimony. The non-examination of CW3/Nijesh, who admittedly accompanied PW2 at the relevant time, is a serious omission which weakens the prosecution case. The non-examination of Nijesh is therefore a serious omission, leaving PW2's version uncorroborated at a vital point. In the case at hand, the learned defence counsel argued that the contents of the statement of Nijesh should have been marked. The defence highlighted portions of Nijesh's statement, recorded along with the inquest report. However, such a statement can only be treated as a previous statement. Since CW3/Nijesh was not examined before this Court, the contents of his statement cannot be taken into account in the absence of his testimony. Though certain portions

were sought to be marked at the stage of evidence, the marking was subject to objection. This Court holds that the objection is sustainable and the said statement cannot be admitted as substantive evidence.

68. The next point to be considered is that whether the presence of PW2 at the scene of the occurrence is probable or not. To establish the presence of PW2 at the scene of occurrence, the prosecution was expected to adopt basic corroborative measures. The motorcycle allegedly used by PW2 was neither seized nor was the registered owner or the person who had entrusted the vehicle examined. In cross-examination, PW43 investigating officer admitted that though he was aware that Deepak was the owner of the motorcycle, he neither recorded his statement nor cited him as a witness. In the absence of such evidence, it cannot be held that the bike was in the use of PW2 on the date of occurrence.

69. Furthermore, although the Mahe Court Officer was examined as PW38, he was unable to produce any contemporaneous register to establish the timing at which the accused affixed their signatures in the bail register on 28th May 2010. PW41, the present Sheristadar, deposed that it is in the

presence of the Sheristadar that accused persons ordinarily sign the bail register. PW43, the Investigating Officer, who recorded the statement of PW38, admitted that he did not question the then Sheristadar of the Court before whom PW2/O.P. Rajeesh and CW3/Nijesh, who were accused in the Mahe Court case on that day, were required to sign in order to comply with the bail conditions imposed by that Court. The concerned register was also neither seized nor produced before this Court. The testimony of PW38, moreover, remained largely formal, being unsupported by contemporaneous duty records and his version was admittedly based only on memory. However, in the present case, the prosecution neither produced such a register nor examined the then Sheristadar. Furthermore, PW43 and PW44, who could have shed light on the material aspects, were not effectively investigated to substantiate the presence of PW2 at the scene of occurrence. Taken cumulatively, these lapses and the improvised version of the PW2 create a serious infirmity in the prosecution case and the alleged presence of PW2 at the place of occurrence is not proved. Upon evaluating the evidence of PW2, this Court finds the

testimony unreliable and insufficient to fasten criminal liability on the accused persons.

70. In the above background, it becomes necessary to closely scrutinise the testimony of PW1, on whom the prosecution has placed reliance to establish the occurrence.

Appreciation of evidence of PW1

71. PW1 deposed that he resides at Palloor and works as a thatcher. He was acquainted with the deceased Sinoj and Vijith, describing them as his friends and RSS workers. According to him, on 28.05.2010, after attending a criminal case at Mahe Court along with Sinoj, Vijith and others, they returned from Court in separate vehicles. While they were travelling near Rajeev Hotel and as they were about to reach the Gas Agency at Kallayi Chungam, A2/Kodi Suni hurled a bomb from the northern side of the road at the motorcycle ridden by Vijith and Sinoj, causing them to fall.

72. PW1 stated that Vijith and Sinoj ran into a nearby goat farm on the southern side of the road. The gate was open. At that time, A1/Sujith, A2/Kodi Suni, A3/Kochakkalan Sumesh, A4/Muhammed Shafi, A5/Shamil, A6/Shammas, A10/Rajikant, A11/Vijith @ Kannivijith, A12/Muhammed Rajeesh @ Asu,

A13/Shinoj and A14/Faisal, all armed with swords, chased and entered the goat farm. PW1 categorically stated that inside the farm, he saw Sinoj and Vijith being hacked on the head, neck and other parts of the body by 6 to 7 of the assailants. Both fell to the ground, crying "Amme, Amme," and even while lying on the ground, they were repeatedly stabbed. He further stated that several of the accused stood guard at the gate.

73. PW1 also claimed that when the assailants came out of the farm premises, he noticed bloodstains on the swords of A1, A2, A3, A4, A10 and A12 and further observed that A4 was limping as though injured on his leg. He entered the farm along with others only after the accused had left and saw grievous injuries on both victims. He accompanied Sinoj to Mahe Hospital, where he was admitted; later, both victims succumbed to the injuries. He also identified the weapons (MOs 1 to 6), the deceased's slippers (MO8), phones (MOs 9-11), clothes (MOs 12-14) and the motorbike used by the deceased Sinoj (MO15). He asserted that the attack resulted from political rivalry between the RSS and the CPM and identified the accused No. A1, A2, A3, A4, A5, A6, A9, A11, A13 and A14, in Court. In cross-examination, PW1 acknowledged that he himself

was an accused in several cases involving attacks on CPM cadres. These cases included serious charges such as attempted murder, assault and even bomb throwing.

74. He admitted that the deceased Sinoj and Vijith were also accused in several cases relating to assaults on CPM activists.

75. He was confronted with his prior statements under Section 161 Cr.PC (Exhibits D1 to D3) and it was proved through PW43, wherein he had not mentioned who hurled the bomb, nor specifically named the persons who stabbed Vijith and Sinoj. It is recorded in Exhibit D1 that PW1 had stated that, while passing in front of Rajeev Hotel, he heard a sound akin to that of a bomb explosion. It is recorded in Exhibit D2 that PW1 had stated that he saw six identifiable persons crossing the road and proceeding upwards through the northern by-lane. It is recorded in Exhibit D3 that PW1 had stated that, in the hands of three to four others, there were blood-stained swords. The defence highlighted that, in his first version, he had not attributed any overt act to the accused persons as is now alleged in Court. The defence emphasised that these particulars were absent in his earliest statement and were

introduced only after a lapse of 14 years, suggesting embellishment.

76. It was further elicited that PW1 had earlier denied knowledge of certain CPM workers, such as Sajayan, Shamsheer, Sreekanth, Samad and Mufeed. However, their names appeared in the FIR and in the version of PW2. He denied the suggestion that the accused were falsely implicated due to political enmity. He also admitted that he had not identified the accused in any test identification parade and that such identifications were made for the first time only in Court. His admitted political background and prior enmity with CPM workers were also pressed into service by the defence to cast doubt on his impartiality.

77. Having thus noticed the substance of the deposition of PW1 and the defence challenge thereto, this Court now proceeds to examine the credibility and reliability of his version in the light of the omissions, contradictions and improvements emerging from the record.

78. This Court has carefully examined the testimony of PW1. **His version regarding the hurling of the bomb attributes the act to A2/Kodi Suni. However, in his earliest statement to the**

police, he had not specified who hurled the bomb. The belated attribution of this crucial overt act to A2, made for the first time in Court after a lapse of years since the incident, constitutes a material improvement which undermines reliability.

79. As regards the **attack on Vijith and Sinoj inside the goat farm**, PW1 has given a detailed account of the stabbing by multiple accused and has attempted to identify several of them by name. Nonetheless, it is evident from the cross-examination that many such details did not find a place in his earliest version. Those omissions are material, amounting to a contradiction; hence, his version is not believable. **PW1 admitted in cross-examination that he was sitting in an autorickshaw at the time of the explosion. If that be so, his vantage point and capacity to witness the alleged hurling of the bomb, the movements of the victims and the detailed assault said to have occurred inside the farm compound become highly doubtful.** PW43 further deposed that the goat farm was enclosed on all four sides by a compound wall approximately seven feet in height. In such a scenario, the claim of PW1 that he had seen the events transpire inside the compound becomes still more improbable. **The**

autorickshaw driver, who was an obvious independent witness capable of corroborating the presence of PW1 as well as his line of sight, was not examined. The cumulative effect of these material omissions constitutes contradictions in the version of PW1, thereby rendering his testimony unreliable. Moreover, the absence of a test identification parade, coupled with the long delay and his admitted political enmity with CPM workers, renders his Court identification unsafe to act upon without corroboration.

80. Furthermore, his antecedents as an accused in several political cases, some of which involved the deceased, are circumstances that cast doubt on the impartiality of his testimony. The contradictions between his earliest statement and the deposition in Court are material and cannot be brushed aside as minor omissions.

81. In the considered view of this Court, the testimony of PW1 suffers from material omissions, contradictions and improvements. It would be unsafe to place implicit reliance on his evidence to fasten guilt upon the accused.

82. After reviewing the testimonies of PW1 and PW2, which contained significant contradictions and inconsistencies, this Court

now examines the evidence of PW3/Ajeesh Kumar C.V. He is presented as another eyewitness who claims to have witnessed the aftermath of the explosion.

Appreciation of evidence of PW3

83. PW3, a sand-dredger from Perumunderi, New Mahe, deposed that he was personally acquainted with the deceased Vijith and Sinoj, who were BJP/RSS activists. On 28.05.2010, at about 11.00 a.m., while proceeding along the Peringadi-Mahe road near Kallayi Chungam, he saw A1/Sujith, A2/Kodi Suni, A3/Kochakkalan Sumeesh, A4/Muhammed Shafi, A5/Shamil, A6/Shammas, A10/Rajikanth, A12/Rajeesh @ Assu, A14/Faisal and others standing in the northern by-lane near the goat farm, some of whom he identified by name and others by sight. Shortly thereafter, he saw Vijith and Sinoj pass by on a motorcycle, followed by another bike carrying O.P. Rajeesh and Nijesh and then an autorickshaw carrying PW1 and others. A Scorpio vehicle carrying A9/Vineesh, A7/Abbas and A15 Sareesh also followed. Immediately thereafter, he heard a bomb explosion near the goat farm.

84. PW3 deposed that he ran towards the goat farm and saw the accused emerging from the compound armed with swords, with

their clothes and hands stained with blood. He specifically identified A1, A2, A3, A4, A5, A6, A10, A12 and A14 as having bloodstained swords and observed that A4, Muhammed Shafi, was limping. On entering the goat farm with PW1, PW2 and others, he saw Vijith and Sinoj lying grievously injured, with Sinoj crying for help. PW3 assisted in lifting Sinoj into an autorickshaw and taking him to Mahe Government Hospital, where both victims were declared dead.

85. He further identified the weapons (MOs 1 to 6), slippers (MOs 7 and 8), mobile phones (MOs 9 to 11), bomb fragments, bloodstained soil and other seized material objects as those recovered from the scene. He also identified his own bloodstained clothes (MOs 24 and 25), which he claimed to have handed over to the police under Exhibit P4 Mahazar. He asserted that the murders were politically motivated, carried out by CPM workers in retaliation for earlier incidents involving the deceased. He identified A1, A2, A3, A4, A5, A6, A10, A11 and A14.

86. The defence subjected PW3 to extensive cross-examination. It was suggested that PW3 was not present at the scene, that his version was introduced belatedly and that he was

set up as a partisan witness due to his political affiliation with the BJP/RSS and enmity with the CPM. It was elicited that PW3's statement was first recorded only on 01.06.2010, five days after the incident and that there were inconsistencies between his oral testimony and his earlier statements under Section 161 Cr.PC marked as Exhibits D18 to D21 and it was proved through PW43. It is recorded in Exhibit D18 that PW3 had stated that, after they had left, he heard a loud explosion from the side of the goat farm. It is recorded in Exhibit D19 that he had further stated that, at that time, the road near the gas house became blocked and smoke was seen near the goat farm. It is recorded in Exhibit D21 that he also stated that two other persons were holding swords. Additionally, it is recorded in Exhibit D20 that he further stated that, since a motorcycle was burning, nobody went inside. The defence highlighted that in Exhibit P2 (the first information statement), PW3's presence was not mentioned. It was further contended that several particulars stated by PW3 such as seeing the accused emerge from the goat farm with blood stained weapons were omitted from his earliest version.

87. It was suggested that PW3's claim of occupation as a sand dredger was questionable since he could not provide permits from the Panchayat for transporting or unloading sand at the relevant Kadavus, which undermined his credibility. His political antecedents and his close relationship with other prosecution witnesses, who were co-accused in multiple political cases, were also brought out to suggest bias. The defence finally contended that his identification of the accused and the weapons for the first time in Court, without any test identification parade, after a lapse of several years, was inherently unreliable. PW3 deposed that when the investigating officer showed the weapons, he was present along with Nijesh, PW1 and PW2 and had himself seen them when they were shown to others on 01.06.2010. It is pertinent to note, that the alleged recovery of MOs 1 to 6, as indicated in the confession statement, is dated July 19, 2010. This discrepancy raises concerns about the reliability of the recovery and creates significant doubts regarding the prosecution's account of the seizure of the weapons.

88. On careful consideration, this Court finds that the testimony of PW3 suffers from the same infirmities as those of PW1 and PW2. While he narrates a detailed version of the incident,

including the explosion, the emergence of the accused with bloodstained swords, these crucial details do not find a place in his earliest version recorded on 01.06.2010. The delay in recording his statement, along with material contradictions highlighted by Exhibits D18 to D21, undermines the credibility of his account. A careful reading of these exhibits reveals that many crucial details, such as the accused emerging with bloodstained swords, are not mentioned in his initial version. This creates significant omissions that warrant close examination. Furthermore, the absence of a test identification parade is concerning, especially since PW3 claims to have seen multiple assailants only briefly, which further weakens his identification.

89. Upon careful consideration of the evidence of PW1 and PW2, this Court finds their version of the actual incident to be unreliable. In such circumstances, the subsequent narration of the aftermath by PW3, particularly his claim of having seen the accused emerging from the goat farm armed with bloodstained swords, appears to be only an improvement and a new version introduced at a later stage. Consequently, his testimony cannot be accepted as trustworthy or relied upon to fix individual culpability.

90. Having found the individual testimonies of PW1, PW2 and PW3 unreliable, this Court proceeds to examine their testimonies in conjunction with each other and in the context of the medical and forensic evidence.

Joint Appreciation of PW1, PW2 and PW3 in the light of Medical and Forensic Evidence

91. The testimonies of PW1, PW2 and PW3, though vivid and broadly consistent in outline, suffer from materially similar infirmities that substantially impair their probative worth. Each of them attributed the hurling of the bomb and the subsequent hacking to named persons and purported to identify weapons and other articles. Yet, their earliest recorded statements either omit crucial particulars, particularly the identity of the bomb-thrower and the details of the assault inside the goat farm, or mention different names and descriptions. Their depositions before the Court thus amount to material improvements made long after the incident. All three witnesses have acknowledged their political affiliations and backgrounds and they were connected to the deceased through friendship or shared political activities. Given this partisan context and the history of mutual prosecutions

between opposing groups, it is essential to evaluate their testimony carefully. Though several material objects (weapons, clothes, slippers, mobile phones, bomb fragments) were seized and identified in Court, the nexus of those exhibits to the accused rests primarily on the evidence of these very witnesses, whose credibility stands impaired.

92. The testimonies of PW1 to PW3, taken either individually or collectively, cannot therefore constitute a safe basis for convicting any of the accused. At best, their accounts may be treated as circumstances requiring corroboration by independent and unimpeachable evidence, including medical, forensic, documentary, or wholly independent ocular evidence, before any finding of individual culpability can be anchored upon them.

Medical and Forensic Evidence (Exhibits P13, P61 and P69)

93. Exhibit P13 post-mortem certificate of Sinoj records that the bomb struck the left side of his body. Suppose the prosecution case is that the explosive device or its projectiles struck Sinoj on the left side. In that case, the direction and manner of their impact must be forensically consistent with the subsequent movements of the victims into the goat farm. A perusal of the post-mortem

certificate reveals that injuries Nos. 8 and 19 to 22 are blast injuries. In such a scenario, Exhibit P77 series of photographs assumes importance, for it reflects that on the road, there were not many bloodstains. Having regard to the nature of the blast injuries noted, the ability of the victim to run into the goat farm, as suggested by the prosecution, appears doubtful. This aspect, therefore, casts a further shadow on the consistency of the prosecution version when tested against the medical evidence.

94. Another important fact is that there was no recovery of intermediate “flying missile” fragments on the road consistent with such a path, nor has the prosecution offered any satisfactory explanation of how a projectile could have travelled up to the goat farm while leaving no recoveries on the road at or near the point of impact. This disjunction between Exhibit P13 and scene recoveries weakens the causal narrative.

95. The Public Prosecutor contended that Exhibit P13(post-mortem of Sinoj) and Exhibit P61 (post-mortem of Vijith), proved through PW11 and PW37, together with the material objects recovered from the bodies (MOs 45 to 54 and MOs 55 to 63), support the prosecution version. PW40/Schidanand proved Exhibit

P69 RFSL report, which shows the presence of potassium chlorate, aluminium and sulphur, ingredients typical of improvised explosive devices. The objects recovered from Sinoj included beads, aluminium flower-like pieces and granite stones. Jute thread was retrieved from the body of Vijith. These findings do establish that both deceased sustained injuries from an explosive device. However, the prosecution has not convincingly bridged the evidentiary gap between the roadside explosion and the subsequent assault inside the goat farm.

Place of Occurrence - Law and Application

96. Section 5 of the Indian Evidence Act provides that evidence may be given in any suit or proceeding as to the existence or non-existence of every fact in issue and of such other facts as are, under Sections 6 to 55, declared to be relevant and of no other. Section 3 defines “fact in issue” to mean any fact from which, either by itself or in connection with other facts, the existence, non-existence, nature or extent of any right, liability or disability asserted or denied in any suit or proceeding may be inferred. In a murder trial, the precise place at which the homicidal acts were

committed is a fact which, in connection with other facts, assists the Court to ascertain the occurrence and to discover the truth.

97. Section 7 declares relevant those facts which are the occasion, cause or effect, immediate or otherwise, of a fact in issue, or which constitute the state of things under which they happened, or which afforded an opportunity for their occurrence or transaction. Thus, marks on the ground produced by a struggle at or near the place of the crime and other physical traces, are relevant facts. Section 9 recognises as relevant those facts which are necessary to explain or introduce relevant facts.

98. The learned defence counsel also placed reliance on **2012 KHC 629 (Sivan v. State of Kerala)** to contend that it is not safe to convict an accused when the prosecution has failed to establish the **exact place of occurrence**. It was argued that when doubt exists regarding the place of occurrence of the crime, the natural and independent witnesses who could have clarified the matter should have been examined; the non-examination of such witnesses casts a serious doubt on the prosecution case.

99. Reliance was further placed on **2006 KHC 1997 (Pratap Singh v. State of Madhya Pradesh), 2024 KHC 154**

(Manikandan v. State by Inspector of Police), 2015 KHC 561 (Swarnamma v. State of Kerala) and 1954 KHC 414 (Muhammed v. State of Hyderabad), to emphasise that when there are doubts as to the scene of occurrence and the available independent witnesses are withheld, the prosecution version becomes suspect. The defence, therefore, urged that in the present case, where the prosecution has not satisfactorily established the precise place of occurrence and has withheld independent witnesses from the vicinity, it would be highly unsafe to sustain a conviction solely based on partisan testimony riddled with contradictions.

100. In light of the foregoing arguments and the principles, this Court has examined the evidence of PW5, Exhibit P6 (scene mahazar), the photographs of the scene, the site plan and the testimony of PW1 to PW3.

On the material available, the following facts emerge:

101. The photographs and scene mahazar reveal a motorcycle lying around two metres away from the goat farm compound, with visible bloodstains on the vehicle. Soil and tar samples from the road, along with blood-stain swabs collected by the scientific

assistant, were forwarded for chemical examination. The FSL report confirms the presence of human blood. The photographs further show (i) a blood-stained chappal in a drainage between the road and the goat farm, (ii) three slabs placed at the gate of the farm, (iii) two chappals and a blood-stained white dhoti inside the compound, (iv) blood splatters within the compound and (v) three mobile phones. The FSL report confirms that the stains on the garments and at the scene were of human blood. **It is pertinent to note that three mobile phones were recovered from the goat farm compound. However, the call data records (CDR) and call analysis (CAFF) were not produced, nor was the ownership of the phones established by investigation. It has been revealed that a fire extinguisher was used within the goat farm. However, it is essential to note that neither the prosecution's case nor the eyewitness account mentioned any explosion occurring inside the goat farm. PW1, PW2 and PW3 consistently deposed that they had heard only one explosion.** PW21/Sabithakumari, the owner of the Gas House, also stated that she heard only one explosive sound and that she did not proceed to the spot to witness the explosion. She further deposed that three

other staff members were working in her Gas House at the relevant time; however, they were not examined. The non-examination of these independent witnesses, who were available at the scene, materially weakens the prosecution case. The prosecution has not clarified who used the fire extinguisher, when it was used, or for what purpose. The Investigating Officer failed to investigate or document any evidence related to this matter. In a case that relies on an alleged bomb blast followed by hacking within that location, this omission constitutes a significant investigative oversight, as the presence and use of a fire extinguisher could have direct relevance to understanding the sequence of events. In a case hinging on an alleged bomb blast at the road followed by hacking inside that compound, this omission amounts to a material investigative lapse, as the presence and use of a fire extinguisher could have direct relevance to the reconstruction of the event.

102. At this juncture, **it is pertinent to note that Exhibits P77(a) to P77(z) further reflect that the room in the compound, where residents lived, was partially open and white dust is visible, indicating the use of a fire extinguisher inside the goat farm. PW39, the first investigating officer,**

deposed that in Exhibit P6 scene mahazar, he noted the rooms occupied by the farm workers, Ezhumalai and Govindan. He recorded the statements of Ezhumalai and his wife, Anjali, on 29.05.2010. However, they were not cited as witnesses and were not examined in Court, though they were the best persons to prove what happened within the compound. The statement of Govindan was not recorded because he was unavailable at the time. The owner of the farm, Mehamood, who was cited as a witness, was not examined as he had died. PW43 and PW44, being the investigating officers, also did not record the statements of Ezhumalai, Anjali, or Govindan.

103. Considering the facts of this case, the residents and employees of the goat farm were natural and material witnesses to the events that occurred within the compound. The non-examination of such vital witnesses amounts to suppression of material evidence. **When this omission is considered in conjunction with the contradictions in the testimonies of PW1 to PW3, the physical evidence at the scene and the forensic evidence, it becomes clear that the incident did not occur in the manner alleged by the prosecution.**

104. Although forensic traces and physical evidence indicate that an incident occurred inside the goat farm, the testimonies of PW1 to PW3 are inconsistent and the best available witnesses, Ezhumalai, Anjali and Govindan, who resided at the goat farm, were not examined. The unexplained non-production of CDR/CAFF relating to the mobile phones recovered from the scene further weakens the case. These omissions and inconsistencies materially impair the prosecution version of the place of occurrence. On a conjoint reading of the forensic record with the testimonies of PW1 to PW3 and the material inconsistencies therein, the prosecution has not proved the place and manner of occurrence as alleged by them; Such a deficiency is not a mere irregularity but one which undermines the substratum of the prosecution version.

Recovery/Seizure Chronology and Chain of Custody Concerns

105. PW3 deposed (at pages 62 to 67) that on 01.06.2010, he, along with Nijesh, PW1 and PW2, was present when the weapons were shown to them by the Investigating Officer and that he personally saw them. He further stated that he had not given any description of the weapons to the police, whereas PW1 and PW2 had described them. It also emerges that PW3 gave his statement

only on 01.06.2010 and 17.07.2010. The prosecution case, however, is that MOs 1 to 6 were recovered only on 19.07.2010 pursuant to a confession. This irreconcilable inconsistency casts a serious doubt on the reliability of the alleged recovery, raises questions about the chain of custody of the material objects and weakens their probative value when later identified in Court. In such circumstances, even the RFSL report, stating that the bloodstains on MOs 1 to 6 were of human origin, cannot be safely relied upon.

106. According to PW43, accused Nos. 2, 3, 4 and 14 surrendered before the Magistrate on 12.07.2010. Exhibit P101, the Custody application, was filed and allowed on 15.07.2010, the order being marked as Exhibit P102. On 19.07.2010, while in custody, accused No. 2 made a confession to the effect that he had concealed swords inside a sack at Meethalavayal. The relevant portion of this statement was marked as Exhibit P9(a). Acting on this disclosure, PW43, along with the police party and witnesses, proceeded to Kodyeri amsom, Meethala Vayal Desam, near TMC No. 22/250. At about 8:00 a.m., the accused led them to a spot approximately 20 metres southwest of a visible single-room house corner, in dense undergrowth near a *Nelli* tree and produced a wet

sack. From this sack, six swords were recovered. The seizure was effected under Exhibit P9 mahazar, attested by PW9/Subin. The weapons were marked as MOs 1 to MO6.

107. In addition, a sack containing RKR boiled rice, measuring 87 cm by 50 cm, was seized and identified as MO34.

108. The seizure mahazar (Exhibit P9) was prepared on 19.07.2010, but the record shows that it reached the Court only on 20.07.2010. Furthermore, the weapons referred to in Exhibit P9 were submitted to the Court only much later, under Exhibit P122 dated 15.10.2010 and actually received by the Court on 18.10.2010.

109. The chronology of recovery of MOs 1 to 6 suffers from serious infirmities. While PW3 claimed to have seen the weapons along with PW1 and PW2, as early as 01.06.2010, the prosecution version is that they were recovered only on 19.07.2010, pursuant to the confession of A2 under Exhibit P9. They were produced before the Court belatedly on 18.10.2010 under Exhibit P122. These discrepancies in timing and custody seriously undermine the reliability of the alleged recovery, casting doubt on the chain of

custody and thereby diminishing the probative value of the material objects.

110. PW6 stated that he saw A2, A3 and A5 on a motorcycle on 28.05.2010, with A2 carrying a sack-like bag that “appeared” to contain a weapon; he admitted that he could not identify what was inside the bag. His version is further weakened by the unexplained delay in giving his statement until 03.06.2010. Taken together with the infirmities in the recovery evidence, PW6’s testimony cannot be regarded as reliable in the absence of independent corroboration.

111. The alleged recovery of MOs 1-6 is vitiated by chronological contradictions, delayed production and a doubtful chain of custody; absent independent corroboration, their probative value stands diminished. These infirmities, coupled with the inconsistencies in the testimonies of PW1 to PW3, further weaken the prosecution case and render independent corroboration indispensable.

Another recovery of the alleged Country bomb and its evidentiary value.

112. PW8, the then Sub-Inspector in the Bomb Squad, testified that on 30.05.2010, he recovered three country-made bombs in a

plastic cover near the scene and on 31.05.2010, defused them and handed over remnants of stone, coir, iron and cloth fragments (MO30-MO33) to the Investigating Officer under Exhibit P8 certificate. PW29/Venugopalan, deposed that on 31.05.2010 he witnessed the DySP seizing the remnants of three defused country bombs (MOs 30-33) under Exhibit P38. PW10/K.K. Rajesh, a resident of Eechi, deposed that on 30.05.2010 around 6 p.m., he and his friend Vijesh witnessed the bomb squad recover three country-made bombs in a black-and-white plastic cover marked "Black - A Passion for Fashion," and signed the seizure mahazar (Exhibit P10), identifying the cover in Court as MO35.

113. The learned Special Public Prosecutor argued that the recovery was in pursuance of a confession and is admissible under Section 27 and under Section 8 of the Evidence Act. However, this Court finds that such recovery cannot be so accepted, as the accused were not present at the time of recovery. It was not recovered pursuant to the confession and as led by the accused. Therefore, it does not fall within the purview of Section 27 and Section 8 of the Evidence Act. In the case at hand, it has no

evidentiary value since there is no connecting link either to the incident or the accused.

Evidence of Investigating Officers (PW39, PW43 & PW44)

Appreciation of Evidence of PW39

114. PW39, the Circle Inspector of Thalassery, undertook the primary investigation on 28.05.2010. He prepared the scene mahazar (Exhibit P6), effected seizures (including MOs 7-12, 16-21, 38-43) and handled the initial property lists (Exhibits P63-P68) before handing over further investigation on 30.05.2010.

On a scrutiny of the investigative steps taken by PW39, certain shortcomings become apparent, which are outlined as follows:

115. **There exist irreconcilable contradictions between the FIR/FIS and the Scene Mahazar.** Exhibits P2 FIS and P37 FIR indicate that the incident occurred on a public road near the Rajiv Hotel at the Cherukallayi area. They do not state that the incident happened inside the goat farm compound. There is no reference to the goat farm compound being part of the place of occurrence. However, Exhibit P6 extends the scene into the walled

goat farm, from where PW39 claims to have recovered blood, hair, bone fragments, mobiles and footwear. This divergence is unexplained. PW39 himself admitted that PW2/Rajeesh had not stated that the attack occurred inside the goat farm, nor that the victims were brought out from a compound. His justification that bomb debris was collected from inside the compound stands in direct conflict with the FIS of the PW2 and FIR. PW39 accepted that Exhibit P6 does not mention bomb debris on the road, whereas the scientific assistant's report (Exhibit P23) records the collection of remnants from inside the compound. PW39 further admitted that, except P1, packets (P2, P4, P5, etc.) were taken from within the goat farm. The internal inconsistency between his mahazar, the FIS/FIR and scientific recovery undermines the continuity of the prosecution case of the blast and assaults.

116. **Secondly, the suppression of the statements of natural witnesses is striking.** PW39 acknowledged that **Ezhimalai** and **Anjali**, who are the residents and employees of the goat farm premises noted in Exhibit P6, were **questioned by him on 29.05.2010**. However, **their statements were not produced before the Court** and **they were not cited as prosecution**

witnesses. It has been revealed that a fire extinguisher was used within the goat farm. No investigation conducted to that aspect. The prosecution case, by relying on Exhibits P6 and P23, places crucial recoveries **inside the goat farm; these two are natural and material witnesses whose testimony would have been vital. Their deliberate exclusion, in the absence of any cogent explanation, obliges this Court to draw an adverse inference under Section 114(g) of the Evidence Act that their evidence would not have supported the prosecution. The scene was undeniably surrounded by houses, shops and workplaces that were all inhabited. Families such as that of Safer, workers of the HP Gas House, employees of the cement godown, residents of the nearby hotel and clinic and another resident, Govindan, were all proximate to the occurrence.** He admitted that even natural witnesses, such as the family of Safer, shopkeepers and local residents, were not examined, although he agreed they were "independent witnesses". Statements of key persons, such as the goat farm residents, Govindan, or shop workers, were never recorded. He admitted to questioning only PW2/Rajeesh as an

eyewitness during his tenure, leaving other supposed eyewitnesses unexamined. This failure deprived the investigation of corroborative and independent testimony.

Appreciation of Evidence of PW43

117. PW43/Prince Abraham, DySP Thalassery, deposed that by virtue of Order No.42/Camp/2010 dated 28.05.2010 (Exhibit P75), he took over the investigation of the case on 30.05.2010 and intimated the Court accordingly (Exhibit P76). He reached the spot at about 1:00 p.m. on 30.05.2010, verified the scene mahazar P6 and topography, including the goat-farm gate, slabbed interior and path behind MM School and later produced 29 scene photographs (exhibit P77 series, CD P78 and sealed cover P79). Acting on statements of PW1, PW2, CW3, PW10, he arrayed A1-A6. He arrested A5/Shamil on the same day; the arrest memo and inspection memo are marked as Exhibits P80 and P81, respectively. The mobile phone of accused No. 5 was seized and marked as MO65. Recorded his disclosure Exhibit P10(a) led to the recovery of three country-made bombs in a plastic cover (MO35) under Exhibit P10. On 31.05.2010, PW1/Sunil Kumar produced his bloodstained clothes, which were seized under Exhibit P1 (MOs 13

& 14). Later that day, remnants of the defused bombs (MOs 30 to 33) were seized under Exhibit P38. A report adding A5 as an accused was filed (Exhibit P83) and a remand report (Exhibit P84) was submitted. PW43 further detailed searches conducted at the residences of A1-A6 on 31.05.2010, recording of statements of several witnesses and collection of the Exhibit P22 ownership certificate of the goat farm from PW19 and Exhibit P32 site plan from PW25/Village Officer. On 04.06.2010, A6/Shammas, A7/Abbas and A8/Rahul were arrested and prepared Exhibits P88-P91, including arrest and inspection memos, which they produced before the Court. Following that, the remand report (Exhibit P92) and the report for the addition of Sections 120B and 109 of the IPC (Exhibit P93) were presented to the Court. He described further steps, including seizure of the motorcycle of deceased Sinoj, collection of Exhibit P39 damage assessment report from PW30, collection of Exhibits P52-P55 medical records, inquest and Exhibits P15-P25, Exhibit P56 post-mortem photographs, repeated house searches of accused persons and enquiries with shopkeepers in the vicinity.

118. On 22.06.2010, A9/Vineesh and A10/Rejikanth were apprehended, as evidenced by their arrest and inspection memos (Exhibits P97-P99) and subsequently remanded to custody (Exhibit P100).

119. On 30.06.2010, PW3/Ajeesh produced bloodstained clothes of the deceased, seized under Exhibit P4 (MOs 24 & 25). On 12.07.2010, A2, A3, A4 and A14 surrendered, custody was obtained (Exhibits P101-P102) and further investigation led to the recovery of six swords (MOs 1-6) from Meethalavayal pursuant to the disclosure of A2 under Exhibit P9 and P9(a), together with the sack MO34.

120. On 28.07.2010, A16/Sajeer was arrested (Exhibits P104-P105), his Scorpio car KL-18-C-1105 was seized (Exhibit P26) and later released on kachit order (Exhibit P128). Upon enquiry, it is revealed that Exhibit P108/autorickshaw KL-58-A-9061 and Exhibit P57/motorcycle PY03/7584 were used in the commission of the offence.

121. PW43 also proved the remand proceedings, forwarding notes and property lists (Exhibits P113-P127). PW43 identifies A4 and A16 in Court and says multiple witnesses mahazars/statements

(P27-P36, P40-P51) were proved. He further deposed that Scorpio was released to the owner through Exhibit P128 kachit.

122. During cross-examination, it is revealed that up to 30.05.2010, Exhibit P2 FIS, Exhibit P37 FIR, place the occurrence on the road, not inside the goat-farm compound. None of the eyewitnesses deposed to PW43 to the effect that the deceased ran inside the farm, that an explosion occurred inside, or that the accused stood guard at the gate. The exhibit the P77 series reflects fire-extinguisher residue and blood-stained material objects inside, but no evidence to prove that the victims were chased by the accused from the road to the Goat farm.

123. Another fact revealed through cross-examination is that the name "Mufeed" was mentioned by PW2 on 30 May 2010. C.K. Mufeed, Son of Musthafa, was examined as DW2 and Exhibit D27 case papers were produced. It reflects that C.K. Mufeed, Son of Musthafa, has a different father and address from A4, K.K. Mohammed Shafi, son of Moidu. However, the investigating officer conceded that he had not conducted any search or clarificatory report to determine whether C. K. Mufeed and K. K. Muhammed Shafi are the same person.

124. PW43 conceded that PW1 to PW3 did not state who hacked whom or how many. However, specific overt acts were attributed to those persons in the FIS/FIR, but they were subsequently deleted from the array of accused during investigation. In the absence of a proper test identification parade, coupled with the vague and generic description of the weapons merely as 'swords', the evidentiary value of the identification becomes substantially weakened.

125. During cross examination, it was revealed that Multiple items collected on 28.05.2010 reached the Court on 01.06.2010 or later, but delay reports were not filed in many property lists. MO1-MO6 recovered 19.07.2010 were produced 18.10.2010. The Bike MO15 property list does not note blood, although P77(O) shows blood on the visor. PW17, a police constable, recurs as the attesting witness across several mahazars, though the scene mahazar revealed that there are several inhabitants near the place of occurrence. During cross-examination, the defence put a suggestion to PW43 regarding the contents of the statements of CW12 and CW14, who were not examined before this Court. This Court finds that the contents of their statements have no

evidentiary value in the absence of their testimony. Though certain portions were sought to be marked at the stage of evidence, the marking was subject to objection. This Court holds that the objection is sustainable and the said statements cannot be admitted as substantive evidence. At best, they could have served the limited purpose of contradiction or corroboration had the makers testified, which did not occur in the present case. Hence, the statements of CW12 and CW14 are excluded from consideration.

126. Crucial witnesses, such as farm labourers and nearby shop/hotel owners (e.g., from Rajeev Hotel), were not examined. After evaluating the oral evidence of the PW43, this Court finds that the contemporaneous records Exhibit P2, P37, place the fatal events on the road; the subsequent emphasis on an inside-compound assault is not reconciled by continuous, contemporaneous seizure or consistent ocular testimony. The precise place of occurrence remains uncertain. The investigation suffers from unresolved alias identity ("Mufeed"/A4 Shafi), an unreconciled shift from road to an inside compound, delayed and inadequately sealed productions, with attestation by the same attester PW17; forensic non-support on explosives or weapon

linkage; non-compliant searches/custody; and non-examination of natural witnesses. These are not peripheral irregularities; they cut to the root of the identity of the accused persons, the Place of occurrence and reliability.

Appreciation of Evidence of PW44

127. PW44/Shaukkathalli A.P., the DySP, Thalassery, is the officer who took over the investigation on 01.08.2011 and completed it by filing the charge sheet on 25.08.2012. His evidence is largely confined to the production of various scientific reports, seizure mahazars, property lists and forwarding notes. He produced before the Court several RFSL and RCEL reports (Exhibits P69, P72, P73, P135, P138 and P139) confirming the presence of human blood on MO1 to MO6 weapons and on the clothes worn by PW2 and PW3 at the time of the incident. He also produced Exhibit P7, the certificate issued by PW7, which showed that no licence had been issued to the accused for possessing explosive substances and Exhibit P136, the sanction obtained from the District Collector for prosecution under the Explosive Substances Act. He further proved seizure proceedings, such as Exhibit P131 seizure mahazar of the motorcycle bearing No. PY 03-

7584 connected with A7, Exhibit P132 property list and Exhibit P133 receipt prepared for handing over the vehicle as per the Court order. He also produced Exhibit P134, the death certificate of A12 and Exhibit P140, the report regarding the abatement of proceedings against him. PW44 conceded that they did not take any efforts to cite or examine nodal officers and to prove CDR and CAFF of the accused. Finally, he stated that after completing the investigation, he filed the charge sheet against the accused under Sections 143, 147, 148, 341, 435, 120B, 109, 201, 302 read with 149 IPC and Sections 3 and 5 of the Explosive Substances Act.

128. At the same time, the cross-examination of PW44 reveals certain shortcomings in the investigation. He admitted that he had not questioned the residents in and around Goat Farm, namely Ezhimalai and Govindan. However, their presence was noted in the scene mahazar. His explanation that these persons were not present at the time of the incident does not inspire confidence, especially when their names and addresses were already noted in the scene mahazar. He also admitted that no CDRs, CAFs or tower location details of PW1 to PW3, the material eyewitnesses, were collected. The evidence of PW44 further discloses that he filed the

Exhibit P137 report, excluding A2, A4 and A6 to A15 from the array of accused. It is pertinent to note that PW2 has mentioned their names in the statement recorded by PW28. He conceded that he had not collected any CDR, CAF or tower location details of those excluded accused. Regarding the mobile phone records of the accused who were charge-sheeted, PW44 admitted that the CDR, CAFF, tower location details and Section 65B certificates were not filed along with the charge sheet, nor were the nodal officers of the service providers cited or examined as witnesses. He explained that the data was received regarding charge-sheeted accused persons through the official email of the Superintendent of Police. He also acknowledged that he has not made any effort to record the statements of the nodal officers and they were not cited as witnesses.

129. From the above, it emerges that PW44's evidence is valuable to the prosecution only to the limited extent of formally proving the production of documents and scientific reports. These reports, particularly the chemical examination reports showing the presence of human blood on the weapons and on the clothes of PW2 and PW3. In the case at hand, the testimony of PW2 and 3 is

merely an improved version and lacks corroborative evidence. Here, PW3 admitted in cross-examination that the investigating officers showed the weapons to PW1, PW2 and PW3 on 01.06.2010, but the weapons were recovered only on 19.07.2010. Hence, the presence of human blood on the weapons and clothes will not substantiate the case of the prosecution. His failure to examine crucial witnesses present at or near the scene, his omission to collect electronic evidence regarding the accused persons, the excluded accused and the eyewitnesses and the defective manner in which he handled properties and electronic records all indicate that the investigation carried out by him was not comprehensive. These deficiencies weaken the evidentiary value of his testimony and dilute the reliability of the prosecution's case to the extent it relies on his investigation.

130. On a cumulative appreciation of the evidence of PW39, PW43 and PW44, this Court is constrained to note that the investigation suffers from serious infirmities. The contradictions between the FIR/FIS and the scene mahazar, as well as the suppression of natural witnesses who could have spoken to the events inside the goat farm. PW43's tenure reflects irreconcilable

inconsistencies between contemporaneous records (placing the incident on the public road) and the inside compound assault, unresolved doubts regarding the identity of "Mufeed" vis-à-vis A4/Shafi, vague weapon descriptions unsupported by proper test identification, unexplained delays and defects in the production and attestation of material objects and the non-examination of natural and proximate witnesses. PW44's evidence, though valuable for formally proving documents and scientific reports, is weakened by his failure to examine crucial witnesses and to collect CDR/CAF details of either the accused or the eyewitnesses.

131. When viewed together, these lapses are not mere technical irregularities; they cut at the very root of the prosecution case by undermining the reliability of the evidence relating to the identity of the assailants, the place of occurrence, the chain of custody of weapons and bombs and the corroboration of eyewitness accounts. These investigative deficiencies, coupled with the omissions and contradictions in the testimony of PW1 to PW3, raise a real and substantial doubt about the prosecution's narrative.

132. In such circumstances, settled principles of criminal law require that the benefit of doubt be extended to the accused, for

this Court cannot base a conviction on evidence vitiated by such fundamental infirmities.

The next point urged by the prosecution is with regard to motive.

133. According to the prosecution, Vijith and Sinoj, who were active BJP/RSS workers, had earlier been accused in criminal cases, including the hacking of a CPM worker, Rajeevan and the 2019 Spinning Mill incident, where the local CPM branch secretary and others were attacked. It is alleged that, due to this background of political hostility, the accused, being CPM workers or sympathisers, conspired together and, on learning that Vijith and Sinoj were attending Court, lay in wait with bombs and deadly weapons. When the deceased were returning on a motorcycle after the Court proceedings, they were allegedly attacked with bombs and thereafter hacked with sharp weapons, resulting in their death.

134. While these allegations outline a motive theory based on longstanding political enmity, this Court has already found that the direct evidence of PW1 to PW3, projected as eyewitnesses, is not reliable. Once the ocular version is disbelieved, motive by itself cannot sustain the prosecution case. It is well settled that motive is

not a substantive ingredient of murder but only a relevant circumstance to lend assurance where other trustworthy evidence exists. In the absence of credible and convincing eyewitness testimony, the alleged political rivalry, even if assumed to be true, becomes irrelevant and cannot establish the complicity of the accused.

135. Another aspect is that to establish the **charge of conspiracy**, the prosecution was required to prove not only an agreement between the accused but also that an illegal act was committed in pursuance of that agreement. In the present case, the prosecution attempted to establish the presence of the first accused at the Mahe Court and subsequently at the scene of the occurrence as the foundation of the alleged conspiracy, contending that the subsequent incident was in pursuance thereof.

136. Significantly, PW44, the Investigating Officer, during cross-examination, conceded that though CDR and CAF details of the accused persons were received through e-mail, the same were neither produced before the Court, nor were the concerned nodal officers cited as witnesses. Upon analysing the above testimony, along with the material contradictions and improvements made by

PW1 to PW3, it becomes evident that the prosecution has failed to establish the alleged conspiracy.

137. The prosecution further sought to connect the Scorpio car belonging to accused No. 16 with the incident and, for this purpose, examined PW15/Roopesh, PW18/Rajan, PW23/Joy, PW24/Rajan, PW26/Pradeep and PW27/Priyesh. PW15 deposed that between 11.45 a.m. and 12 noon at Meethala Vayal, he saw a group of accused, including A2, A3, A5, A4 and A11, either near or boarding a Scorpio car and noticed A4/Shafi limping. PW18, the then Joint RTO, Thalassery, proved through Exhibit P20 that Scorpio KL-18-C-1105 was registered in the name of one Sajeer T.P. from 13.10.2009. PW23, a mechanic, admitted signing the seizure mahazar (Exhibit P26) relating to the Scorpio but categorically denied knowledge of its owner or repair and disowned the statement attributed to him. PW24, an employee at the same workshop, stated that on 28.10.2010 the DySP seized the vehicle from the workshop in his presence, but he too denied knowledge of any repair, payments, or involvement of Sajeer. PW26, the glass shop owner, disclaimed any sale of a Scorpio quarter glass to Sajeer on 25.05.2010. PW27, the accessories shop owner, similarly

denied ever dealing with the Scorpio or having sold or fixed sun film on it. The testimony of PW18, being merely formal, is not corroborated by any substantive material. The depositions of PW 23, 24, 26 and 27 do not support the prosecution case. In the absence of credible corroboration, the prosecution's case regarding the Scorpio vehicle and the alleged conspiracy falls short of the required standard of proof. On the material available, the prosecution has not proved, beyond a reasonable doubt, the existence of any agreement or meeting of minds amongst the accused to commit the murders. The CDR/CAFF records of the phones allegedly used to coordinate movements were not produced; the alleged preparatory communications remain unsubstantiated; and the principal eyewitnesses (PW1-PW3) suffer from material contradictions and improvements. In the absence of reliable proof of concert and in view of the doubtful identifications, the charge of criminal conspiracy under Section 120B IPC is not attracted.

The next aspect to be determined is the charge of unlawful assembly and the common object of the accused.

138. The prosecution has not proved beyond a reasonable doubt that the accused persons murdered Vijith and Sinoj. There is

no evidence adduced by the prosecution to prove that the accused persons are involved in the offence. In such a scenario, there is no point in probing other charges levelled against the accused persons. In the case at hand, the prosecution failed to prove that there was an unlawful assembly with the common object to commit murder. The testimony of PW1, PW2 and PW3 regarding identities, roles and overt acts is clouded by material contradictions and lacks corroboration with other evidence. Crucial independent witnesses such as the autorickshaw driver and goat-farm residents were not examined. In the absence of credible proof of membership and a shared object, vicarious liability under Section 149 IPC is not attracted. For a conviction under Section 109 IPC, the prosecution was bound to establish intentional aiding or instigation of the commission of the offence. In the present case, there is no cogent evidence to show that any of the accused abetted the commission of the murders of Vijith and Sinoj. The alleged preparatory communications were not proved through electronic records. The unreliable testimony of PW1 to PW3, coupled with the non-production of crucial corroborative materials, fails to establish abetment. Consequently, the charge under Section 109 IPC is not

made out. There is no evidence to establish that the accused persons had wrongfully restrained Sinoj and Vijith. It is also evident that no material has been produced on record to prove that the 2nd accused was in possession of or had used any explosive device so as to cause fire to the motorcycle used by Sinoj. These deficiencies, therefore, undermined the prosecution case with respect to the charges u/ss. 341 and 435 of the IPC and u/s. 3 and 5 of the Explosive Substances Act.

Summary of Findings on Merits

139. This Court has carefully considered the rival submissions advanced by the learned Public Prosecutor and the learned Defence Counsel and has scrutinised the oral, documentary and scientific evidence on record. Reliance placed by the prosecution on the line of authorities such as ***Govardhan v. State of Chhattisgarh* [2025 KHC Online 6042]**, ***Masalti v. State of U.P.* [1965 KHC 476]**, ***Madan v. State of U.P.* [2024 (1) KLD 45]**, ***Ramachandran K.C. v. State of Kerala* [2024 KHC Online 126]**, ***Subal Ghorai v. State of West Bengal* [2013 KHC 4261]**, ***Bipin Kumar Mondal v. State of West Bengal* [2010 KHC 4495]** and ***Edakkandi Dineshan v. State of Kerala* [2025 KHC Online**

7016], has been duly noted. These precedents underscore that evidence of partisan or related witnesses cannot be mechanically discarded and that the FIR is not an encyclopedia. While partisan testimony cannot be discarded merely on account of a relationship or interest, this Court is aware that it must be internally consistent and corroborated by independent or scientific evidence before it can form the basis of a conviction.

140. In the present case, what undermines the prosecution is not merely the partisan character of PW1 to PW3, but the deeper infirmities, material contradictions and inconsistencies in their evidence, the absence of corroboration and the investigative lapses in failing to produce natural witnesses which are summarised hereunder.

Presence and capacity of ocular witnesses

141. In assessing the presence and reliability of PW1 and PW2, this Court finds serious infirmities. CW3/Nijesh, who admittedly accompanied PW2, was also not examined. The motorcycle allegedly used by PW2 was neither seized nor proved to be in his use on the date of occurrence. The registered owner of the vehicle was not examined and the Investigating Officer admitted

that, though he knew the owner, he did not record his statement or cite him as a witness. Likewise, the Mahe Court bail register, which could have provided contemporaneous corroboration regarding the presence of PW2 and CW3/Nijesh on the relevant day, was neither seized nor produced and the then Sheristadar, before whom they were required to sign, was not examined. The testimony of PW38 on this aspect was purely formal and unsupported by contemporaneous records. The omission to produce such contemporaneous record creates a gap in the prosecution's attempt to establish the presence of PW2.

142. These deficiencies, taken together with the doubtful vantage point of PW1, who admitted that he was seated in an autorickshaw at the time of the explosion, while the alleged overt acts occurred inside a compound enclosed by a seven-foot fence, seriously undermine the prosecution case. The autorickshaw driver, another natural and independent witness, was likewise not examined. The non-examination of these material witnesses not only leaves the ocular account of PW1 and PW2 uncorroborated but also casts grave doubt on their very presence and capacity to witness the occurrence as alleged. In **Hari Obulla Reddy v. State**

of Andhra Pradesh [AIR 1981 SC 82], the Hon'ble Supreme Court has provided valuable guidelines for evaluating the testimony of partisan witnesses, observing that the Court must carefully consider whether the presence of such witnesses at the scene of occurrence, at the material time, is probable. Applying that principle to the present case, this Court finds that there is no cogent or corroborative evidence to establish that PW1 and PW2 were, in fact, present at the scene of the occurrence or in a position to witness the incident as alleged.

Contradictions between ocular and forensic evidence

143. PW1 and PW2 consistently spoke of bomb-hurling followed by an assault inside the goat farm. However, the forensic material and scene marks do not tally with this version. The crucial overt act of bomb-hurling allegedly by A2 was not mentioned in the earliest statements and surfaced only belatedly, after a lapse of fourteen years, without any contemporaneous corroboration. Likewise, the alleged overt acts relating to the assault were also absent in the earliest versions and appear only in subsequent testimonies, thereby weakening their reliability.

Material improvements and inconsistencies

144. PW2's First Information Statement (Exhibit P2) and the FIR (Exhibit P37) specifically named twelve accused with their localities and overt acts. These names were later deleted through Exhibit P137. His explanation of mistaken identity between "Mufeed of Kaviyoor" and "A4/Muhammad Shafi" is wholly unconvincing, particularly as DW2/Mufeed was examined and proved to be a different person. These material changes strike at the root of PW2's reliability. Further, there is no independent or cogent evidence to substantiate how A4 to A16, who were subsequently introduced as accused, were involved in this case. Equally, there is no reliable evidence to establish that A1 to A3 committed the offence. What remains on record is only an improved version without corroboration regarding the involvement of accused Nos. 1 to 16, which cannot safely be acted upon.

Uncertainty regarding the place of occurrence

145. Contemporaneous records such as Exhibit P2 (FIS) and Exhibit P37 (FIR) indicate that the fatal events occurred on the public road. In contrast, the scene mahazar (Exhibit P6) extends the occurrence into the goat farm, from where multiple recoveries

were shown. Significantly, the remnants of the bomb were recovered only from inside the goat farm, whereas PW1 and PW2 had no case that the bomb exploded within the farm; their consistent version is that they heard only a single explosion. This unexplained shift in the place of occurrence is neither reconciled by continuous and consistent testimony nor supported by corroborating evidence.

146. The best witnesses to events inside the goat farm, namely farm workers Ezhumalai and Anjali, local resident Govindan and nearby shopkeepers, were neither cited nor examined. Their non-examination amounts to suppression of material evidence. The non-production of CDR/CAFF records relating to mobile phones seized from the goat farm further weakens the evidentiary chain. These inconsistencies as to the very place of occurrence strike at the root of the prosecution narrative.

Deficiencies in Investigation

147. The testimony of PW39, PW43 and PW44 fails to resolve the material contradictions in the prosecution case. The investigation was vitiated by vague and generic weapon descriptions, unexplained delays in the production of material

objects, inconsistencies surrounding the alleged recoveries and the non-examination of natural witnesses. PW3 admitted that he, along with PW1 and PW2, had seen the weapon on 01.06.2010, yet the recovery was formally shown only on 19.07.2010. There is no explanation for the deletion of accused persons who had been specifically named with overt acts in the earliest version, nor for the subsequent inclusion of A4 to A16. The non-production of CDR/CAFF records relating to the arrayed accused, which could have shed light on the alleged conspiracy and the precise location of the accused, further weakens the case. The failure to collect electronic records and to examine key natural witnesses materially diluted the evidentiary value of the investigation. The exclusion of such natural witnesses is a serious lapse, weakening the core of the prosecution case.

148. On a cumulative assessment, these deficiencies are not minor irregularities; they pertain to the identity of the assailants, the place and manner of occurrence and the chain of events leading to the recovery of weapons and bombs. The improvements and contradictions in the testimony of PW1 to PW3 are not peripheral; they erode the substratum of the case. In the absence of

corroborative testimony or scientific support, their partisan accounts cannot form the sole basis of conviction. When the ocular account lacks consistency, the scientific evidence fails to offer certainty and the investigation suffers from serious flaws, this Court cannot, with judicial confidence, place reliance on the prosecution case. In **Vadivelu Thevar v. State of Madras [AIR 1957 SC 614]**, the Hon'ble Supreme Court classified witnesses into three categories: (i) wholly reliable, (ii) wholly unreliable and (iii) neither wholly reliable nor wholly unreliable, in which case corroboration is required. The Court further emphasised that it is the quality and not the number, of witnesses that matters and even the testimony of a single wholly reliable witness may suffice to sustain a conviction.

149. Applying these principles, this Court finds that the testimonies of PW1 to PW3 cannot be placed in the category of wholly reliable witnesses. On the contrary, the material contradictions, belated improvements regarding overt acts and absence of corroborative testimony render their evidence wholly unreliable. In such circumstances, no conviction can be sustained on their testimony.

150. In summation, while the Court is conscious of the brutal nature of the murders of Vijith and Sinoj, the responsibility of the prosecution does not end with establishing that the crime has occurred. It must, through admissible and reliable evidence, prove beyond a reasonable doubt the involvement of the accused. The result is that, though the homicidal deaths of Vijith and Sinoj stand conclusively proved, the prosecution has failed to establish, beyond a reasonable doubt, the identity and culpability of the accused before this Court. In such circumstances, the only legally permissible course is to extend the benefit of doubt to the accused, however grave the offence. The law, in its wisdom, has woven a golden thread through the fabric of criminal jurisprudence that the standard of proof required in criminal cases is very high. Suspicion, however strong, cannot take the place of legal proof. Applying that principle, this Court is constrained to hold that, though the homicidal deaths of Vijith and Sinoj are conclusively proved, the prosecution has failed to establish the guilt of the accused beyond a reasonable doubt. The contradictions and material improvements in the ocular testimony, the absence of corroborative evidence, the doubtful scene of occurrence and the serious lapses in investigation

together compel this Court to extend the benefit of doubt to the accused persons, who are accordingly entitled to acquittal.

151. Accordingly, the accused persons are not found guilty of the offences punishable under Sections 143, 147, 148, 341, 435, 201, 120B, 109 and 302 read with Section 149 IPC, and Sections 3 and 5 of the Explosive Substances Act. The points for determination are, therefore, answered against the prosecution.

In the result, the accused Nos. 1,2,3, 4, 5, 6, 7, 8, 9, 11, 13, 14, 15 and 16 are acquitted of the aforesaid offences under Section 235(1) Cr.PC. They shall be set at liberty forthwith and the bail bonds executed by them stand cancelled. The material objects produced and identified during the course of the trial shall be disposed of in accordance with the law. Accused Nos. 10 and 12 no more and charge against them stood abated.

(Typed by me directly to the laptop, corrected and pronounced by me in open Court, this the 8th day of October, 2025.)

ADDL. SESSIONS JUDGE-III

APPENDIX:-
WITNESSES FOR THE PROSECUTION

Rank	Name	Whether eye witness, police witness, expert witness, Medical witness, other witness
PW1.	Sri.Sunilkumar.E.	Eye witness
PW2.	Sri.O.P.Rajeesh	Eye witness
PW3.	Sri.Ajeeshkumar.C.V.	Eye witness
PW4.	Sri.Nishanth.A.P.	Other witness
PW5.	Sri.K.K.Sajeevan	Other witness
PW6.	Sri.Murali.K.	Other witness
PW7.	Smt.Premavalli(Junior Supdt., D1 Section Colletrate, Kannur).	Other witness
PW8.	Sri.A.Ramachandran(Asst. Commandant)	Police witness
PW9.	Sri.Subin(Clerk, Panchayth Department)	Other witness
PW10.	Sri.K.K.Rajesh	Other witness
PW11.	Dr.S.Gopalakrishna Pillai.(Prof. Of Forensic Medicine and Police Surgeon, Pariyaram medical College)	Medical witness
PW12.	Dr. Remya.C.R.(JC, ENT, THQH, Nadapuram)	Medical witness
PW13.	Dr.Sujith Sreenivas (Asst. Professor and Deputy Police Surgeon, Forensic Medicine, Govt. Medical College, Kozhikode)	Medical witness
PW14.	Sri.Ratheep	Other witness
PW15.	Sri.O.C.Roopesh	Other witness
PW16.	Sri.M.R.Biju(Inspector of Police)	Police witness
PW17.	Sri.Leeladharan(Retd.)	Police witness
PW18.	Sri.M.Rajan (Retd. RTO).	Other witness
PW19.	Sri.C.Prabhakaran(Retd. Secretary	Other witness

	Grama Panchayath.	
PW20.	Sri.A.Babu(Retd. Joint Director)	Expert witness
PW21.	Sri.Sabithakumari.K.P.	Other witness
PW22.	Sri.K.C.Sivan.(Photographer)	Other witness
PW23.	Sri.T.V.Joy	Other witness
PW24.	Sri.Rajan.	Other witness
PW25.	Sri.Pramod(Retd. Village Officer)	Other witness
PW26.	Sri.Pradeep.K.	Other witness
PW27.	Sri.Priyesh	Other witness
PW28.	Sri.P.A.Vasudevan Moosath (Retd. Sub Inspector of Police)	Police witness
PW29.	Sri.Venugopalan(Retd. Sub Inspector of Police)	Police witness
PW30.	Sri.M.Subhash Babu (Retd. RTO)	Other witness
PW31.	Sri.V.K.Sudhakaran (Retd. Sub Inspector of Police)	Police witness
PW32.	Sri.Praveen Kumar Fernandez	Other witness
PW33.	Dr.T.G.Omana(Retd. Doctor)	Medical witness
PW34.	Sri.V.Ramesh(Assistant Registering Authority, Mahe Transport Office)	Other witness
PW35.	Sri.C.P.Rajeevan(Sub Inspector of Police)	Police witness
PW36.	Sri. Anas.S.	Other witness
PW37.	Dr.Krishnakumar.S.(Asst. Police Surgeon, Department of Forensic Medicine, Govt. Medical College, Kozhikode.	Medical witness
PW38.	Sri.Radhakrishnan(Retd. Sub Inspector of Police)	Police witness
PW39.	Sri.Preman.U.(Deputy Supdt. of Police).	Police witness
PW40.	Dr.P.Sachidanandan(Explosive Expert, NIA)	Expert witness
PW41.	Sri.Rejnish(Sheristedar, Mahe Sub Court)	Other witness

PW42.	Sri.Anilkumar.P.(Sub Inspector of Police).	Police witness
PW43.	Sri.Prince Abraham(Retd. Police Officer)	Police witness
PW44.	Sri.Shoukathali(Supdt. of Police)	Police witness

EXHIBITS FOR THE PROSECUTION:-

Sl. No.	Date	Number	Description
1.	31-05-2010	P1/PW1	Seizure Mahazar.
2.	--	P2/PW2	First Information Statement.
3.	28-05-2010	P3/PW2	Seizure Mahazar.
4.	30-06-2010	P4/PW3	Seizure Mahazar.
5.	28-05-2010	P5/PW4	Inquest Report of Shinoj.
6.	28-05-2010	P6/PW5	Scene Mahazar.
7.	04-12-2010	P7/PW7	Reply for whether accused involved in the case were granted a licence to use or possess explosives.
8.	31-05-2010	P8/PW8	Certificate issued by the Sub Inspector of Police, B.D.D.S. Kannur.
9.	19-07-2010	P9/PW10	Recovery Mahazar.
10.	30-05-2010	P10/PW10	Seizure Mahazar.
11.	30-05-2010	P10(a)/PW10	Portion of Seizure Mahazar.
12.	18-07-2010	P11/PW11	Medico legal Certificate issued by Dr. S.Gopalakrishnan Pillai, Prof. Of Forensic Medicine and Police Surgeon, Pariyaram medical College)
13.	04-06-2010	P12/PW12	Certificate of Examination of a person under Police/Judicial Custody issued by Dr.Remya.T.R., Asst. Surgeon,

			Govt. Hospital, Thalassery.
14.	29-05-2010	P13/PW13	Postmortem Report of Shinoj issued by Directorate of Medical education, Dept. of Forensic Medicine, Medical College, Calicut.
15.	28-05-2010	P14/PW14	Inquest Report of Vijith.
16.	08-06-2010	P15/PW17	Seizure Mahazar.
17.	03-06-2010	P16/PW17	Registered cover with photos and negatives (Vijith).
18.	03-06-2010	P17/PW17	Registered cover with photos and negatives (Shinoj).
19.	06-09-2011	P18/PW17	Seizure Mahazar.
20.	24-08-2012	P19/PW17	Seizure Mahazar.
21.	05-08-2010	P20/PW18	RC particulars of Vehicle Bearing Reg. No.KL 18 C 1105 car issued to the Deputy Supdt. of Police, Thalassery.
22.	07-08-2010	P21/PW18	RC particulars of Vehicle Bearing Reg. No.KL 58 A 9061 issued to the Deputy Supdt. of Police, Thalassery.
23.	01-06-2010	P22/PW19	Ownership Certificate issued by New Mahe Grama Panchayath.
24.	08-06-2010	P23/PW20	Report on examination of scene of occurrence in Cr.No.768/2010 of Thalassery Police Station.
25.	--	P24/PW22	Photo.
26.	--	P24(a)/PW22	Photo.
27.	--	P24(b)/PW22	Photo.
28.	--	P24(c)/PW22	Photo.
29.	--	P24(d)/PW22	Photo.

30.	--	P24(e)/PW22	Photo.
31.	--	P24(f)/PW22	Photo.
32.	--	P24(g)/PW22	Photo.
33.	--	P24(h)/PW22	Photo.
34.	--	P24(i)/PW22	Photo.
35.	--	P24(j)/PW22	Photo.
36.	--	P24(k)/PW22	Photo.
37.	--	P24(l)/PW22	Photo.
38.	--	P24(m)/PW22	Photo.
39.	--	P24(n)/PW22	Photo.
40.	--	P25/PW22	Photo.
41.	--	P25(a)/PW22	Photo.
42.	--	P25(b)/PW22	Photo.
43.	--	P25(c)/PW22	Photo.
44.	--	P25(d)/PW22	Photo.
45.	--	P25(e)/PW22	Photo.
46.	--	P25(f)/PW22	Photo.
47.	--	P25(g)/PW22	Photo.
48.	--	P25(h)/PW22	Photo.
49.	--	P25(i)/PW22	Photo.
50.	--	P25(j)/PW22	Photo.
51.	--	P25(k)/PW22	Photo.
52.	--	P25(l)/PW22	Photo.
53.	--	P25(m)/PW22	Photo.
54.	--	P25(n)/PW22	Photo.
55.	28-07-2010	P26/PW23	Seizure Mahazar.
56.	28-07-2010	P27/PW23	The relevant portion of 161 statement of CW28.
57.	28-07-2010	P28/PW23	The relevant portion of 161 statement of CW28.

58.	28-07-2010	P29/PW23	The relevant portion of 161 statement of CW28.
59.	28-07-2010	P30/PW24	The relevant portion of 161 statement of CW29.
60.	28-07-2010	P31/PW24	The relevant portion of 161 statement of CW29.
61.	16-11-2010	P32/PW25	Site Plan issued by the Village Officer, Kodiyeri.
62.	29-07-2010	P33/PW26	The relevant portion of 161 statement of CW30.
63.	29-07-2010	P34/PW26	The relevant portion of 161 statement of CW30.
64.	29-07-2010	P35/PW26	The relevant portion of 161 statement of CW30.
65.	29-07-2010	P36/PW27	The relevant portion of 161 statement of CW31.
66.	28-05-2010	P37/PW28	First Information Report.
67.	31-05-2010	P38/PW29	Seizure Mahazar.
68.	08-06-2010	P39/PW30	Report for assessment of loss/ damage of the vehicle bearing No.PY 03 7187 issued by Sri.M.P.Suresh Babu Motor Vehicle Inspector, Thalassery.
69.	--	P40/PW32	The relevant portion of 161 statement of CW11.
70.	--	P41/PW32	The relevant portion of 161 statement of CW11.
71.	--	P42/PW32	The relevant portion of 161 statement of CW11.
72.	--	P43/PW32	The relevant portion of 161 statement of CW11.
73.	--	P44/PW32	The relevant portion of 161 statement of CW11.
74.	--	P45/PW32	The relevant portion of 161

			statement of CW11.
75.	--	P46/PW32	The relevant portion of 161 statement of CW11.
76.	--	P47/PW32	The relevant portion of 161 statement of CW11.
77.	--	P48/PW32	The relevant portion of 161 statement of CW11.
78.	--	P49/PW32	The relevant portion of 161 statement of CW11.
79.	--	P50/PW32	The relevant portion of 161 statement of CW11.
80.	--	P51/PW32	The relevant portion of 161 statement of CW11.
81.	28-05-2010	P52/PW33	Accident Register Cum Wound Certificate of Vijith issued by the Chief Medical officer, General Hospital, Mahe.
82.	--	P53/PW33	Intimation of accidents and injuries to police issued by the govt. General Hospital, Mahe. (Vijith)
83.	28-05-2010	P54/PW33	Accident Register Cum Wound Certificate of Shinoj issued by the Chief Medical officer, General Hospital, Mahe.
84.	--	P55/PW33	Intimation of accidents and injuries to police issued by the govt. General Hospital, Mahe. (Shinoj)
85.	09-06-2010	P56/PW34	Registration Certificate particulars of Vehicle No.PY 03 7187.
86.	05-08-2010	P57/PW34	Registration Certificate particulars of Vehicle No.PY 03 7584.

87.	29-05-2010	P58/PW35	Seizure Mahazar.
88.	03-04-2010	P59/PW36	Copy of Customer Application form of prepaid mobile connection of IDEA Cellular Ltd. (Subject to proof.)
89.	18-06-2012	P60/PW36	The relevant portion of 161 statement of CW51.
90.	29-05-2010	P61/PW37	Postmortem Report of Vijith issued by Directorate of Medical education, Dept. of Forensic Medicine, Medical College, Calicut.
91.	29-05-2010	P62/PW39	Report regarding the granting time to produce the properties before the court.
92.	01-06-2010	P63/PW39	Property List.
93.	01-06-2010	P64/PW39	Property List.
94.	30-05-2010	P65/PW39	Property List.
95.	30-05-2010	P66/PW39	Property List.
96.	30-05-2010	P67/PW39	Property List.
97.	30-05-2010	P68/PW39	Property List.
98.	31-08-2011	P69/PW40	Chemical examination report.
99.	03-06-2010	P70/PW40	Copy of Forwarding Note.
100.	10-06-2010	P71/PW40	Receipt issued by the Asst. Director(Chemistry) RFSL, Kannur
101.	31-08-2011	P72/PW40	RFSL Report issued by the Asst. Director RFSL, Kannur
102.	31-08-2011	P73/PW40	RFSL Report issued by the Asst. Director RFSL, Kannur
103.	--	P74/PW41	Certified copy of Docket Order in PRC No.2/2009 of Judl. Magistrate of Mahe.

104.	28-05-2010	P75/PW43	Proceedings of the Supdt. of Police, Kannur.
105.	30-05-2010	P76/PW43	Report regarding to taking over and conduct the investigation of the case.
106.	--	P77(a)/PW43	Photo.
107.	--	P77(b)/PW43	Photo.
108.	--	P77(c)/PW43	Photo.
109.	--	P77(d)/PW43	Photo.
110.	--	P77(e)/PW43	Photo.
111.	--	P77(f)/PW43	Photo.
112.	--	P77(g)/PW43	Photo.
113.	--	P77(h)/PW43	Photo.
114.	--	P77(i)/PW43	Photo.
115.	--	P77(j)/PW43	Photo.
116.	--	P77(k)/PW43	Photo.
117.	--	P77(l)/PW43	Photo.
118.	--	P77(m)/PW43	Photo.
119.	--	P77(n)/PW43	Photo.
120.	--	P77(o)/PW43	Photo.
121.	--	P77(p)/PW43	Photo.
122.	--	P77(q)/PW43	Photo.
123.	--	P77(r)/PW43	Photo.
124.	--	P77(s)/PW43	Photo.
125.	--	P77(t)/PW43	Photo.
126.	--	P77(u)/PW43	Photo.
127.	--	P77(v)/PW43	Photo.
128.	--	P77(w)/PW43	Photo.
129.	--	P77(x)/PW43	Photo.
130.	--	P77(y)/PW43	Photo.

131.	--	P77(z)/PW43	Photo.
132.	--	P77(aa)/PW43	Photo.
133.	--	P77(ab)/PW43	Photo.
134.		P77(ac)/PW43	Photo.
135.		P78/PW43	Compact Disc.
136.		P79/PW43	Sealed cover of Ext.P77 (Series) photos.
137.	30-05-2010	P80/PW43	Arrest memo of A5.
138.	30-05-2010	P81/PW43	Inspection Memo A5.
139.	31-05-2010	P82/PW43	Report regarding the permission of defuse the bombs involved in the case and seized under the seizure mahazar.
140.	30-05-2010	P83/PW43	Report regarding the continuation of the investigation by impleading the identified accused as an accused.
141.	31-05-2010	P84/PW43	Report seeking an order for remanding the arrested accused to judicial custody.
142.	01-02-2008	P85/PW43	Copy of First Information Report in FIR No.12/2008 of Palloor P.S., Pondicherry Police.
143.	21-10-2005	P86/PW43	Copy of First Information Report in FIR No.158/2005 of Palloor P.S., Pondicherry Police.
144.	04-05-2010	P87/PW43	Report regarding the continuation of the investigation by impleading the identified accused as an accused.

145.	04-06-2010	P88/PW43	Arrest Memo of Accused No.6, 7 & 8
146.	04-06-2010	P89/PW43	Inspection Memo of A6.
147.	04-06-2010	P90/PW43	Inspection Memo of A8.
148.	04-06-2010	P91/PW43	Inspection Memo of A7.
149.	04-06-2010	P92/PW43	Report seeking an order for remanding the arrested accused to judicial custody.
150.	04-06-2010	P93/PW43	Report regarding the adding of Sec.120(B), 109 IPC.
151.	11-06-2010	P94/PW43	Order of Judl. First Class Magistrate, Thalassery in Crime No.768/2010 of Thalassery Police Station
152.	22-06-2010	P95/PW43	Report regarding the continuation of the investigation by impleading the identified accused as an accused.
153.	22-06-2010	P96/PW43	Report regarding the continuation of the investigation by adding the full address of the identified accused.
154.	22-06-2010	P97/PW43	Arrest Memo of A 9 & 10.
155.	22-06-2010	P98/PW43	Inspection Memo of A9
156.	22-06-2010	P99/PW43	Inspection Memo of A10.
157.	23-06-2010	P100/PW43	Report seeking an order for remanding the arrested accused to judicial custody.
158.	14-07-2010	P101/PW43	Report seeking police custody to the accused, who are presently in judicial remand.
159.	15-07-2010	P102/PW43	Order in CMP No.2503/2010 of

			Judl. First Class Magistrate, Thalassery.
160.	20-07-2010	P103/PW43	Report seeking extension of time for producing before the court the properties seized in connection with the case, for the purpose of identification by witness.
161.	28-07-2010	P104/PW43	Arrest Memo of A16.
162.	28-07-2010	P105/PW43	Inspection Memo of A16.
163.	28-07-2010	P106/PW43	Report regarding the continuing the of investigation by adding the identified person as an accused in the case.
164.	28-07-2010	P107/PW43	Report regarding the addition of Sec.201 IPC in addition to the existing sections in the case.
165.	07-08-2010	P108/PW43	Seizure Mahazar.
166.	06-09-2010	P109/PW43	Report seeking police custody to the accused, who are presently in judicial remand.
167.	06-09-2010	P110/PW43	Order in CMP No.3321/2010 of Judl. First Class Magistrate, Thalassery.
168.	13-09-2010	P111/PW43	Report seeking permission to conduct interrogation of the accused presently in remand, at the jail.
169.	31-05-2010	P112/PW43	Property List.
170.	31-05-2010	P113/PW43	Property List.
171.	31-05-2010	P114/PW43	Property List.
172.	09-06-2010	P115/PW43	Property List.
173.	--	P116/PW43	Property List.

174.	03-06-2010	P117/PW43	Property Lists.(2 Nos.)
175.	06-07-2010	P118/PW43	Property List.
176.	24-07-2010	P119/PW43	Property List.
177.	16-08-2010	P120/PW43	Property List.
178.	16-08-2010	P121/PW43	Property List.
179.	15-10-2010	P122/PW43	Property List.
180.	22-06-2010	P123/PW43	Forwarding Note.
181.	22-06-2010	P124/PW43	Forwarding Note.
182.	18-10-2010	P125/PW43	Copy of Forwarding Note,
183.	20-07-2010	P126/PW43	Forwarding Note.
184.	30-10-2010	P127/PW43	Copy of Forwarding Note.
185.	01-01-2011	P128/PW43	Kaicheet.
186.	06-09-2011	P129/PW44	Property List.
187.	07-09-2011	P130/PW44	Copy of Forwarding Note.
188.	24-10-2011	P131/PW44	Seizure Mahazar.
189.	24-10-2011	P132/PW44	Property List.
190.	01-12-2011	P133/PW44	Kaicheet.
191.	17-10-2011	P134/PW44	Death details of Mohammed Rajeesh issued by the Kozhikode Corporation.
192.	27-09-2011	P135/PW44	Chemical Analysis Report issued by the RFSL, Kozhikode.
193.	--	P136/PW44	Proceedings of the District Collector & District Magistrate, Kannur.
194.		P137/PW44	Report for removing the accused No.2, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14 &15 from the array of accused in FIR.
195.	25-06-2012	P138/PW44	Chemical Analysis Report issued by the RFSL,

			Kozhikode.
196.	25-06-2012	P139/PW44	Chemical Analysis Report issued by the RFSL, Kozhikode.
197.	--	P140/PW44	Report for abatement of charge against the 12 th accused, who is involved in the case and who died.

WITNESSES S FOR THE DEFENCE:-

Rank	Name	Whether eye witness, police witness, expert witness, Medical witness, other witness
DW1.	Sri.Sreedharan.K.P.	Other witness
DW2.	Sri.Mufeed.C.K.	Other witness

EXHIBITS FOR THE DEFENCE:-

Sl. No.	Date	number	Description
1	30-05-2010	D1/PW1	Relevant portion of 161 statement CW2.
2.	30-05-2010	D2/PW1	Relevant portion of 161 statement CW2.
3.	30-05-2010	D3/PW1	Relevant portion of 161 statement CW2.
4.	31-05-2010	D4/PW1	Relevant portion of 161 statement CW2.
5.	17-07-2010	D5/PW1	Relevant portion of 161 statement CW2.
6.	30-05-2010	D6/PW1	Relevant portion of 161 statement CW2.
7.	28-05-2010	D7/PW2	Relevant portion of First Information Statement.
8.	28-05-2010	D8/PW2	Relevant portion of First Information Statement.

9.	28-05-2010	D9/PW2	Relevant portion of First Information Statement.
10.	28-05-2010	D10/PW2	Relevant portion of First Information Statement.
11.	28-05-2010	D11/PW2	Relevant portion of First Information Statement.
12.	28-05-2010	D12/PW2	Relevant portion of First Information Statement.
13.	30-05-2010	D13/PW2	Relevant portion of 161 statement CW2.
14.	28-05-2010	D14/PW2	Relevant portion of First Information Statement.
15.	01-06-2010	D15/PW3	Relevant portion of 161 statement CW4.
16.	01-06-2010	D16/PW3	Relevant portion of 161 statement CW4.
17.	01-06-2010	D17/PW3	Relevant portion of 161 statement CW4.
18.	01-06-2010	D18/PW3	Relevant portion of 161 statement CW4.
19.	01-06-2010	D19/PW3	Relevant portion of 161 statement CW4.
20.	01-06-2010	D20/PW3	Relevant portion of 161 statement CW4.
21.	01-06-2010	D21/PW3	Relevant portion of 161 statement CW4.
22.	17-07-2010	D22/PW3	Relevant portion of 161 statement CW4.
23.	03-06-2010	D23/PW15	Relevant portion of 161 statement CW19.
24.	03-06-2010	D24/PW15	Relevant portion of 161 statement CW19.
25.	03-06-2010	D25/PW21	Relevant portion of 161 statement CW40.

26.	27-01-2025	D26/PW43	Certified copy of judgment in SC No.2/2014 of Asst. Sessions Court, Mahe.
27.	27-12-2011	D27/PW43	Final Form/Report in FIR No.3/2010 of Palloor Police Station.
28.	--	D27(a)PW43	Particulars of witnesses to be examined.

MATERIAL OBJECTS:-

MO1.	:	Sword.
MO2.	:	Sword.
MO3.	:	Sword.
MO4.	:	Sword.
MO5.	:	Sword.
MO6.	:	Sword.
MO7.	:	Black Chappal (2 Nos.)
MO8.	:	Black Chappal (2 Nos.)
MO9.	:	Mobile Phone.
MO10.	:	Mobile Phone.
MO11.	:	Mobile Phone.
MO12.	:	Blood stained white dhothi with black border.
MO13.	:	Blood stained Khader Dhothi with white single line border.
MO14.	:	Light pink colour Shirt with embroidery.
MO15.	:	Bike.
MO16.	:	Sand.(Taken from place of occurrence.)
MO17.	:	Tar and sand (Taken from place of occurrence.)
MO18.	:	Sand.(Taken from place of occurrence.)
MO19.	:	Piece of hair (Taken from place of occurrence.)
MO20.	:	Piece of hair (Taken from north side of place of occurrence.)

MO21.	:	Piece of bone.(Taken from place of occurrence.)
MO22.	:	Blood stained white Mundu with brown border.
MO23.	:	Shirt (A black striped and the word "Dollarmen" written on the collar.)
MO24.	:	Kavimundu.
MO25.	:	Blood stained Maroon shirt with embroidery.
MO26.	:	Blood stained Shirt (black, red, green and Blue stripes).
MO27.	:	Blood stained Black colour Pant.
MO28.	:	Black Belt with steel buckle.
MO29.	:	Green, yellow and violet coloured under wear.
MO30.	:	Granite pieces covered in gunpowder.
MO31.	:	Jute thread laced with gunpowder.
MO32.	:	Gunpowder coated iron bars.
MO33.	:	Gunpowder stained cloth.
MO34.	:	Jute threaded sack.
MO35.	:	Black and white cover('Black a passion for fashion' written on the cover)
MO36.	:	Maroon shirt with writing AIR France
MO37.	:	Blue Colour underwear.
MO38.	:	Cotton Gauze.
MO39.	:	Cotton Gauze.
MO40.	:	Cotton Gauze(Control sample).
MO41.	:	Explosive remnants.
MO42. (Series)	:	Stone pieces, Jute thread, Paper pieces.
MO43.	:	Cotton Gauze.
MO44.	:	Sealed Box.(Relating to postmortem No.752/2010)

MO45.	:	Glan bottle containing swab.
MO46.	:	Glan bottle containing swab .
MO47.	:	Plastic bottle contains beads & aluminum flower like pieces.
MO48.	:	Plastic bottle containing scalp hair.
MO49.	:	Glan bottle containing swab from injury on back of left thigh.
MO50.	:	Plastic bottle containing granite stone.
MO51.	:	Plastic bottle containing granite stone.
MO52.	:	Plastic bottle contain scalp hair for comparison with hair in the weapon.
MO53.	:	Glan bottle containing blood in gauze for grouping and comparison.
MO54.	:	Glan bottle containing swab from sand on the body.
MO55.	:	Plastic bottle containing sand particles wiped with cotton swab.
MO56.	:	Plastic container containing jute fiber
MO57.	:	Glan bottle with swab.
MO58.	:	Glan bottle with swab.
MO59.	:	Glan bottle with swab.
MO60.	:	Glan bottle with swab.
MO61.	:	Glan bottle with swab.
MO62.	:	Plastic bottle with hair sample.
MO63.	:	Plastic bottle with dried blood.
MO64.	:	Sealed Box PM No.753/2010.
MO65.	:	Blue,white and gray coloured mobile phone(NOKIA).

IN THE COURT OF SESSION,
THALASSERY

SESSIONS CASE No.525/2013

J U D G M E N T

DATED: 08-10-2025

To,

1. The Registrar, High Court of Kerala,
Ernakulam, Kochi - 682031.
2. The Chief Judicial Magistrate
Court, Thalassery.
3. The District Collector, Kannur.
4. The Supdt. of Police, Kannur.
5. The Chemical Examiner,
Thiruvananthapuram.
6. The Supdt. Central Prison, Kannur.
7. The Public Prosecutor, Thalassery.
