

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE-II,
ALAPPUZHA**

Present:-Ms.Seethal.M.Sasidharan, Judicial First Class Magistrate-II

Dated this the 12st day of March 2026 /21st Phalguna 1947

C.C.No. 656/24

Complainant		State of Kerala Represented by S.I of Police, Mararikulam in Crime no. 905/24. (By Nageswary K.K, APP, JFMC– II Alappuzha)
Accused		Suraj Gogoi, 30 years, S/o Raj Gogoi, Deli Bazar Duliajan No.2, Duliajan.P.O, Tengakhat, Dibrugarh(Dist), Assam (By Adv.Sreevidhya.S)
Offences	:	Punishable u/S. 333, 126(2), 115(2), 74 BNS
Plea	:	Not guilty
Finding	:	The accused is found not guilty of the offence under section 333, 126(2), 115(2), 74 BNS
Sentence or order	:	The accused is acquitted of offences under section 333, 126(2), 115(2), 74 BNS u/S. 271 of BNSS

Description of the accused

Name	Father's/husband's Name	Occupation	Residence	Age
Suraj Gogoi	Raj Gogoi		Deli Bazar Duliajan No.2, Duliajan.P.O, Tengakhat, Dibrugarh(Dist), Assam State	30

Dates of

Occurrence	Complaint	Appearance	Period of detention undergone during investigation,	Release on bail	Commencement of trial

			inquiry of trial for the purpose of S.428 Cr.PC		
27.09.2024	05.11.2024	21.11.2024	531 days	Undertrial	15.02.2025

Commencement of evidence	Close of trial	Sentence or order	Reason for delay
10.02.2026	11.03.2026	12.03.2026	-

This case having been finally heard on 11.03.2026, the Court on 12.03.2026 delivered the following:-

J U D G M E N T

1. This case stands charge sheeted by the Sub Inspector of Police, Mararikulam Police Station in crime no 905/24 against the accused alleging offences punishable under Section 333, 126(2), 115(2), 74 of Bharatiya Nyaya Sanhita (hereinafter referred to as BNS , in short)
2. **Prosecution case in brief** : On 27.09.2024 at about 08.30 P.M , the accused trespassed into the house of CW1 Pankajakshi , with an intent to outrage her modesty and with that intent the accused hugged her. When she shouted, the accused forced his hand into her mouth, causing injury to her throat . Thereafter the accused pushed her onto the cot and pulled up her dhoti thereby outraging her modesty. Thus, he is alleged to have committed the offences punishable under Section 333, 126(2), 115(2), 74 of BNS .
3. Accused was arrested and produced before this court on 28.09.2024 and he was remanded to judicial custody on the same day. On completion of investigation, charge sheet was filed against the accused alleging the above mentioned offences and cognizance was

taken against the accused for the said offences. Though bail was granted to the accused on 17.05.2025 vide order of this Court in CMP No. 1237/2025, he could not furnish sureties, and the accused has been in judicial custody since 28.09.2024.

4. Legal Aid Defence Counsel appeared for the accused. Copy was served to the accused in compliance with Section 230 of Bharatiya Nagarik Suraksha Sanhita (hereinafter referred to as BNSS , in short) . After hearing both sides and perusing records, charge was framed for the offences under Section 333, 126 (2) , 115 (2) , 74 of BNS. It was read over and explained to the accused in Hindi. He pleaded not guilty and claimed to be tried.
5. From the side of the prosecution, PW1 to PW6 were examined and Exhibits P1 to P7 were marked. Though coercive steps were initiated against CW1, the prosecution could not secure the presence of CW1. The death certificate of CW8, the doctor who examined CW1, was produced. On the closure of the prosecution evidence, the accused was examined under Section 351 of the BNSS and he denied all the incriminating circumstances appearing in evidence against him. Though the accused was called to enter upon his defence, no evidence was adduced by him.
6. Heard both sides and perused the records.
7. The following points arise for the consideration of this Court:
 - 1) Did the accused, on 27.09.2024 at about 8:30 p.m., trespass into the house of CW1 Pankajakshi, having made preparation to cause hurt to her, and thereby commit an offence under Section 333 of the BNS?
 - 2) Did the accused, on the day, time, and place above mentioned, wrongfully restrain CW1 and thereby commit an

offence under Section 126(2) of the BNS?

- 3) Did the accused, on the day, time, and place above mentioned, voluntarily cause hurt to CW1 by forcibly putting his hand into her mouth, thereby causing injury to her throat, and thereby commit an offence under Section 115(2) of the BNS?
- 4) Did the accused, on the day, time, and place above mentioned, hug CW1 and pull up her dhoti, thereby outraging her modesty, and thereby commit an offence under Section 74 of the BNS?
- 5) If found guilty, what is the proper sentence or order to be passed?

8. **Points No 1 to 4** : For the sake of brevity and to avoid the repetition of facts, these points are considered together. The specific case of the prosecution is that on 27.09.2024 at about 08.30 p.m. the accused trespassed into the house of CW1 with an intent to outrage her modesty and the accused with that intent hugged her, pulled up her dhoti and when she cried, the accused forcibly put hands into her mouth , thereby causing injury to her throat. The prosecution alleges that by these acts the accused have committed the offences punishable under Section 333, 126 (2) , 115(2) and 74of BNS.
9. The investigation in this case was initiated based on the complaint of CW1, Pankajakshi, whose modesty was alleged to have been outraged by the accused. Although coercive steps were initiated to secure the appearance of CW1, the prosecution could not produce her before this Court. The First Information Statement lodged by CW1 was marked as Ext P2 through PW5, the woman police officer who

recorded her statement. Based on the statement recorded as Ext P2, Ext P3 FIR was registered against the accused on the alleged day of the incident, and the accused was arrested on the following day, i.e., 28.09.2024.

10. In order to prove it's case , prosecution examined PW1 to PW6 . PW1 is the daughter of CW1. She deposed that on 27.09.2024 at about 8.30 p.m., while she was standing outside her house, she heard the cry of her mother from inside the house. On hearing the cry, she immediately entered the house and at that time she saw a person running out of the house. When she enquired with her mother, CW1 informed her that the said person had hugged her and pulled off her dhoti and, when she cried, he put his hands into her mouth. PW1 further deposed that blood was coming from the mouth of her mother. Thereafter, she called her brother, who was residing in the adjoining house, and together they searched for the accused. When her son arrived, they proceeded to the police station. During cross-examination, PW1 categorically stated that she had only hearsay knowledge of the incident from her mother and that she had not given any statement to the police regarding the matter. She further deposed that she had only accompanied her brother's wife to the police station and had not given any statement before the police.
11. PW2 is the friend of the grandson of CW1. He deposed that on 27.09.2024 at about 6.00 p.m., while he was proceeding to Kalathiveedu Market, he saw the accused sitting on a culvert near the house of CW1. He further deposed that later in the evening his friend Adarsh called him and asked him to come to his house. When he reached there, Adarsh informed him that a Bengali person had assaulted his grandmother and had run away when she cried. PW2

identified the accused as a person, whom he had seen sitting at the culvert.

12. CW3 is also a friend of the grandson of CW1. He deposed that on 27.09.2024 at about 6.00 p.m., while he was returning to his house after work, he saw a Bengali person sitting on a culvert near the house of CW1. He further deposed that later in the evening he came to know that a Bengali person had assaulted CW1 at her house and that the said person had run away from the house after the incident. However, PW3 could not identify the accused before the court as the person whom he had seen sitting on the culvert.
13. PW4 is the attestor to the scene mahazar prepared by PW6 during the inspection of the place of occurrence. He identified his signature in the scene mahazar and the said document was marked as Exhibit P1. PW5 is the Woman Police Officer who recorded Ext P2 statement of CW1. She deposed that CW1 informed her that she had been physically and sexually assaulted by a person on 27.09.2024 at around 8.30 pm .
14. PW6 is the Investigating Officer in this case. He deposed that on the basis of Exhibit P2 statement given by CW1, he registered the FIR against the accused alleging offences punishable under Sections 333, 126(2), 115(2) and 74 of the BNS and the FIR registered by him was marked as Exhibit P3. He further deposed that he visited the place of occurrence and prepared the scene mahazar, which was marked as Exhibit P1. Thereafter, he arrested the accused and prepared the arrest records, which were marked as Exhibits P4 and P5. He also identified Exhibit P6, the address report of the accused. Since the doctor who examined CW1 had passed away by the time of trial, the wound certificate collected by him from the said doctor was marked

through PW6 as Exhibit P7.

15. The learned counsel for the accused argued that there is no direct evidence connecting the accused with the alleged incident, and that the statements of PW2 and PW3, who stated that they saw a Bengali near a culvert of CW1's house, do not in any way connect the accused with the alleged incident. He further submitted that the prosecution's failure to produce CW1, the informant, is highly detrimental to the prosecution case, and as such, they have miserably failed to prove the guilt of the accused beyond reasonable doubt.
16. The material witness in the present case is CW1, the informant. However, the prosecution has not examined CW1 before this Court. In the absence of her testimony, the prosecution has failed to place any direct evidence regarding the alleged incident before the Court. The evidence of PW1, who is the daughter of CW1, does not advance the prosecution case much, as she has categorically admitted during cross-examination that she has only hearsay knowledge about the incident from her mother.
17. The testimony of PW2 and PW3 is also of limited evidentiary value. Both of them have only stated that they saw a Bengali person sitting near a culvert at about 6.00 p.m. on the day of the incident and that later they came to know about the alleged attack. Their evidence is therefore hearsay regarding the alleged incident. Further, PW3 was unable to identify the accused before the Court as the person whom he had seen near the culvert. The remaining witnesses, namely PW5 and PW6, are official witnesses who have spoken about the investigation conducted in the case. Their evidence does not establish the involvement of the accused in the alleged offence. The

evidence on record is insufficient to establish the guilt of the accused beyond reasonable doubt. Thus, on analysing the entire prosecution evidence, it can be held that the prosecution has failed to produce any direct or reliable evidence to prove that it was the accused who committed the alleged offence. Thus, these points are found against the prosecution.

18. **Point No 5 :-** In light of the finding on Points no.1 to 4, accused is found not guilty of the offences punishable u/S.333, 126(2), 115(2), 74 BNS

In result, accused is acquitted of the above mentioned offences u/s. 271 of BNS . His bail bond stands cancelled and he is set at liberty.

Dictated to the Confdl. Asst., typed by her, corrected by me and pronounced in open court on this 12th day of March, 2026.

Seethal .M.Sasidharan
Judicial First Class Magistrate-II
Alappuzha

APPENDIX

Witnesses for prosecution:

Rank	Name	Whether Eye witness, Police witness, Expert witness, Medical witness, other witness
PW1	Vijayasree	Other witness
PW2	Manu	Other witness
PW3	Sharon	Other witness
PW4	Clint Manoharan	Other witness

PW5	Usha	Police witness
PW6	Sajeev.D	Police witness

Exhibits for Prosecution:

Sl.No.	Exhibit Number	Description
1	P1/PW4	Scene mahazar dtd 28/09/2024 proved on 02.08.2025
2	P2/PW5	First Information Statement dated 27.09.2024 proved on 16.01.2026
3	P3/PW6	First Information Report dated 27.09.2024 proved on 10.02.2026
4	P4/PW6	Arrest memo dated 28.09.2024 proved on 10.02.2026
5	P5/PW6	Inspection memo dated 28.09.2024 proved on 10.02.2026
6	P6/PW6	Address report dated 28.09.2024 proved on 10.02.2026
7	P7/PW6	Wound Certificate dated 28.09.2024 proved on 10.02.2026

Witnesses for defence : Nil

Exhibits for defence : Nil

Material objects : Nil

**Judicial First Class Magistrate-II,
Alappuzha**