

IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE-II, MAVELIKKARA.**Present: Anandhu.J.B, Judicial First Class Magistrate.****Thursday, 19th March, 2026.****Calendar Case No. 234 of 2023 [Crime No.397 of 2023 of Nooranad PS]**

Complainant : State represented by the S.I of
Police, Nooranad in Cr.No. 397/2023.
(By Smt.Dhanya S Pillai, JFCM-II, Mavelikara)

DESCRIPTION OF ACCUSED

Name	Father's Name	Occupation	Residence	Age
Sadasivan Pillai	Krishnapillai		Koyineth Kizhakkathil, Ulavukadu-Muri, Palamel Village.	78/23

(By Adv. B. Pradeep)

Offences : U/ss. 341,354 of IPC.
Plea : Not guilty
Finding : Guilty
Sentence/order : 1. Accused is found guilty of offenses punishable u/ss 341 and 354 of IPC and he is convicted u/s 248(2) CrPC.
2. Accused is sentenced to undergo simple imprisonment for 2 years and fined Rs.5000/- [Rupees five thousand only], for the offense punishable u/s 354 of IPC.
3. He is sentenced to undergo simple imprisonment for one month and fined Rs.500/- [Rupees five hundred only], for the offense punishable u/s 341 of IPC.
4. The sentence shall run concurrently.
5. The accused is entitled for set off for the period of custody undergone by him, during remand and

during trial [11 days].

6. If the fine is paid or realised, it shall be paid to PW1, as compensation u/s 357 (1) (b) of CrPC.

Dates of:

Occurrence	Complaint	Appearance	Release on bail	Commitment	Commencement of trial	Commencement of evidence
06.05.2023	06.05.2023	11.09.2023	Crime stage	--	31.07.2024	29.10.2024
Close of trial	Sentence or order	Service of copy of judgment or finding on accused	Explanation of delay		Period of detention undergone during investigation, inquiry or trial for the purpose of s.428 CrPC.	
27.02.2026	19.03.2026	19.03.2026	Absence of accused		11 days	

This case coming on for final hearing before me on 27.02.2026 and this day the court passed the following:-

J U D G M E N T

1. This case arose on a final report submitted by the S.I of Police, Nooranad in Cr. No. 397/2023 alleging offences punishable u/ss 341 & 354 of Indian Penal Code, 1860 [hereinafter referred as IPC].

2. **The prosecution case in brief is as follows:** The prosecution case is that, on 06.05.23 at 8.30 am, while PW1 was walking through canal road to her house, the accused, with an intention to outrage her modesty, wrongfully restrained her and pressed on her breast. When PW1 tried to escape, the accused followed her. Hence the offences.

3. The law was set in motion when PW1/CW1 lodged FIS to PW7. PW8 conducted investigation and filed final report before this court. On filing the final report, since it was found that there exists sufficient grounds to proceed, summons was issued to the accused. The accused surrendered before the court. He was enlarged on bail. Copies of case records were furnished to him. The charges for the offences punishable under sections 341,354 of IPC were read over and explained to the accused, to which he pleaded not guilty.

4. The prosecution has cited 8 witnesses. They were examined as PW1 to PW8 and Ext. P1 to P8 were marked. PW6 could not be cross examined, since passed away when his examination was adjourned for cross examination. After examining the witnesses for the prosecution, the accused was examined under section 313(1)(b) of the Cr.PC. He denied all the incriminating circumstances that appeared in the evidence against him. Thereafter, the defence was invited to adduce evidence. Ext.D1 and D2 were marked from the side of the accused.

5. The matter was considered for final decision after hearing the learned APP and the learned counsel for the accused. Perused the relevant records.

6. Following points arise for consideration.

- 1. Did the accused, on 06.05.23 at 8.30 am at KAP Canal road in the 5th ward of Palamel panchayath, has wrongfully retrained PW1 and thereby committed offense punishable u/s 341 of IPC?*

2. *Did the accused, on the above date, time and place, has pressed the breast of PW1, with an intention to outrage her modesty and thereby committed the offense punishable u/s 354 of IPC?*
3. *In the event of finding the accused guilty, what shall be the proper sentence or order?*

7. **Point Nos. 1 & 2:** Since the evidence and discussion are common, these points are considered together for brevity. On 06.05.2023, at 08.30 a.m., PW1 was coming back from the driving class to her house. She alighted in the bus stop and was walking through the canal road towards her house. When she reached the eastern side of the canal road, the accused, who was passing through the same road, has come behind her, grabbed her and pressed her breast, after restraining her. She has done this with an intention to outrage the modesty of PW1. Hence, the offences are alleged against the accused.

8. PW1 is the survivor in this case. She deposed that the alleged incident happened on 06.05.2023 at about 08.30 a.m. The incident happened near her house at the canal road. She was returning from her driving classes. She alighted the bus in the bus stop and was walking through the canal road towards her house. In a by-road, the accused has passed her. Once he passed PW1, he returned and caught hold of PW1. The accused has grabbed her breast from back. The accused has pressed the left breast of the PW1. PW1 questioned the accused about his conduct. She fled from the scene, fearing for her life. The accused followed her to her house. Then the

accused has pleaded for forgiveness to PW1 and to her mother-in-law. He intimidated that if they reveal this fact to anyone else, he would commit suicide. PW1 felt mental agony due to this. Her pressure lowered and she went to the hospital. She felt pain on her breast. She has given Exhibit P1 FIS to the police. She went to the hospital and returned to the police station to give Exhibit P1 FIS. She stated that during the alleged time, her husband was abroad and she resided along with her mother-in-law and daughter.

9. She availed medical assistance from General Hospital Adoor on the same day at 02.55 p.m. Ext.P8 is the wound certificate issued by PW4, the doctor who examined her. The reason stated in Exhibit P2 wound certificate for availing medical assistance is that she was assaulted by a person at 08.30 a.m. on that day. It is noted in Exhibit P2 wound certificate that she had pain on the left side of chest and shoulder.

10. PW1 has given statement under Section 164 CrPC before the learned Judicial First Class Magistrate, Chengannur. Exhibit P8 is the statement given by PW1 under Section 164 of CrPC. In Exhibit P8, she deposed that she was returning from the driving class and alighted bus in her stop. She was walking through the canal road. When she reached a by-road, the accused was walking towards the northern side. PW1 saw the accused walking towards her. Once he passed PW1, he returned towards her by stating that he forgot something. Then the accused has grabbed PW1 from behind and pressed on her breast. PW1 questioned the accused.

Then the accused has pleaded to PW1 not to reveal this fact to anyone. PW1 then ran to her house. The accused has followed her to her house. Then he pleaded to herself and to her mother-in-law not to share this fact to any person. He has also intimidated to commit suicide if this fact is revealed to anyone. He pleaded for forgiveness. On going through Exhibit P8 statement given by PW1, it is seen that it is completely corroborating with the version adduced by PW1 before this court as well as in Exhibit P1 FIS.

11. PW2 is a driver by profession. He deposed that he saw the incident on 26.05.2023. He went to the house of one Mr. Sathish at Ulavakkad to enquire about the contract work. He was accompanied by his friend Natarajan. When they were returning, they heard a hue and cry. PW2 saw a lady pushing away a person and running through the canal road. PW2 has followed her to enquire about the same. They realised the name of the lady. When they reached the house of that lady, PW2 saw the accused pleading forgiveness before the mother-in-law of that lady. On enquiry, it was revealed to PW2 that the accused has groped her. PW2 identified the accused before the court.

12. PW3 is the mother-in-law of PW1. She deposed that she has direct knowledge about the alleged incident. Her son is working as driver at Saudi Arabia. She is residing along with PW1 and her daughter. The incident happened on 06.05.2023. She deposed that PW1, who was returning from her driving class, has alighted at Puliveli Junction and was walking to the house. While so, the accused has

pressed her breast forcefully. PW1 has ran to the house frightenedly. When PW1 reached the house, she was immediately followed by the accused. The accused came to the house and pleaded for forgiveness. He also stated that if it is revealed to someone, he would commit suicide. She deposed that two other persons have also followed the accused. She identified the accused before the court.

13. PW6 is another occurrence witness examined to establish the case against the accused. He stated that he saw the incident. According to PW6, the alleged incident happened on 06.05.2023 at about 08.30 a.m. near the Mannuseri Temple at Ulavakkad. He went to the house of one Mr. Sathishan along with his friend Vinod. When they were walking together, they heard the hue and cry of a lady. PW6 saw a lady running towards her house. Behind that person, there was the accused. PW6 has followed her along with PW2. When they reached the house of that lady, they saw the accused pleading for forgiveness before the mother-in-law of that lady. PW6 enquired about the incident. It was revealed that the accused has groped her. It is further stated that the lady was walking through the side of the canal road. PW6 has also identified the accused before this court.

14. PW4 was the doctor who examined PW1 after the alleged incident. He was working as the Casualty Medical Officer at General Hospital, Adoor. On 06.05.2023, she examined PW1, who came with alleged history of assault. She has stated the incident happened to her to PW4, as someone has groped her while she was walking through the canal road on 08.30 a.m. that day. On examination by PW4, there was

pain on the left side of chest and shoulder. She had no external injuries. She issued Exhibit P2 wound certificate. PW4 has deposed before this court that the portion chest include breast also.

15. PW5 was the attester of the scene mahazar. He saw the police arriving at the place of occurrence. They came near the Mannusari Temple at Ulavakkadu near the house named Ratheesh Cottage. He attested in Exhibit P3 scene mahazar. P7 was the Senior Civil Police Officer of Nooranad Police Station. On 06.05.2023 at 06.00 p.m., she recorded Ext.P1 first information statement of PW1.

16. PW8 was the investigation officer of this case. On 06.05.2023, the case was registered based on Exhibit P1 first information statement given by PW1. Exhibit P4 is the FIR registered by him. He conducted the investigation and recorded the statements of the witnesses. He reached the place of occurrence and prepared Exhibit P3 scene mahazar. On the basis of Exhibit P3, PW8 has deposed the place of occurrence before this court. He deposed that the place of occurrence situates on the fifth ward of Palamel Panchayath in Palamel Village. It is stated that the place of occurrence exactly situates on the side of the KAP canal road.

17. PW8 arrested the accused and produced him before the police station. PW1 has identified the accused at the police station. On the same day itself, after recording the arrest, the accused was produced before the court and was remanded to judicial custody. Exhibit P5 to Exhibit P7 are the arrest memo, inspection memo, and custody memo, which were prepared during the arrest of the accused. He

identified the correct name and complete address of the accused and produced a report before this court, which is marked as Exhibit P8. He collected the wound certificate and produced it before the court. He preferred an application before the Hon'ble Chief Judicial Magistrate, Alappuzha, to record the statement of the survivor as per Section 164 of CrPC. He completed the investigation and filed final report before this court.

18. PW1 is the survivor and victim in this case. PW1 is the only witness who has direct knowledge about the alleged overt act done by the accused. She deposed in tune with the prosecution case. The oral evidence of PW1 is corroborated by her FIS and Exhibit P8 statement given under Section 164 of CrPC. PW2, PW3 and PW6 are the persons examined to prove the occurrence alleged by the prosecution. All three of them have deposed in tune with the prosecution case and tallying with the version of PW1. PW1 has lodged the FIS on the same day itself without any delay and the FIR was registered promptly. By pointing out these aspects, learned APP would submit that the prosecution has successfully established the case against the accused. Learned APP seeks to punish the accused for the offences alleged against him.

19. Learned counsel for the accused, on the other hand, would contend that this is a false case fabricated against the accused. During the examination of the accused under Section 313 CrPC, he has raised his defence. He pleaded that he is innocent. According to the accused, he did not do any acts as alleged by the

prosecution. It is stated that the husband of PW1 and his mother are in inimical terms with the children of the accused. The husband and mother-in-law of PW1 has instituted a suit before the Munsiff Court, Mavalikara, and has also instituted criminal case before this court. This case was instituted on the basis of that vengeance against the accused. Learned counsel for the accused would argue that the prosecution evidence is not enough and sufficient to conclude the guilt against the accused. In order to probabalise the defence raised by the accused and as well as to establish the innocence of the accused, the learned counsel for the accused raises several arguments.

20. One of the main arguments raised by the learned counsel for the accused is that the prosecution has failed to prove the place of occurrence before this court. The learned counsel for the accused points out the discrepancies in the place of occurrence which is stated before this court by different witnesses as well as in the prosecution records. In Exhibit P1 FIS, it is stated that the alleged incident happened when PW1 was walking towards her house through the canal road. Exhibit P3 is the scene mahazar prepared by PW8. The place of occurrence is stated in detail in Exhibit P3. As per Exhibit P3, the place of occurrence situates near the small bridge situates across the KAP canal which is half kilometre south from Ulavakadu junction, which situates on the Mannuseri-Ulavakadu road of the Palamel Panchayath. It is pointed out by the learned counsel for the accused that in Exhibit P1 FIS, it is not stated that the incident happened half kilometre south of the Ulavakadu junction. At the outset,

first-information statement is not an encyclopaedia and cannot be expected to contain all the minute details about the incident. It is trite that the primary object of an FI Statement or FI Report is only to set the criminal law in motion and it would be unreasonable to expect an FI Statement to contain every minute detail pertaining to an incident with unmistakable precision (**Jitender Kumar v. State of Haryana, AIR 2012 SC 2488**)

21. To further cast doubt upon the place of occurrence, the learned counsel for the accused rely on the cross-examination of PW1. PW1 was vehemently cross-examined. When questions with respect to the place of occurrence was put to PW1 in the cross-examination, she stated that her house is towards south of the bus stop where she alighted. It is stated that the bus stop situates on the eastern side of the road, which runs south to north. She stated that her house is towards south from that bus stop. He stated that no incident has happened on the eastern side of the bus stop. PW1 was recalled and was further examined. During that time also, several questions challenging the place of occurrence were put to her. A question was put to PW1 with respect to the location of Archana College. She stated that the Archana College junction is between Ulavakkad and Kudassanad. She further admitted that Arcana Collage situates 1.5 km north-east from the Ulavakkadu junction. It is further admitted that Archana College situates near the Karimalichal Puncha and to the north of the desktop. Further, when a specific question was asked, whether the

alleged incident happened in the pathway leading from the Archana College Junction to her house, she answered in positive.

22. During the cross-examination of PW2 also, several questions challenging the place of occurrence were put to them. On the third page of the cross-examination of PW2, it is stated by PW2 that the alleged incident happened 50 to 60 metres away from the Pulivali Junction. It is also stated that the place of occurrence is 10 to 30 metres from the bus stop. Further, he stated that the place of incident is near the canal road. Further, it is stated that PW1 was walking through the southern side of the canal. PW6, during the examination-in-chief, has stated that the alleged incident happened near Ulavakkad Manuseri Temple. It is argued by the learned counsel for the accused that neither in FI statement nor in Exhibit P3 scene mahazar the existence of Archana College junction is not stated. It is further argued that there exists serious discrepancies between the versions of PW1, PW2 and PW6 and Exhibit P3 scene mahazar with respect to the correct place of occurrence.

23. On going through the examination of PW1, PW2, PW6 and comparing it with Exhibit P3 scene mahazar, it is seen that there exists little confusion with respect to the place of occurrence. As stated above, non-mentioning of the exact place of occurrence in Exhibit P1 FIS is not fatal, since one cannot expect PW1 to state all the minute details to the person who recorded the FIS. With respect to the existence of one Archana College, it is seen that such an aspect is not mentioned in Exhibit P3 scene mahazar. It is only stated by PW1 during the cross-examination that

the place of occurrence is near to Archana College. PW2 and PW6 did not mention about the existence of such a college near the place of occurrence. It is pertinent to note that in the deposition of PW1, PW2, and PW6, and also in Exhibit P3, it is specifically stated that the alleged incident happened when PW1 was walking through the pathway leading to her house through the KAP canal. As per Exhibit P3 scene mahasar, the place of occurrence is on the pathway near KAP canal situates near to Ulavakadu junction in the Ulavakadu-Manusery road. The version of the place of occurrence as deposed by PW1 is tallying with Exhibit P1 and Exhibit P3 scene hazard.

24. Admittedly, the existence of Archana college is not mentioned in Exhibit P3. At the outset, this court is unaware as to whether Archana College, as suggested by the learned counsel for the accused during the cross-examination of PW1, situates near to the place of occurrence or not. When comparing the deposition of PW1, PW2 and PW6 with Exhibit P3 scene mahasar itself, it is seen that they are deposing about the same place comparing it with different adjacent places. The fact that the alleged incident happened in the canal road is established before this court through the deposition of PW1, PW2, and PW6. Whether or not that canal road is near to Ulavukkad Junction or Mannusery Junction or near to Archana College is not relevant, since it is proved that the alleged incident happened in the KAP canal road. Therefore, even though some confusion has arisen with respect to the place of occurrence, I am of the opinion that such a confusion is not fatal, so far as it does

not create any doubt upon veracity of the versions of the witnesses. Therefore, the argument with respect to the place of occurrence is not tenable.

25. Another argument raised by the learned counsel for the accused is that, with respect to the timings in Exhibit P7 custody memo and in the FIR. Exhibit P7 is the custody memo prepared when the accused was arrested and produced before the jurisdictional magistrate. As per Exhibit P7 custody memo, the date and time of custody is mentioned as 06.05.2023 at 03.00 p.m. In Exhibit P7, the cause of arrest/custody is stated as Crime No. 397 of 2023 of Nooranad Police Station. It is pointed out by the learned counsel for the accused that Exhibit P4 FIR was registered on 06.59 p.m. on 06.05.2023. It is seen that in Ext.P7 memo, the details of the FIR prepared subsequently to it is mentioned. This aspect was suggested to PW8, the Investigation Officer. He admitted that the time of taking of custody of the accused as per Exhibit P7 is mentioned as 03.00 p.m. on 06.05.2023, whereas the FIR was registered later. PW8 has explained that the accused was taken into custody from the place of occurrence itself, even before the registration of FIR, for avoiding unpleasant problems. It is also clarified that it was revealed that some incident has happened as alleged even before the registration of the FIR. It is settled in law that flaws in the investigation cannot be considered as fatal when it is not sufficient to create serious suspicion on the veracity of the prosecution evidence. The custody memo is prepared along with other records when the accused is being produced before the jurisdictional magistrate after arrest. In the Exhibit P7 arrest custody

memo, crime number is seen mentioned, since it may have prepared along with all other records before producing the accused before the Magistrate. Therefore, the above allegation raised by the learned counsel for the accused is merely technical and without any merits, which is not sufficient to doubt the veracity of the evidence of the prosecution witnesses.

26. The learned counsel for the accused would contend that this case is a fabricated one. It is stated by the accused during the examination under Section 313 CrPC that there exists grudge between the children of the accused with the husband and mother-in-law of PW1. According to the accused, this case was instituted as part of the inimical terms. To establish the defence case, the learned counsel for the accused relies on Exhibit D1 and Exhibit D2. Exhibit D1 is the copy of the plaint of OS 91 of 2024, filed before the Munsiff Court, Mavelikara. It was preferred by the husband of PW1 against the sons of the accused. That suit was filed for a relief of permanent prohibitory injunction. Exhibit D2 is the final report filed by the SI of Police, Nooranad, in Crime No. 274 of 2024, alleging offences punishable under Section 341, 294B, 323, 506(1) read with 34 of IPC. The gist of allegation of Exhibit D2 final report is that the accused no. 1 and 2, who are the husband of the PW1 herein and his brother, has unlawfully detained, uttered obscene words and caused hurt to the sons of the accused herein. It is also alleged that they have criminally intimidated them. On perusing Exhibit D2, it is seen that the court has taken cognizance and the case is registered as CC No. 148 of 2024 before this court. It is

argued by the learned counsel for the accused that Exhibit D1 and Exhibit D2 would establish the grudge existing between the husband, mother-in-law of the PW1 with the children of the accused. It is also argued that Ext.D1 and D2 would establish the defence case.

27. It is pertinent to note that both Exhibit D1 and Exhibit D2 cases emerged after the institution of this case. Exhibit D1 plaint was filed on 04.03.2024, and Exhibit D2 case was registered during 2024. Both the cases were instituted after the institution of this case. Therefore, on perusing Exhibit D1 and D2, it cannot be stated that there existed previous grudge between the families of PW1 and the accused during the alleged incident of this case. It is pertinent to note that the motive behind Exhibit D2 case is stated as due to the previous grudge of the accused against the de facto complainant, since the father of de facto complainant has misbehaved with the wife of the first accused, who is the PW1 herein. Therefore, from Exhibit D2, it is evident that this case is the reason for the alleged act committed by the husband of PW1 herein and his brother. Therefore, the existence of Exhibit D1 and D2 would not establish the defence case.

28. On perusing the prosecution evidence, it is seen that all the witnesses are loyal to the prosecution. PW1, who is the only witness who has direct knowledge about the alleged overt acts done by the accused, has clearly deposed before this court about the alleged incident. The question is whether the version of PW1 can be solely rely on to find the guilt of the accused. Learned APP would submit that PW1

is a witness of sterling quality. Hon'ble Apex Court in **Rai Sandeep v. State (NCT of Delhi) [2012 (8) SCC 21]** has adverted the quality of a witness to be termed as sterling quality, as follows;

"In our considered opinion, the "sterling witness" should be of a very high quality and calibre whose version should, therefore, be unassailable. The court considering the version of such witness should be in a position to accept it for its face value without any hesitation. To test the quality of such a witness, the status of the witness would be immaterial and what would be relevant is the truthfulness of the statement made by such a witness. What would be more relevant would be the consistency of the statement right from the starting point till the end, namely, at the time when the witness makes the initial statement and ultimately before the court. It should be natural and consistent with the case of the prosecution qua the accused. There should not be any prevarication in the version of such a witness. The witness should be in a position to withstand the cross - examination of any length and howsoever strenuous it may be and under no circumstance should give room for any doubt as to the factum of the occurrence, the persons involved, as well as the sequence of it. Such a version should have co - relation with each and every one of other supporting material such as the recoveries made, the weapons used, the manner of offence committed, the scientific evidence and the expert opinion. The said version should consistently match with the version of every other witness. It can even be stated that it should be akin to the test applied in the case of circumstantial evidence where there should not be any missing link in the chain

of circumstances to hold the accused guilty of the offence alleged against him. Only if the version of such a witness qualifies the above test as well as all other such similar tests to be applied, can it be held that such a witness can be called a "sterling witness" whose version can be accepted by the court without any corroboration and based on which the guilty can be punished. To be more precise, the version of the said witness on the core spectrum of the crime should remain intact while all other attendant materials, namely, oral, documentary and material objects should match the said version in material particulars in order to enable the court trying the offence to rely on the core version to sieve the other supporting materials for holding the offender guilty of the charge alleged."

On going through the evidence adduced by PW1, it is seen that she was vehemently cross examined in two occasions. Even though some minor discrepancy arose as to the place of occurrence, this court has already found that such discrepancy is not fatal. Apart from that PW1 has stood firm in her foot throughout the cross examination. Therefore, I am of the opinion that the evidence of PW1 is of sterling quality and it sufficiently proves the overt act committed by the accused.

29. PW2, PW3 and PW6 has clearly corroborated with the deposition of the PW1. PW2, PW3 and PW6 have proved the subsequent conduct of the accused. They did not seen the alleged overt act done by the accused. They saw PW1 pushing away the accused and running towards her house. They further saw the accused following her to the accused and on reaching her house, pleading forgiveness to PW1 and to her mother in law. PW2,PW3 and PW6 have deposed these facts tallying with each

other and corroborating to the evidence of PW1. The evidence adduced by them would prove the immediate subsequent conduct of the accused.

30. It is pertinent to note that even though the prosecution witnesses were vehemently cross examined, nothing that would discredit their veracity was brought by such cross examination. Admittedly there exists some discrepancy in the place of occurrence as deposed by the prosecution in the cases. But as stated above such a discrepancy is not fatal to the prosecution. Hon'ble Apex Court in **Bharwada Bhoginbhai Hirjibhai v. State of Gujarat [1983 KHC 449]** has held that discrepancies which do not go to the root of the matter and shake the basic version of the witnesses, cannot be annexed with undue importance.

31. The offense alleged against the accused are punishable u/ss 341 and 354 of IPC. The essential ingredients of offence under S.354 IPC are:

- (a) That the assault must be on a woman.
- (b) That the accused must have used criminal force on her.
- (c) That the criminal force must have been used on the woman intending thereby to outrage her modesty.

The act done by the accused is pressing the breast of PW1, while she was walking through a public pathway. Pressing the breast of a woman by itself is a use of criminal force on her. Hon'ble Apex Court in **Raju Pandurang Mahale v. State of Maharashtra and Another [2004 KHC 958]** has interpreted the offense as follows;

12 What constitutes an outrage to female modesty is nowhere defined. The essence of a woman's modesty is her sex. The culpable intention of the accused is

the crux of the matter. The reaction of the woman is very relevant, but its absence is not always decisive. Modesty in this Section is an attribute associated with female human beings as a class. It is a virtue which attaches to a female owing to her sex. The act of pulling a woman, removing her saree, coupled with a request for sexual intercourse, is such as would be an outrage to the modesty of a woman; and knowledge, that modesty is likely to be outraged, is sufficient to constitute the offence without any deliberate intention having such outrage alone for its object.

32. In the same decision, Hon'ble Apex Court has settled that the ultimate test for ascertaining whether modesty has been outraged is whether the action of the offender is such as could be perceived as one which is capable of shocking the sense of decency of a woman. Here, the accused has pressed her breast. She has clearly deposed before this court that she felt extreme mental agony by the act of the accused and she was frightened. She further stated that she was in a stage that she could not accept the situation. From the evidence before this court, it is proved sufficiently that the accused has outraged the modesty of PW1 by pressing on her breast and thereby committing the offense punishable u/s 354 of IPC.

33. PW1 is the only person having the direct knowledge about the alleged incident. She deposed the incident clearly before this court. Her version before this court is corroborated by Ext.P1 FIS, Ext.P8 statement u/s 164 CrPC, Ext.P2 wound certificate. PW2, PW3 and PW6 deposes in support with the version of PW1. Therefore, from the evidence before this court, it can be safely concluded that the

prosecution has succeeded in establishing the guilt of the accused. Points 1 & 2 are found in favour of the prosecution.

In the result, accused is found guilty of offenses punishable u/ss 341 and 354 of IPC and he is convicted u/s 248(2) of Code of Criminal Procedure, 1973. The accused shall be heard on question of sentence.

(Typed by me using Adalat AI using my personal laptop, corrected and pronounced by me, in open court, on this the 19th day of March, 2026.

Sd/-

Judicial First Class Magistrate-II,
Mavelikara.

34. Heard the accused on question of sentence. He submitted that he is having 82 years of age. He has several age old ailments. He pleads for mercy and forgiveness.

35. The allegation against the accused is serious in nature. Since the offense is an atrocity against woman, the benevolent provisions of the Probation of Offenders Act, 1958 are not invoked. Pertinently, accused had 78 years of age when he committed the offense. He had the age to be the father of the PW1. He done the act in broad day light in a public pathway. Hence, the offense done by him cannot be treated lightly. But considering his age, maximum punishment need not be inflicted on him.

In the result,

1. *Accused is found guilty of offenses punishable u/ss 341 and 354 of IPC and he is convicted u/s 248(2) CrPC.*

2. *He is sentenced to undergo simple imprisonment for 2 years and fined Rs.5000/- [Rupees five thousand only], for the offense punishable u/s 354 of IPC.*
3. *He is sentenced to undergo simple imprisonment for one month and fined Rs.500/- [Rupees five hundred only], for the offense punishable u/s 341 of IPC.*
4. *The sentence shall run concurrently.*
5. *The accused is entitled for set off for the period of custody undergone by him, during remand and during trial.*
6. *If the fine is paid or realised, Rs.5,000/- from it shall be paid to PW1, as compensation u/s 357 (1) (b) of CrPC.*

(Typed by me using Adalat AI using my personal laptop, corrected and pronounced by me, in open court, on this the 19th day of March, 2026.

Sd/-

Judicial First Class Magistrate-II,
Mavelikara.

APPENDIX:

1. List of prosecution/Defence/Court witnesses

A. Prosecution witnesses.

PW1	Sarika	Survivor/Victim
PW2	Vinod	Eye Witness
PW3	Bhasura	Other witness
PW4	Dr. Sreehari.J	Medical Witness
PW5	Babu	Occurrence Witness

PW6	Nadarajan(No More)	Eye Witness
PW7	Prasanna Kumari	Police Witness/FIS
PW8	Nitheesh	Investigation officer

B. Defence witness: Nil

C. Court witness: Nil

II. List of prosecution/Defence/ Court Exhibits

A. Prosecution Exhibits:

1.	Ext.P1/PW1	FIS
2.	Ext.P2/PW4	Wound Certificate
3.	Ext.P3/PW3	Scene Mahazer
4.	Ext.P4/PW8	FIR
5.	Ext.P5 /PW8	Arrest Memo
6.	Ext.P6/PW8	Inspection Memo
7.	Ext.P7/PW8	Custody Memo
8.	Ext.P8	164 Statement of CW1

B. Defence Exhibits:

1.	Ext.D1	Certified Copy of plaint in OS 91/24
2.	Ext.D2	Final report in CC 148/24

C. Court Exhibits: Nil

D. Material Objects: Nil

Sd/-

Judicial First Class Magistrate-II.
Mavelikara.

-----True Copy-----

Judicial First Class Magistrate-II.
Mavelikara.