

IN THE COURT OF THE FAST TRACK SPECIAL JUDGE, HARIPAD
(SESSIONS DIVISION, ALAPPUZHA)
Present:- Sri. Hareesh G., Special Judge

Saturday, the 16th day of May, 2026

S.C. No.353/2025

(Crime No.1863/2024 of Kayamkulam Police Station)
(CP No.9/2025 of JFMC-1, Kayamkulam)

Complainant : State of Kerala – represented by S.I. of Police, Kayamkulam Police Station.
(By Adv.Sri.S. Reghu, Spl. Public Prosecutor)

Accused : Shajahan.
(By Adv.Sri. Faizal Ahamed)

Charge : U/Ss.85, 126(2), 296(b), 115(2) & 118 of the Bharatiya Nyaya Sanhita, 2023 and u/S.75 of the Juvenile Justice (Care & Protection of Children) Act, 2015.

Plea : Not guilty.

Finding : Not guilty.

Sentence or Order : ***Accused is acquitted u/S.258(1) of BNSS for the offences punishable u/Ss.85, 126(2), 296(b), 115(2) & 118 of the Bharatiya Nyaya Sanhita, 2023 and u/S.75 of the Juvenile Justice (Care & Protection of Children) Act, 2015.***

DESCRIPTION OF THE ACCUSED

Sl.No.	Name	Father's name	Religion	Occupation	Residence	Age
1	Shajahan S/o Pookkutty, Kovilakathu (Thazni Manzil), Krishnapuram Muri & Village.					47/24

Dates of:-

Offence	Report	Apprehension	Release on bail	Committal
21/11/2024	14/01/2025	16/12/2024	16/12/2024	21/02/2025
Commencement of trial	Close of trial	Sentence/order	Explanation for delay	
06/01/2026	06/05/2026	16/05/2026	-	

This Sessions Case having been finally heard on **06/05/2026** and stood over for consideration to this day and the Court on this day delivered the following:

J U D G M E N T

- (1) This case is based on the final report filed by the S.I. of Police attached to the Police Station, Kayamkulam in Crime No.1863/2024 of the said police station. The said case is registered against the accused alleging commission of offences punishable u/Ss.85, 126(2), 296(b), 115(2) & 118 of the Bharatiya Nyaya Sanhita, 2023 (for short, B.N.S.) and Sec.75 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short, J.J. Act).
- (2) The prosecution allegation in the final report is that the accused out of his enmity towards CW1, due to the reason that she and her children are staying in Thazni Mansil at Krishnapuram of Krishnapuram Village, with his intention to wrongfully restrain and assault her, at 06.00 am on 21/11/2024, in the house with

name Thazni house having No.XXX/109 in Ward 30 of Kayamkulam Municipality at Krishnapuram Muri of Krishnapuram Village, caught hold of her neck and abused her in filthy languages; in the same transaction, the accused beat CW1 on her both shoulders and as CW1 ran to the kitchen of the house, the accused followed her by abusing her with filthy language and twisted her both hands. Thereafter, the accused inflicted a cut injury on the left thigh of CW1 with a chopper and as CW2, who is the daughter of the accused and CW1 and aged 10 years, rushed to save CW1, the accused hit her on the left cheek with the handle of the said chopper. Thus, the accused has committed the offences punishable u/Ss.85, 126(2), 296(b), 115(2) & 118 of the Bharatiya Nyaya Sanhita, 2023 and Sec.75 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

- (3) The case had its genesis on Ext.P1 F.I.S. given by PW1 before PW5, the SCPO of the police station at Kayamkulam; on the basis of Ext.P1 F.I.S, PW6 has registered the case as per Ext.P5 FIR and after completing the investigation, he has laid the final report before the Judicial First Class Magistrate's Court-1, Kayamkulam by citing CWs 1 to 9 as charge witnesses.
- (4) The learned Magistrate took cognizance of the offence and taken the case on the file as C.P. No.9/2025 and committed the case to

the Hon'ble Children's Court, Alappuzha u/S.232(a) of BNSS. The Hon'ble Children's Court taken the case under the present number and issued process to the accused and thereafter, made over the case to this Court for trial and disposal.

- (5) Upon receipt of the case file, process was issued against the accused, the accused appeared before the Court. Since the accused was enlarged on bail when the case was pending before the Magistrate's Court, he was permitted to continue on the same bail bond. The accused has been defended by the counsel appointed by him.
- (6) The learned Special Public Prosecutor opened the case u/S.249 of Bharatiya Nagarik Sureksha Sanhitha (For short B.N.S.S.) by describing by what evidence he proposes to prove the guilt of the accused. Thereafter, the counsel for the accused and the Special Public Prosecutor were heard u/S.250 of the BNSS and since there is sufficient materials to frame charge against the accused, charge U/Ss.85, 126(2), 296(b), 115(2) & 118 of the Bharatiya Nyaya Sanhita, 2023 and u/S.75 of the Juvenile Justice (Care & Protection of Children) Act, 201 was framed, read over and explained to the accused. The accused pleaded not guilty to the charge and claimed to be tried.
- (7) Thereafter, from the side of the prosecution, **PW1 to PW6** were examined, marked **Exts.P1 to P11** and **MO.1**.

- (8) After the closure of the prosecution evidence, the accused was examined u/S.351(1)(b) of BNSS with respect to incriminating circumstances appearing against him in the prosecution evidence. The accused denied all the incriminating circumstances brought against him and stated that he is innocent of the prosecution allegations.
- (9) The accused filed an additional statement. As per the additional statement of the accused, no incident as depicted by the defacto complainant has taken place. The present case is the aftermath of the rivalry of the defacto complainant against the accused as his daughter Thazni (born in his first wedlock) has filed complaint against the defacto complainant as the defacto complainant ill-treated said Thazni. As per the additional statement, he is innocent of the prosecution allegations.
- (10) Thereafter, the learned counsel for the accused and the learned S.P.P. were heard u/S.255 of BNSS. Since there is evidence against the accused, it is found that the accused is not entitled to be acquitted u/S.255 of BNSS. No evidence was adduced when the accused was called upon to enter on his defence.
- (11) Among the prosecution witnesses examined, PW1 is the defacto complainant. She has set the law in motion by lodging Ext.P1 FIS. PW2 is the doctor attached to the Taluk Hospital, Kayamkulam.

She examined the defacto complainant and her daughter and issued Exts.P2 & P3 certificates. PW3 is the Revenue Superintendent attached to the Municipal Office, Kayamkulam; he has issued Ext.P4 ownership certificate. PW4 is the daughter of the accused and PW1; she is examined to prove the incident in this case. PW5 is the CPO attached to the police station, Kayamkulam; he has recorded Ext.P1 FIS given by PW1. PW6 is the S.I. of Police attached to the police station, Kayamkulam; he has registered the case as per Ext.P5 FIR and after completing the investigation, he has laid the final report; through him, Exts.P5 to P11 documents were marked.

(12) The prosecution has given up CWs 3 & 4.

(13) Heard the learned SPP and the learned counsel for the accused.

(14) The following points arise for consideration:-

- 1) Whether PW4 was a child at the time when the incident took place?
- 2) Whether the accused subjected PW1 to cruelty?
- 3) Whether the accused wrongfully restrained PW1?
- 4) Whether the accused uttered obscene words in or near a public place to the annoyance of hearers?
- 5) Whether the accused voluntarily caused hurt to PW1?
- 6) Whether the accused voluntarily caused hurt to PWs 1 & 4?

- 7) Whether the accused being the father of PW4, showed cruelty to her?
- 8) What, if any is the offence committed by the accused?
- 9) Regarding sentence or order?

(15) **Point Nos.1 to 7:-**

For the sake of convenience and since these points are interconnected, they are considered together. In this case, the prosecution alleges the offence u/S.75 of the J.J. Act against the accused. The said section is incorporated in the final report for the reason that the accused, who is none other than the father of PW4, assaulted her. Since the offence u/S.75 of the J.J. Act is alleged, the age of PW4 is a relevant fact to be proved by the prosecution. In this case, with regard to the age of PW4, there is no challenge from the side of the accused.

- (16) PW1, the mother of PW4 deposed before the court that the date of birth of PW4 is on 15/02/2014. The Hon'ble High Court of Kerala in **Raveendran V. S. v. Deputy Superintendent of Police [2025 KHC 226 :2025 KER 14285 : 2025 KLT OnLine 1341]** held '**Undisputedly, the most competent person to depose about the age of a child is the child's mother.**' As already mentioned, the evidence of PW1 regarding the age of PW4 is not challenged by the accused. Thus, it is found that the prosecution has succeeded in proving that PW4 is

born on 15/02/2014. As per the prosecution allegation, the incident in this case happened on 21/11/2024. Thus, it is found that on the said day, PW4 has not completed the age of 18 years and therefore, she is a child as defined in the J.J. Act.

- (17) Law is set in motion by PW1 by lodging Ext.P1 FIS. Gist of her evidence is that the incident happened at 06.00 am on 21/11/2024. She testified that the accused, who is her husband used to play music on his cell phone at 04.00 am on every day and on the said day, her daughter, who was sleeping in the house after attending night duty at Parabrahmam Hospital complained that she could not sleep. It is her evidence before the court that then she asked the accused to switch off the cell phone and the accused shouted at her. She testified that then the accused dragged her both hands backward and tried to attack her with a chopper. She deposed that then PW4, who was then aged 10 years reached there and interfered. PW1 testified that PW4 sustained a beating on her face. PW1 deposed that she sustained a cut injury on the left thigh with a chopper. It is her evidence before the court that she and her daughter went to the hospital and later lodged **Ext.P1** FIS. The chopper with which the accused attacked PW1 was identified by her and the same is marked as **MO.1**.

- (18) PW4 is the next injured in the case. She also supported the prosecution. PW4 testified that the accused is her father and he has assaulted her and her mother. It is her evidence before the court that her father always creates trouble in the house after consuming liquor. PW4 further deposed that the accused used to utter abusive words against her mother. She deposed that on the date of the incident, the accused attacked her mother with MO.1 chopper. It is her evidence before the court that on hearing the cry of her mother, she rushed to the place and then she saw the accused trying to attack her mother with the chopper by twisting her hand. PW4 deposed that the accused pushed her back and then the handle of the chopper hit on her tooth. PW4 deposed that after the incident, she and her mother went to the hospital.
- (19) PW2 is the doctor attached to the Taluk Hospital, Kayamkulam. She deposed that on 25/11/2024 at 12.06 pm, she examined Fathima Kunju and issued **Ext.P2** certificate. It is her evidence before the court that on her examination of the said person, she noticed a contusion 5 x 4 cm and healing linear abrasion 1.5 cm. She also deposed that on the very same day at 12.05 pm, she also examined Ahasana and issued **Ext.P3** certificate. It is her evidence before the court that on her examination of the said child, she noticed pain on right upper incisor.

- (20) PW3 is the Revenue Superintendent attached to the Municipal Office, Kayamkulam. He testified that he has issued an ownership certificate with respect to the place of occurrence and the said certificate is marked as **Ext.P4** and as per Ext.P4, the house belonged to Fathima Kunju, Thazni Manzil.
- (21) PW5 is the SCPO attached to the police station, Kayamkulam. He deposed that on 26/11/2024, he recorded Ext.P1 FIS given by PW1.
- (22) PW6 is the S.I. of Police attached to the police station, Kayamkulam. He deposed that on the basis of Ext.P1 FIS, he has registered the case as per **Ext.P5** FIR. He further deposed that he then inspected the scene of occurrence and prepared **Ext.P6** mahazar. PW6 further deposed that he has seized MO.1 chopper as per the scene mahazar and produced the same before the court as per **Ext.P7** property list.
- (23) PW6 deposed that he has arrested the accused and the arrest memo prepared at the time of arresting the accused is marked as **Ext.P8**. PW6 further deposed that he has filed **Ext.P9** report before the court to bring on record the name and address of the accused. He would depose that he has filed **Ext.P10** report to incorporate Sec.85 of BNS in the case. He further deposed that

he has produced **Ext.P11** marriage certificate showing the marriage between PW1 and the accused. He further deposed that he has collected Ext.P4 ownership certificate with respect to the lace of occurrence and Exts.P2 & P3 wound certificate pertaining to PWs 1 & 4.

(24) In this case, the accused contended that this is a falsely foisted case against him. He contended that her daughter Thazni born in his first wedlock, filed a complaint against PW1 alleging ill-treatment and in order to escape from the said case, PW1 has falsely foisted this case. The learned counsel appearing for the accused argued that there is inordinate delay in lodging Ext.P1 FIS and the evidence of PW1 does not corroborate with her statement in Ext.P1. It is also the argument of the learned counsel for the accused that medical evidence on record is not in tune with the evidence of PWs 1 & 4 and therefore, the prosecution could not prove the guilt of the accused beyond reasonable doubt.

(25) The contentions raised from the side of the accused are put to scrutiny. First of all, it is to be noted that as per the version of PWs 1 & 4, the incident happened at 06.00 am on 21/11/2024. But, Ext.P1 FIS is seen lodged only at 04.30 pm on 26/11/2024. PW1 has not given any convincing reason for her belated lodging

Ext.P1 FIS. As per Ext.P1, the accused beat her on both the shoulders. But, before the court PW1 has no case that she was beaten on the shoulders. As per Ext.P1 FIS, PW4 on reaching the kitchen, she pushed back the accused and then he hit on the left cheek with the chopper. But, while giving evidence before the court that PW1 stated is that while the accused tried to beat her, the blow fell on the face of her daughter. While giving evidence before the court, PW1 has no case that the accused attacked PW4 with the chopper. PW4 deposed before the court that while the accused pushed her back, the handle of the chopper hit against her tooth. But, as per Ext.P1 FIS, the accused deliberately hit on the face of PW4 with the chopper.

- (26) On consideration of these evidence, it can be seen that the evidence of PW1 sharply deviate from her first version regarding the incident. PWs 1 & 4 also gave different versions with regard to the attack of the accused on PW4. PW1 maintained a case that the accused inflicted a cut injury on her left thigh. But, PW2 who examined her on 25/11/2024, could not see any cut injury on the left thigh. Had PW1 sustained an injury with a chopper, PW2 definitely would have noticed the same. That apart, while giving statement to the doctor what PW1 stated is that the accused tried to attack her and then her daughter interfered and the tip of

the chopper touched her left thigh. Likewise, on examination of PW4 also, PW2 could not see any injury on the face of PW4. Had PW4 was attacked with the handle of chopper, definitely she would have sustained injury on her lips. The absence of injury on the lips, cast very serious doubt with regard to the prosecution allegation that the accused attacked PW4 with chopper. Another striking aspect of the case is that even though PWs 1 & 4 sustained attack on 21/11/2024, they sought medical attention only on 25/11/2024. The belated consultation of PWs 1 & 4 in the hospital also casts some serious doubt with regard to the prosecution version.

- (27) Thus, on evaluation of the entire evidence, it can be found that Ext.P1 was lodged belatedly. PWs 1 & 4 did not seek medical attention soon after the incident and no reason was stated their belated consultation in the hospital. The medical evidence adduced in the case show that the injury stated by PWs 1 & 4 before the court is false. Whatever facts stated by PWs1 & 4 before the court sharply deviates from Ext.P1 FIS. The culminate effect of all these anomalies is that the prosecution version is not probable. Thus, it is found that false implication of the accused cannot be ruled out. Thus, it is found that the prosecution has failed to prove the offences alleged against the accused.

- (28) The function of the Court in a criminal trial is to find whether the person arraigned before it as the accused is guilty of the offence with which he is charged. For this purpose, the Court scans the material on record to find whether there is any reliable and trust worthy evidence upon the basis of which it is possible to convince to pass the conviction of the accused and to hold that he is guilty of the offence with which he is charged. If in a case prosecution leads uncorroborated evidence and shows it to be unreliable, the result would necessarily be that the Court would be left with no reliable and trustworthy evidence upon the conviction of the accused might be based. Inevitably, the accused would have the benefit of such a situation.
- (29) It is settled that if the Court entertains a reasonable doubt regarding the guilt of the accused, the benefit of that doubt must go to the accused. Mere suspicion, however strong or probable it may be, is no effective substitute for the legal proof required to substantiate the charge of commission of a crime **see Ashish Batham v. State of M.P., 2002 (7) SCC 317**. Taking all the circumstances into account, it is concluded that it is a fit case where the benefit of doubt must be extended to the accused.

(30) Upshot of the discussion is that the prosecution could not establish the guilt of the accused beyond reasonable doubt and the accused is entitled to get the benefit of doubt. Thus, it is found that the prosecution has failed to prove the offences **u/Ss.85, 126(2), 296(b), 115(2) & 118** of the Bharatiya Nyaya Sanhita, 2023 and u/S.75 of the Juvenile Justice (Care & Protection of Children) Act, 2015 against the accused beyond reasonable doubt. These points are answered accordingly.

(31) **Point No.8:-**

Vide discussions made in the foregoing points, it is found that the prosecution has failed to prove that the accused have committed the offences punishable **u/Ss.85, 126(2), 296(b), 115(2) & 118** of the Bharatiya Nyaya Sanhita, 2023 and u/S.75 of the Juvenile Justice (Care & Protection of Children) Act, 2015. This point is answered accordingly.

(32) **Point No.9:-**

Vide discussions made in the foregoing points, it is found that the prosecution has failed to prove that the accused have committed the offence punishable **u/Ss.85, 126(2), 296(b), 115(2) & 118** of the Bharatiya Nyaya Sanhita, 2023 and u/S.75 of the Juvenile Justice (Care & Protection of Children) Act, 2015.

In the result,

the accused is acquitted u/S.258(1) of BNSS for the offences punishable u/Ss.85, 126(2), 296(b), 115(2) & 118 of the Bharatiya Nyaya Sanhita, 2023 and u/S.75 of the Juvenile Justice (Care & Protection of Children) Act, 2015. The bail bonds executed by the accused stand cancelled and are set at liberty forthwith.

MO.1 chopper is directed to be destroyed as per rules, after the expiry of the appeal period or if an appeal is preferred the same shall be disposed as per the direction of the Appellate Court.

(Dictated to the Confidential Asst. directly typed on the computer, corrected and pronounced by me in Open Court on this the 16th day of May, 2026).

Special Judge,
Fast Track Special Court, Haripad.

APPENDIX

List of Prosecution/Defence/Court Witnesses:-

STATEMENT UNDER RULE 134 OF THE CRIMINAL RULES OF PRACTICE

A. WITNESSES FOR THE PROSECUTION:-

Rank	Name	Whether eye-witness, police witness, expert witness, medical witness, other witness	Date of deposition
PW1	Fathima Kunju	-	06/02/26
PW2	Dr. Vinsa S. Vincent	Taluk Hospital, Kayamkulam	18/03/26
PW3	Smijith Fletcher	Revenue Supdt., Kayamkulam Municipality	18/03/26
PW4	Ahsana	-	06/04/26
PW5	Mahesh R.	SCPO, Kayamkulam Police Station	06/04/26
PW6	Vinod K.	S.I. of Police, Kayamkulam P.S.	13/04/26

B. WITNESSES FOR THE DEFENCE:-

Rank	Name	Whether eye-witness, police witness, expert witness, medical witness, other witness	Date of deposition
- NIL -			

C. WITNESSES FOR THE COURT:-

Rank	Name	Whether eye-witness, police witness, expert witness, medical witness, other witness	Date of deposition
- NIL -			

List of Prosecution/Defence/Court Exhibits:-

Sl.No.	Exhibit Number	Description	Date
1	P1/PW1	First Information Statement	26/11/25
2	P2/PW2	Wound certificate of PW1	25/11/24
3	P3/PW2	Wound certificate of PW4	25/11/24
4	P4/PW3	Ownership certificate	11/12/24
5	P5/PW6	First Information Report	26/11/25
6	P6/PW6	Scene mahazar	27/11/24
7	P7/PW6	Property list	27/11/24
8	P8/PW6	Arrest memo	16/12/24
9	P9/PW6	Address report	09/01/25
10	P10/PW6	Section adding report	27/11/25
11	P11/PW6	Marriage certificate	14/01/25

B. EXHIBITS FOR THE DEFENCE:-

Sl.No.	Exhibit Number	Description	Date
- NIL -			

C. EXHIBITS FOR THE COURT:-

Sl.No.	Exhibit Number	Description	Date
- NIL -			

D. MATERIALS OBJECTS:-

Sl.No.	Exhibit Number	Description	Date
1	MO.1/PW1	Chopper	-

Sd/-
Special Judge,
Fast Track Special Court, Haripad.

-//True Copy//-

Special Judge,
Fast Track Special Court, Haripad.