

**IN THE COURT OF FAST TRACK SPECIAL JUDGE, NORTH PARAVUR.**

Present : Sri. Suresh. T.K., Special Judge

Wednesday, 18<sup>th</sup> day of February, 2026

**Crl.M.P. No.04/2026**

**IN**

**SC No.1482/2025**

(Crime No.165/2025 of Vadakkekara Police Station)

Complainant : State of Kerala, represented by the  
Sub Inspector of Police,  
Vadakkekara Police Station

(By Adv. Pravitha. K.S.,  
Special Public Prosecutor)

Accused : Prasad, Aged 55/2025,  
S/o. Sreedharan,  
Velasserri House,  
Puzhayoram Residence,  
Labour junction bhagom,  
Madaplathuruthu Kara,  
Moothakunnam Village.

(By Adv. V.A. Pradeep Kumar,  
Counsel for the accused )

This Crl.M.P having been heard on 11.02.2026 and the Court on 18.02.2026 passed the following:

**ORDER**

- 1.** This is a petition filed, for and on behalf of accused, under Section 262 of BNSS.
- 2.** Petition averments can be summarized as follows: Even if the entire allegations in the charge-sheet are taken at their face value, no prima facie case is made against the accused. The materials placed on record do not disclose the essential ingredients of the alleged offences and continuation of proceedings would amount to abuse of process of law. The accused has been falsely implicated in the case. The survivor is the younger daughter of the accused. Accused has filed OP No. 156/2025 before the Family Court, North Paravur against his wife for divorce and OP No. 305/2025 filed by the wife of accused for return of gold ornaments and money are pending for adjudication. The serious matrimonial disputes and the strained relationship between accused and his wife form the background against the false criminal proceedings. The prosecution case is based on assumptions, conjunctures and contradictions, and there is no sufficient ground for proceeding against the accused. Hence the petition to discharge the accused.
- 3.** Learned Special Public Prosecutor has filed objection. It is contended that the petition is filed on frivolous and untenable grounds only with an intention to delay the proceedings of this Hon'ble Court. The prosecution has placed sufficient materials along with the charge-sheet, which clearly discloses a prima facie case against the accused. At the stage of discharge, the court is not required to conduct a detailed appreciation of evidence. It is sufficient that the

materials on record disclose a strong suspicion against the accused. Contentions raised by the accused are matters of trial and cannot be adjudicated at this preliminary stage. Hence prayed to dismiss the petition.

4. Point for consideration is that, whether it can be concluded that there is not sufficient ground for proceeding against the accused and this is a fit case to discharge the accused ?
5. **Point:** This case is charge-sheeted by the Sub Inspector of Police, Vadakkekara Police Station, in Crime No. 165/2025 of Vadakkekara Police Station, alleging offences punishable under Sections 354 and 509 of IPC and sections 8 r/w 7, 10 r/w 9(l),(n), (p) and 12 r/w 11(i) of the PoCSO Act. It is alleged that on 15.10.2023 at 09.00 P.M., accused, who is the father of the survivor, caught on her both breasts with sexual intention and pressed. On 31.12.2023, at about 08.00 P.M., he pressed his penis on the buttock of the survivor. On a day in January 2024, in the hall of their house, accused masturbated while the survivor was looking. The incidents were occurred in the house bearing No. VIII/342 of Vadakekkara Grama Panchayath, in which they were jointly residing. Thereby, it is alleged that the accused has committed the offences as stated above.
6. Petition is filed under Section 262 of BNSS. As per Section 31 of PoCSO Act, application of Code of Criminal Procedure, 1973 to proceedings before a Special Court, save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 (including the provisions as to bail and bonds) shall apply to the proceedings before a Special Court and for the purpose of said provisions, the Special Court shall be deemed to be a Court of

Sessions and the person conducting a prosecution before a Special Court shall be deemed to be a Public Prosecutor. So, Chapter XIX of BNS is applicable.

**7.** Section 250 of BNSS reads as follows: discharge (1) The accused may prefer an application for discharge within a period of 60 days from the date of commitment of the case under Section 232. (2) If upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in his behalf, The judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and records his reasons for doing so.

**8.** As per Section 251, framing of charge

(1) If after such consideration and hearing as aforesaid, the judge is of opinion that there is ground for presuming that the accused has committed an offence which -

(a) is not exclusively triable by the court of sections, he may frame a charge against the accused and by order, transfer the case for trial to the Chief Judicial Magistrate or any other Judicial Magistrate of the first class and direct the accused to appear before the Chief Judicial Magistrate or the Judicial Magistrate of the first class on such a date as he deems fit and thereupon such a Magistrate shall try the offence in accordance with the procedure for the trial of warrant cases instituted on a police report.

(b) is exclusively triable by the Court, he shall frame in writing, a charge against the accused within a period of 60 days from the date of first hearing on charge.

(2) Where the judge frames any charge under clause (b) of subsection (1), the

charge shall be read and explained to the accused present either physically or through audio- video electronic means and the accused shall be asked whether he is guilty of the offence charged or claims to be tried.

**9.** Petitioner has produced photostat copy of lawyer notice, copy of the reply notice, copy of the original petition in OP No.156/2025 of Family Court, North Paravur and copy of another petition (No number is seen), to support his contentions in the petition. It is well settled that accused has no right to advance materials beyond the charge sheet to seek a discharge. (See **State of Orissa v. Debendranath Padhi, (2005 (1) SCC 568)** In **Rukmini Narvekar v. Vijaya Satardekar and Ors (AIR 2009 SC 1013 = 2018 SCC 1)**, it was held by the Hon'ble Apex Court that there may be some very rare and exceptional cases where some defence material when shown to the trial Court would convincingly demonstrate that the prosecution version is totally absurd or preposterous and in such very rare cases the defence materials can be looked into by the Court, at the time of framing of the charge or taking cognizance. But in **Nitya Dharmananda alias K. Lenin v. Sri Gopal Sheelum Reddy also known as Nithya Bhaktananda (AIR 2017 SC 5846 = 2018 (2) SCC 93)**, it was held that if the court is satisfied that there is material of sterling quality which has been withheld by the investigator/prosecutor, the court is not debarred from summoning or relying upon the same, even if such document is not a part of the charge sheet. But the documents produced along with the petitions by the accused are not of sterling quality or a document which was withheld by the Investigating Agency. Such documents are copies of the petitions, copy of lawyer notice and copy of reply notice.

**10.** The stage of framing charges is not a 'mini trial' to evaluate the defense

evidence, although some exceptions exist for unimpeachable and clinching evidence. It is well settled that at this stage, court has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the court, any basic infirmities appearing in the case and so on. This however does not mean that the judge should make a roving inquiry into the pros and cons of the matter and weighed the evidence as if he was conducting a trial. Hence, I am satisfied that the documents produced along with the petition cannot be looked into or to be considered for the purpose of discharge or framing charge against the accused in this case.

**11.** In first information statement recorded at 11.50 hours on 19.02.2025, it is categorically stated that on 15.10.2023, when she was studying in the 10<sup>th</sup> standard, at about 09.00 P.M., while the father was massaging her head, he caught and pressed on her both breast and stomach. It is also stated that on 31.12.2023, at about 08.00 P.M., accused pressed 'dick' on her buttock. She has also stated that on a day in January 2024, while she was watching TV in the hall, accused was sitting opposite to her and masturbating. It is also alleged that occasionally father used to show his nakedness to her. She had reiterated such allegations before the Magistrate, which was recorded under Section 183 of the BNSS.

**12.** It is contended that the serious matrimonial disputes and strained relationship between accused and his wife, forming the background for the false criminal prosecution, But it is a matter of evidence and rebuttal evidence.

**13.** It is further contended that the prosecution case is based on assumptions, conjectures, and contradictions. But on going through the documents produced

along with the final report, it can be seen that the prosecution case is not based on such conjunctures or contradictions or surmises. But there are clear allegations in the first information statement and statements of the other witnesses. Only because there are litigations pending between accused and his wife before the Family Court, it cannot conclude at this stage that all the prosecution allegations in this case are emanated from such animosity.

**14.** Upon consideration of all the documents and matters produced along with the charge sheet, it cannot consider that there is not sufficient ground for proceeding against the accused. At the same time, the court is of the opinion that there is ground for presuming that the accused has committed the offences alleged and hence a charge is to be framed against him.

In the result, petition is dismissed. However, there is no order as to costs.

(Dictated by me to the dictation software in my chamber, corrected and pronounced by me in open court on this the 18<sup>th</sup> day of February, 2026)

Sd/-

SURESH.T.K  
SPECIAL JUDGE

APPENDIX

Nil

Id/-

SPECIAL JUDGE

//True copy//

SPECIAL JUDGE

ORDER IN  
Crl.MP.No.4/2026 IN  
SC 1482/2025  
DATED : 18.02.2026