

IN THE COURT OF THE SPECIAL JUDGE, FAST TRACK SPECIAL
COURT, NADAPURAM

(SESSIONS DIVISION KOZHIKODE)

Present **Sri.DEVAN K.MENON**, Special Judge

Tuesday the 26th day of May 2026/5th day of Jyaishta, 1448

SESSIONS CASE NO.341/2024

(Crime No.572/2022 of Nadapuram Police Station)

Complainant	:	State of Kerala, represented by Sub Inspector of Police, Nadapuram Police Station. By Special Public Prosecutor, Sri. Manoj Aroor
Accused	:	Rajeesh. M. M.. aged 42/22 S/o. Kumaran, Morath Meethal, Kodancheri P.O., Purameri By Adv. K. M. Ramdas
Charge	:	Under Sections 354, 354A(1)(i) r/w 354A(2), 511 of 376, 506(1) of the Indian Penal Code (IPC)
Plea	:	Not guilty
Finding	:	Guilty
Sentence/order	:	a) The convict is sentenced to undergo Rigorous Imprisonment for five (5) years and to pay a fine of ₹50,000/- (Rupees Fifty Thousand only) for the offence punishable under Section 511 read with Section 376(1) of the IPC. In default of payment of the fine, the convict shall undergo additional Rigorous Imprisonment for five (5) months. (b) The convict is sentenced to undergo Rigorous Imprisonment for five (5) years and to pay a fine of ₹ 50,000/- (Rupees Fifty Thousand only) for the offence punishable under Section 450 of the IPC. In default of payment of the fine, the convict shall undergo additional Rigorous

		Imprisonment for five (5) months. (c) The convict is sentenced to undergo Rigorous Imprisonment for three (3) years and to pay a fine of ₹ 20,000/- (Rupees Twenty Thousand only) for the offence punishable under Section 354A(2) of the IPC read with Section 354A(1)(i). In default of payment of the fine, the convict shall undergo additional Rigorous Imprisonment for two (2) months. (d) The convict is sentenced to undergo Rigorous Imprisonment for three (3) years and to pay a fine of ₹20,000/- (Rupees Twenty Thousand only) for the offence punishable under Section 354 of the IPC. In default of payment of the fine, the convict shall undergo additional Rigorous Imprisonment for two (2) months. (e) The convict is sentenced to undergo Rigorous Imprisonment for one (1) year for the offence punishable under Section 506(i) of the IPC. (f) The substantive sentences of imprisonment imposed above shall run concurrently as per Section 31(1) of the CrPC. (g) The convict shall be entitled to the benefit of set-off under Section 428 of the CrPC for the period of detention undergone from 19/11/2022 to 02/12/2022. (h) Upon realisation, the entire fine amount shall be disbursed as compensation to the survivor (PW1) in accordance with Section 357(1)(b) of the CrPC.
Dates of trial	:	31.12.24, 04.02.25, 11.03.25, 08.04.25, 03.06.25, 15.07.25, 12.08.25, 02.10.25, 18.11.25
Hearing	:	20.05.2026
Judgment/Order	:	26.05.2026

TABULAR FORM

Serial No.	:	Sessions Case No.341/2024
Name of Police Station and Crime No. of offence	:	Crime No.572/2022 of Nadapuram Police Station

DESCRIPTION OF THE ACCUSED

Sl. No.	Name	Father's name	Occupation	Religion	Residence	Age
	Rajeesh.M.M	Kumaran	--	Hindu	Morath Meethal Kodancheri P.O., Purameri.	42/22

Date of

Occurrence	:	13.11.2022
Complaint	:	13.11.2022
Apprehension	:	19.11.2022
Released on bail	:	02.12.2022
Commencement of trial	:	24.09.2024
Commencement of evidence	:	31.12.2024
Close of trial	:	12.18.2025
Sentence/Order	:	26.05.2026
Service of copy of judgment of finding on accused	:	26.05.2026
Explanation for delay	:	No delay
Period of detention undergone during investigation, enquiry of trial for the purpose of 428 Cr.P.C.	:	Arrested on 19.11.2022 released on bail 02.12.2022

This Case having been finally heard on 20/05/2026 and on 26/05/2026 the Court delivered the following:

JUDGMENT

1. The prosecution originates from the final report forwarded by the Sub Inspector of Police, Nadapuram Police Station, in Crime No. 572 of 2022, wherein the accused was charge-sheeted by the police under Sections 450,

354, 354 A(1)(i) , 511 read with 376, and 506(ii) of the Indian Penal Code (hereinafter referred to as the “IPC”).

2. **The Prosecution Case:** - On 13.11.2022 at 3:30 PM, the accused criminally trespassed into the house of the sexagenarian survivor, located within Thuner Grama Panchayat of Vadakara Taluk. Under the pretext of collecting coconut shells, and acting with sexual intent, the accused caught hold of the survivor, covered her mouth, and pulled her to the ground. He then threatened to kill her if she raised an alarm and attempted to rape her by lifting her saree. Consequently, the accused is alleged to have committed the offences.
3. **The Initial proceedings:** - On 13/11/2022 at 3:50 pm, the survivor provided the First Information Statement to the police. On the basis of the same, on the very same day at 06:49 pm, the Assistant Sub-Inspector (ASI) of the Nadapuram Police Station registered Crime No. 572 of 2022. The accused was subsequently arrested on 19/11/2022 and produced before the jurisdictional Magistrate. Following the initial remand and custodial interrogation, the accused was later enlarged on bail on 02/12/2022, pursuant to the order dated 02/12/2022 passed in CrI. M.C. No. 2050 of 2022 by the Court of Session, Kozhikode.
4. Upon completion of the investigation, the Investigating Officer forwarded the final report alleging offences punishable under Sections 450, 354, 354 A(1)(i), 511 read with 376, and 506(ii) of the IPC before the Judicial First-Class Magistrate Court, Nadapuram, where it was taken on file as C.P. No. 15 of 2023. The learned Magistrate, after ensuring compliance with the requisite statutory formalities—including the furnishing of copies of the prosecution records to the accused—committed the case to the Court of

Session, Kozhikode, wherein the case was taken on file as S.C. No. 341 of 2024. Thereafter, the case was made over to this court for trial.

5. **Proceedings in this Court:** -. Upon the appearance of the accused before this Court, he was permitted to continue on the same bail bond earlier executed by him. The accused is represented by counsel of his own choice. Thereafter, in compliance with Section 226 of the Code of Criminal Procedure (for short, "CrPC"), the learned Special Public Prosecutor opened the case by outlining the allegations and the evidence proposed to be adduced against the accused.
6. Subsequently, upon perusal of the records and documents produced, and after hearing the submissions advanced by both sides under Section 227 of the CrPC, the learned predecessor in office was satisfied that there were sufficient grounds to proceed against the accused. Accordingly, formal charges were framed for the offences punishable under Sections 450, 354, 354 A(1)(i) read with 354 A(2), 511 read with 376, and 506(i) of the IPC. The charges were read over and explained to the accused in a language known to him, to which he pleaded not guilty and claimed to be tried.
7. The prosecution cited twenty-five witnesses in support of its case, but ultimately examined fifteen witnesses and one additional witness were examined as PW1 to PW16. The additional witness was examined as the doctor who had issued the medical certificate of the survivor was not available despite process. Accordingly, another doctor/ Superintendent, who was acquainted with the handwriting and signature of the said doctor, was examined as PW16 to prove the document. The remaining witnesses were given up by the learned Special Public Prosecutor. On the side of the prosecution, Exhibits P1 to P27 were also marked.

8. After the closure of the prosecution evidence, the accused was questioned under Section 313(1)(b) of the CrPC to enable him to personally explain the incriminating circumstances appearing against him in the evidence. The accused denied all such circumstances and reiterated his plea of innocence.
9. **The defence:** - The defence set up by the accused is that the neighbours had seen the survivor in a suspicious situation with another person. It is contended that in order to shield the actual culprit, a false case was fabricated against the accused, who merely used to visit the house of the survivor to collect coconut shells and the like. The accused maintains that he is totally innocent of the alleged incident.
10. Both sides were heard under Section 232 of the CrPC. Since no grounds were found for recording an acquittal at that stage, the accused was ordered to enter on his defence.
11. On the side of the accused, there had no oral or documentary evidence. Thereafter, upon closure of the evidence, this Court heard both sides at length and perused the records.
12. The points that arise for consideration are as follows: -
 - I. *Did the accused commit house-trespass on 13.11.2022 at about 3:30 PM by entering the residential house of Pw1 (the survivor) situated within Thuneri Grama Panchayat, Vadakara Taluk, with the intent to commit an offence punishable with imprisonment for life, thereby committing an offence punishable under Section 450 of the IPC?*
 - II. *Did the accused assault or use criminal force against Pw1 with the intent or knowledge that it would outrage her modesty, thereby*

committing an offence punishable under Section 354 of the IPC?

III. Do the actions of the accused in catching hold of Pw1 with sexual intent amount to physical contact and unwelcome advances involving explicit sexual overtures, thereby attracting the offence under Section 354A(2) read with Section 354A(1)(i) of the IPC?

IV. Has the prosecution established that the accused, by pulling Pw1 down and lifting her saree, executed an overt act toward the commission of rape, thereby committing an attempt to commit rape punishable under Section 511 read with Section 376 of the IPC?

V. Did the accused criminally intimidate the victim by covering her mouth and threatening if she raised an alarm, with the intent to cause alarm to her, thereby committing an offence punishable under Section 506(i) of the IPC?

VI. What are the Findings?

VII. If found guilty order as to sentence?

13. Point Nos. I to V: These points are taken up together for joint consideration and analysis to ensure brevity, continuity, and an interconnected evaluation of the evidence. The structural narrative of the prosecution centers on an incident dated 13.11.2022 at approximately 3:30 PM. It is alleged that the accused criminally trespassed into the residential house of the sexagenarian survivor (PW1), situated within the Thuneri Grama Panchayat. Under the ruse of collecting dry coconut shells, the accused gained proximity to the survivor, aggressively breached the threshold of her kitchen, and launched a physical assault with explicit sexual intent. The prosecution asserts that the

accused pinned PW1 to the floor, stifled her cries by covering her mouth, inflicted physical injuries, issued death threats, and attempted to commit rape by forcefully lifting her saree.

14. To establish this matrix of charges, the prosecution has brought forward a comprehensive array of oral and documentary evidence. The structural framework of this evidence—comprising the ocular account, the surrounding circumstances, and the entire investigative pipeline—can be viewed through the following overview before thematic evaluation:

- **The Ocular Core and Immediate Surroundings:** PW1 (the survivor) provides the direct eyewitness account of the trespass, physical pinning, lip/wrist injuries, and the attempted rape. The ownership of the house (No. IX/103) as in the name of Sri Sreedharan Nambiar is proved by the Ownership Certificate (Ext. P16) issued by the Panchayat Secretary (PW10), while the structural layout of the crime scene is established via the Site Plan (Ext. P15) prepared by the Special Village Officer (PW9). The subsequent impact of the assault on the survivor is spoken to by her brother (PW4).
- **The Circumstantial Counterpart and Flight:** The immediate neighbors, PW2 (Mohan Master) and PW3 (Ramesan), provide crucial *res gestae* evidence regarding hearing the survivor's cries of distress and witnessing a man fleeing the compound with his head draped in a saree. While they soft-pedaled on the visual identity of the accused—leading to their defence contradictions being formally marked through the first Investigating Officer (PW14) as Exts. P2 to P4 and Exts. P6 to P8 respectively—their

observations of the physical flight match the material recovery witnessed by PW5 (the survivor's nephew), who signed the Seizure Mahazars for the getaway scooter (Ext. P10) and the discarded escape saree found near the electric post (Ext. P11).

- **The Medical and Collection of Forensic Materials:** The physical injuries on the survivor (swelling on the lower lip and right wrist abrasion) are proved through the Hospital Superintendent, Government Taluk hospital, Nadapuram (PW16) via the Medical Report (Ext. P27), matching the contemporaneous physical observations recorded by PW11 right beneath the First Information Statement (Ext. P1). Conversely, the physical capability of the accused to perform the sexual act is established by the Junior Consultant, Taluk hospital, Nadapuram (PW8) through the Potency Test Report (Ext. P14). The formal collection of physical items for chemical analysis is documented via Seizure Mahazars signed by PW6 (Ext. P12 for the survivor's items) and PW7 (Ext. P13 for the accused's items), which were routed to the laboratory using the Forwarding Note (Ext. P23) prepared by the primary Investigating Officer (PW15).
- **The Investigative and Procedural Chain:** The statutory registration of the case began with PW11 (CPO) recording the FIS (Ext. P1), followed by PW12 (ASI) registering the formal FIR (Ext. P17). Subsequent procedural steps included the recording of the survivor's Section 161 CrPC statement by PW13 (SCPO). The active investigative phase was initiated by PW14 (SI), who inspected the location and drew up the Scene Mahazar (Ext. P9)

witnessed by PW4. The final investigative steps, custody tracking, and court reporting were executed by PW15 (SI), who generated the Arrest Memo (Ext. P18), Inspection Memo (Ext. P19), the address report (Ext. P20), the custodial disclosure statements (Ext. P21 and Ext. P22), the temporary vehicle release mahazar (Ext. P24), and the section adding report (Ext. P26).

15. The defence has set up a plea of total innocence and denial. The specific case of the accused is that the neighbours had allegedly caught the survivor in a suspicious situation with an unnamed third party. It is contended by the defence that the present case is a fabrication designed to shield the actual culprit, and that the accused—who merely visited the house as a neighbour to collect coconut shells—has been falsely implicated.

Scrutiny Of DNA Reports And Custodial Tracking:-

16. Before proceeding to the evaluation of the *actus reus* and the credibility of the survivor, it is imperative to examine two crucial documentary evidences brought on record as Exts. C1 and C2. Ext. C1 is the DNA Analysis Report dated 24.05.2025, which pertains to Item No. 1 (nail clippings of the accused) and Item No. 2 (liquid blood preserved in two EDTA tubes). As per the report, these biological samples belong to the accused. The conclusion drawn in Ext. C1 is that the nail clippings in Item No. 1 contained exclusively the cells and tissues of the accused, matching the source of the blood samples in Item No. 2.

17. Ext. C2 is the DNA Analysis Report dated 27.08.2025, concerning Item No. 1a (blood of the survivor, PW1, preserved in two EDTA tubes) and Item No. 1b (nail clippings of the survivor, PW1). The examination for Ext. C2 was conducted with reference to the data obtained in Ext. C1. The forensic

conclusion in Ext. C2 indicates that the nail clippings under Item No. 1b exhibited a mixed DNA profile, containing the biological material of both the survivor (to whom the blood in Item No. 1a belonged) and the accused (matching the blood sample under Item No. 2 in Ext. C1).

18. The reliability of Exts. C1 and C2 have been strenuously contested by the defence. Relying on the decision of the Hon'ble Supreme Court in *Pattu Rajan v. State of Tamil Nadu (AIR 2019 SC 1674)*, the learned Counsel for the accused argued that DNA evidence is fundamentally in the nature of opinion evidence as envisaged under Section 45 of the Indian Evidence Act. It was contended that, like all other expert opinions, the probative value accorded to DNA evidence varies from case to case, depending entirely on its unique facts, circumstances, and the weight of other corroborative or contrary evidence available on record. The defence emphasized that while the precision of DNA technology advances continuously, making it increasingly reliable, science has not yet reached a juncture where such evidence can be declared completely infallible. Therefore, the mere presence of a forensic report cannot override significant gaps in the prosecution's primary evidence, nor can it automatically displace the innocence of the accused.

19. To challenge the absolute reliance placed on Exts. C1 and C2, the defence further cited the ruling in *Prakash Nishad @ Kewat Zinak Nishad v. State of Maharashtra (2023 INSC 561)*, arguing that the reliability of such forensic reports is strictly contingent upon the prosecution establishing an unbroken chain of custody. It was submitted that a secure chain of custody requires that right from the moment a biological sample is extracted, through its role in the investigation, and up to its ultimate processing, every individual who

handles the evidence must be formally accounted for in the documentation to ensure its structural integrity remains uncompromised.

20. In this context, it is apposite to note the binding principles laid down by the Hon'ble Supreme Court in *Kattavellai @ Devakar v. State of Tamil Nadu* (2025 INSC 845). The Apex Court established that the reliability of DNA evidence is strictly conditional upon flawless quality control outside the laboratory. Recognizing that biological samples are uniquely vulnerable to disintegration, degradation, contamination, and tampering, the Hon'ble Supreme Court held that any unexplained delay or procedural laxity by the investigating agency renders the forensic profile suspect and legally unusable. To ensure nationwide uniformity, the Apex Court issued four mandatory directives:

- **First:** All samples must be meticulously documented, sealed, and labelled with distinct FIR details under the contemporaneous signatures of the medical professional, the Investigating Officer, and independent witnesses.
- **Second:** The Investigating Officer must ensure that the collected samples reach the forensic laboratory within a strict 48-hour deadline, or explicitly record the justifiable reasons for any delay in the case diary.
- **Third:** No sample package may be opened or altered without the express prior authorization of the Trial Court, acting upon expert medical advice.
- **Fourth:** Right from the point of collection to the logical conclusion of the trial, a dedicated Chain of Custody Register must track every single movement of the evidence, complete with counter-signatures at each transfer point detailing the reasons for movement.

21. The Hon'ble Apex Court elevated these procedural safeguards to mandatory statutory conditions of a fair trial, clarifying that if the prosecution fails to

strictly account for the secure handling and movement of biological evidence, the Court is legally bound to discard the DNA report entirely.

22. Applying these settled legal metrics to the case at hand, the critical items under scrutiny are those purportedly collected from the person of the accused for DNA analysis. A close examination of the record reveals glaring, fatal gaps in the chain of custody. Although Ext. P13 indicates that Rajesh Kumar E. (SCPO 8895) collected the sample packets from the medical officer, the prosecution has failed to examine the said Rajesh Kumar as a witness. Furthermore, PW8, the medical officer who examined the accused on 19.11.2022, did not state in his testimony that he collected these specific items or that he entrusted them to the said Rajesh Kumar.

23. The missing links multiply thereafter. Ext. C1 indicates that the individual who actually produced the sample packets before the forensic laboratory was Sri. Lineesh Kumar (SCPO). Shockingly, this Lineesh Kumar has also not been cited or examined as a prosecution witness. Consequently, there is an absolute dearth of legal evidence to demonstrate who held the samples, how they were preserved, and whether they remained untampered with during the transit period.

24. Resultantly, the prosecution has failed to maintain an unbroken chain of custody as mandated by law. Due to these vital missing links, the integrity of the biological samples is severely compromised, rendering Ext. C1 legally unreliable. Since the findings in Ext. C2 are substantially dependent upon the baseline data established in Ext. C1, the conclusions in Ext. C2 are equally contaminated by this systemic failure and cannot be relied upon. The entire forensic DNA nexus presented by the prosecution, therefore, falls through and is excluded from consideration.

Evaluation Of The Actus Reus And Survivor's Credibility:-

25. The bedrock of the prosecution's case is the testimony of the survivor (PW1). The evidence brings to light that PW1 is a sexagenarian widow whose children reside far away in Bangalore. She lives entirely alone in the house (bearing No. IX/103 of Thuner Grama Panchayat, as verified by the Ownership Certificate, Ext. P16, issued by the Panchayat Secretary, PW10). The accused is a neighbour, a factor that explains his familiarity and effortless entry onto the premises.
26. PW1 deposed that when the accused asked for dry coconut shells, she directed him to the rear side of the kitchen and subsequently stepped into the courtyard to provide him with a gunny bag. Sensing an aggressive, sexually charged approach, she immediately retreated and attempted to latch the kitchen door. The accused forcefully pulled open the door, criminally trespassed into the kitchen space, hugged her, and pinned her to the floor. When she raised an alarm, he covered her mouth, forcefully poked her on the lower lip with his hand causing it to bleed, and threatened to murder her. He further deployed psychological coercion, warning her that any public alarm would only result in social shame for her, before attempting to rape her by lifting her saree.
27. The learned counsel for the accused has mounted a multifaceted challenge to the testimony of PW1, placing reliance on a series of legal precedents to categorize her as an unreliable witness. The defence argued that while PW1 stated in court that she stepped down into the courtyard to fetch a gunny bag, her initial First Information Statement (Ext. P1) merely stated that the accused tried to force his way in when she attempted to close the door. This Court finds that whether the survivor stepped into the courtyard or remained

inside the kitchen threshold does not strike at the substratum of the prosecution case. An FIR or FIS is not intended to be an encyclopedic catalog of every physical movement. The core of the prosecution's case—the criminal trespass through the kitchen door and the subsequent sexual assault—remains fundamentally unshaken.

28. The defence also strongly relied on the fact that PW1 did not explicitly name the accused during her statutory examination before the Magistrate under Section 164 of the CrPC, arguing that this indicates the involvement of an unknown third party and a subsequent conspiracy to falsely implicate the accused. This argument fails to hold water. It is an uncontroverted fact that in the First Information Statement (Ext. P1), which was recorded earliest in point of time, PW1 explicitly, unambiguously, and clearly identified the accused by name. The omission to mechanically repeat his name during the exercise of a Section 164 recording cannot override her definitive, prior identification in Ext. P1, nor can it dilute her categorical deposition before this Court.

29. The defence argued that PW1 is unreliable due to inconsistencies regarding her movements. However, a holistic reading of her evidence clarifies the timeline. During her examination-in-chief, PW1 stated that she went to the police station after the incident. During cross-examination, the defence put forward a suggestion that she had gone to the hospital *before* visiting the police station, which she rightly denied. This consistent stance is perfectly corroborated by the documentary evidence: Ext. P1 (First Information Statement) records her presence at the police station at 05:50 PM, while Ext. P27 (Medical Certificate) records her arrival at the hospital later at 07:05 PM. There is no contradiction, and her credibility remains intact.

Deconstruction Of Legal Precedents And Defence Challenges

30. The defence invoked the landmark rulings in *Vadivelu Thevar v. State of Madras* (AIR 1957 SC 614) and *Mahendra Singh v. State of M.P.* (2022 LiveLaw (SC) 543) to argue that oral testimony must be pristine, and that PW1 falls into the category of an unreliable witness. The defence further cited *Rai Sandeep @ Deepu v. State of NCT of Delhi* (2012 KHC 4419) and *Naresh @ Nehru v. State of Haryana* (2023 INSC 889) to emphasize that a "sterling witness" must be of exceptionally high caliber, whose version is completely unassailable from start to finish. While the principles governing a "sterling witness" are unexceptionable, they cannot be applied as a rigid, hyper-technical formula to disqualify a traumatized sexagenarian survivor. Courts must look for broad consistency on material particulars rather than typographical identity between statements. PW1's description of the core *actus reus*—the trespass, the pinning down, the lip injury, and the lifting of the saree—has remained completely unassailable throughout her cross-examination.
31. The defence placed reliance on *Tameezuddin @ Tammu v. State (NCT) of Delhi* (2009 KHC 1068) to argue that a court cannot accept an improbable story that belies logic. It was argued that the incident allegedly took place in a cramped water-drawing area within the kitchen, amidst bucket and coir, and that had she truly fallen there, she would have sustained far more severe, grave injuries. They further cited *Sadashiv Ramrao Hadbe v. State of Maharashtra* (2006 KHC 1847) to argue that the lack of extensive bodily injuries discredits the narrative of an attempted rape.
32. This Court finds the reliance on *Sadashiv Ramrao Hadbe* to be entirely misplaced. In that case, the accused was a medical practitioner accused of

raping a patient in his clinic; the prosecutrix had an unexplained swelling on her lip with no claim that it was caused during the incident, and there were zero corresponding signs of struggle. In the present case, the medical evidence tells an entirely different story. The Superintendent of the Government Hospital (PW16) proved the official medical report (Ext. P27), which explicitly notes a fresh swelling on the lower lip and a distinct abrasion over the right wrist. This perfectly matches the oral account of PW1 and the observations recorded by PW11 (CPO of Nadapuram Police Station) in Ext. P1. The presence of these specific injuries conclusively establishes a violent physical struggle, directly demolishing the defence's theory of an improbable or fabricated event.

Balancing Of Equities In Sexual Offenses

33. The defence cited *Abbas Ahmad Choudhary v. State of Assam (2010 KHC 7346)* and *Rajoo v. State of M.P. (2009 KHC 4344)* to remind the Court that while a victim's testimony is vital, a false accusation of rape causes equal, irreversible damage to an accused person, and the court must guard against the possibility of false implication. This Court is fully alive to this golden principle. However, the protection against false implication requires the existence of a plausible, proven motive for such fabrication.

34. The defence has introduced a theory that the survivor was found in a compromise or "suspicious situation" with another individual, and that the accused was substituted to shield that actual culprit. However, this assertion remains a bare, unsubstantiated allegation. No evidence has been adduced to identify this mysterious third party, nor have any neighbours been examined to prove that such a confrontation ever took place. It strains credulity to suggest that a sexagenarian widow would shield an actual

violator by launching a highly publicized, deeply distressing, and medically verified prosecution against an innocent neighbour who merely came to collect coconut shells.

35.To further illustrate their point, the defence counsel made a colourful reference to a dramatic sequence in the classic Malayalam motion picture '*Oru Vadakkan Veeragatha*', where the character Unniarcha falsely accuses Chandu of trespassing into her bed chamber to protect her faithfulness towards husband when discovered by her husband Kunhiraman. Of course, the cinematic scripts cannot substitute for judicial evidence. Quite apart from that, the accused here does not enjoy the standing of Chandu or Kunhiraman, nor does the lonely, widowed survivor share the factual matrix of the character cited. Since the defence has failed to establish even a remote foundation for this "shielding theory," metaphoric comparisons cannot dismantle proven facts.

Evaluation Of Corroborative Evidence And Hostile Witnesses:-

36.A critical aspect of this case is the behaviour of the immediate neighbours, PW2 (Mohan Master) and PW3 (Ramesan), who rushed to the spot upon hearing the survivor's cries but did not fully support the prosecution during the trial. PW2 stated that when he arrived at the scene, he saw a man running away from the house with his head completely covered in a saree, and saw PW1 sitting inside in a visibly exhausted or collapsed state, though he claimed he could not identify the person. PW3 similarly deposed that he heard the survivor's hue and cry, rushed to the house along with PW2, and witnessed a man with his head draped in a saree fleeing the compound, but claimed he could not identify the face.

37.The prosecution argued that PW2 and PW3 suppressed the identity of the

fleeing person because they share the same political affiliation as the accused and are his immediate neighbours. While they have soft-pedaled on the question of visual identification, their testimonies provide powerful circumstantial corroboration under Section 6 of the Evidence Act (*res gestae*). They definitively establish that high-pitched cries of distress were emanating from PW1's house, and that an individual was caught in full flight, using a woman's saree as a head-disguise to escape the scene.

38. The prosecution further relied upon the recovery of the active scooter used for the getaway and the discarded saree found beneath an electric post just outside the gate, seeking to anchor this under Section 27 of the Evidence Act via the testimony of the independent witness PW5 and the Investigating Officer PW15. However, the procedural architecture governing statutory discoveries under Section 27 has been strictly delineated by the Hon'ble Supreme Court in *Subramanya v. State of Karnataka* ((2023) 11 SCC 255). The Apex Court Mandated that an investigating officer must summon independent witnesses to the police station itself, record the accused's disclosure statement in their immediate presence as the "first part" of the panchnama to establish free will and volition, and only then proceed to the locus of discovery to execute the "second part." A close review of the investigative track reveals a clear non-compliance with these rigorous guidelines, as the foundational preliminary panchnama was not recorded at the station house in the presence of independent witnesses. Consequently, the discovery cannot be validated under the protective umbrella of Section 27 of the Evidence Act, and the purported disclosure statements (Ext. P21 and Ext. P22) must be legally excluded from consideration.

39. Nevertheless, the wholesale exclusion of the Section 27 discovery mechanism does not erase the objective, independent observation of the physical facts on the ground. The testimony of PW5 remains fully admissible to the limited extent that he witnessed the physical retrieval of

the getaway scooter and the specific female saree from the vicinity of the crime scene. This physical presence of the items, when evaluated alongside the *res gestae* observations of PW2 and PW3, creates a coherent circumstantial chain regarding the unique methodology of the intruder's flight.

Application Of Legal Principles Governing Injured Witnesses

40. It is a foundational principle of criminal jurisprudence that the evidence of an injured witness enjoys a unique status and must not be discarded for trivial variances. In *Balu Sudam Khalde v. State of Maharashtra* [2023 INSC 314], the Hon'ble Supreme Court held that the appreciation of ocular evidence is inherently nuanced, and the decisive test is whether the testimony bears a "ring of truth." Minor inconsistencies or trivial discrepancies which do not affect the substratum of the prosecution case should not result in the wholesale rejection of otherwise credible evidence.
41. In the present case, the testimony of PW1 bears that undeniable "ring of truth." Her narrative seamlessly connects with her immediate injuries (Ext. P27), the sudden arrival of the neighbours (PW2 and PW3), the post-incident distress observed by her brother (PW4), and the observations of the statement-taker (PW11).
42. Finally, the defence placed reliance on the celebrated decision in *Kali Ram v. State of H.P.* (1973 KHC 634) to argue that if two views are reasonably possible on the evidence adduced, the view favourable to the innocence of the accused must be preferred. The "two-views" doctrine is primarily a tool for evaluating circumstantial evidence. It cannot be mechanically used to override direct ocular evidence of a high caliber. Where the survivor presents a reliable, medically corroborated eyewitness account of her own violation, there are no "two views" available to the Court. The path of the evidence points exclusively to the guilt of

the accused.

43. Thus on an objective, thematic evaluation of the entire evidence, this Court finds that the prosecution has successfully established all the vital components of the charges beyond any reasonable doubt. The act of forcing open the door constitutes criminal trespass to commit an offence punishable with imprisonment (Section 450 IPC); the physical restraint and assault satisfy the definitions of outraging a woman's modesty and sexual harassment (Sections 354 and 354 A(1) (i) read with section 354 A (2)); the lifting of the saree coupled with the physical pinning constitutes an unequivocal attempt to commit rape (Section 511 read with Section 376 IPC); and the verbal threats to Pw1 satisfy the parameters of criminal intimidation (Section 506(i) IPC). Accordingly, these points are answered in favour of the prosecution.

44. **Point No VI:** - Upon an overall appreciation of the findings rendered under Point Nos. I to V, this Court concludes that the accused is guilty of the offences under Sections 450, 354, 354 A (2) r/w 354 A(1)(i), 511 read with 376, and 506(i) of the IPC. Accordingly, the accused is convicted for the said offences under Section 235(2) of the CrPC. Consequently, the bail bond of the accused stands cancelled.

45. Considering the nature and gravity of the offences and the surrounding circumstances, the accused is not entitled to the benefit of the benevolent provisions of the Probation of Offenders Act, 1958. Therefore, the Court proceeded to hear the accused on the question of sentence under Section 235(2) of the CrPC.

(Dictated to the Confl. Assistant, transcribed and typed by him, corrected by me and pronounced in Open Court on this the 26th day of May, 2026).

Sd/-

**DEVAN K. MENON
SPECIAL JUDGE,
FAST TRACK SPECIAL COURT,
NADAPURAM**

46. **Point No VII:-** After affording the convict adequate time for reflection, this Court heard both sides on the question of sentence, as mandated under Section 235(2) of the Code of Criminal Procedure (CrPC). The prosecution urged the Court to impose the maximum punishment prescribed by law, highlighting the gravity of the offence. Conversely, the convict pleaded for leniency, submitting that he is the sole breadwinner of his family and has the responsibility of supporting his aged parents, his wife, and three children, including an eldest daughter in the second year of her degree course, a second daughter studying in Plus One, and a son in the eighth standard. On these grounds of severe familial dependence and socio-economic hardship, the convict prayed for a mitigated sentence.
47. Sentencing is not a mechanical or routine exercise; it is a solemn judicial function that requires the Court to impose a punishment that is fair, proportionate, and responsive to the facts and circumstances of the case. The determination of sentence necessarily involves a careful and conscientious exercise of judicial discretion, guided by reason, balance, and established legal principles. In State of Madhya Pradesh v. Udham and Others (AIR 2019 SC 5305), the Hon'ble Supreme Court emphasised that the process of sentencing must be informed by the crime test, the criminal test, and the comparative proportionality test. The Court is thus required to evaluate the gravity and nature of the offence, the manner in which it was committed, its impact on the dignity and bodily integrity of the victim, as well as the attendant circumstances surrounding the occurrence. The sentence ultimately imposed must bear a just and rational proportion to the

seriousness of the wrongdoing, while ensuring a judicious balance between the competing objectives of deterrence, retribution, prevention, and the possibility of reformation of the offender.

48. Before determining the quantum of punishment, a review of the statutory penal architecture governing each established offence is warranted. For the offence punishable under Section 450 of the IPC, which involves committing house-trespass in order to commit an offence punishable with imprisonment for life, the statute prescribes a maximum sentence of ten (10) years of imprisonment along with a mandatory liability to fine. Under Section 354 of the IPC, for assault or criminal force to a woman with intent to outrage her modesty, the law mandates a minimum statutory term of one (1) year, which may extend up to a maximum of five (5) years, alongside a fine. Section 354A(1)(i) read with Section 354A(2) of the IPC provides for a term of rigorous imprisonment extending up to three (3) years, or with fine, or with both, for the offence of sexual harassment involving unwelcome physical contact and advances. For the charge of criminal intimidation under Section 506(i) of the IPC, the law provides for imprisonment of either description for a term extending up to two (2) years, or with fine, or with both. Crucially, for an attempt to commit rape under Section 511 read with Section 376(1) of the IPC, where the substantive provision under Section 376(1) prescribes a maximum punishment of life imprisonment, the penal limits are governed by statutory fractions. Applying Section 57 of the IPC—wherein life imprisonment is reckoned as equivalent to twenty (20) years for the calculation of fractions—an attempt under Section 511 permits the imposition of a term extending up to one-half of that longest term. Consequently, the permissible penal custody for this offence is capped at a maximum of ten (10) years, alongside a fine.

49. In the present case, while the victim did not sustain permanent or grievous bodily injury, there is also no material on record to indicate that the convict has any prior criminal antecedents or previous involvement in similar offences. Having regard to the nature, sequence, and degree of the acts proved, the imposition of the absolute maximum punishment across all counts would be disproportionate to the ends of justice. A balanced approach would adequately penalize the transgression while acknowledging the mitigating circumstances presented.

In the result,

- a) The convict is sentenced to undergo **Rigorous Imprisonment for five (5) years** and to pay a **fine of ₹50,000/- (Rupees Fifty Thousand only)** for the offence punishable under **Section 511 read with Section 376(1) of the IPC**. In default of payment of the fine, the convict shall undergo additional Rigorous Imprisonment for five (5) months.
- b) The convict is sentenced to undergo **Rigorous Imprisonment for five (5) years** and to pay a **fine of ₹50,000/- (Rupees Fifty Thousand only)** for the offence punishable under **Section 450 of the IPC**. In default of payment of the fine, the convict shall undergo additional Rigorous Imprisonment for five (5) months.
- c) The convict is sentenced to undergo **Rigorous Imprisonment for three (3) years** and to pay a **fine of ₹20,000/- (Rupees Twenty Thousand only)** for the offence punishable under **Section 354A(2) of the IPC read with Section 354A(1)(i)**. In default of payment of the fine, the convict shall undergo additional Rigorous Imprisonment for two (2) months.
- d) The convict is sentenced to undergo **Rigorous Imprisonment for**

three (3) years and to pay a **fine of ₹20,000/-** (Rupees Twenty Thousand only) for the offence punishable under **Section 354 of the IPC**. In default of payment of the fine, the convict shall undergo additional Rigorous Imprisonment for two (2) months.

- e) The convict is sentenced to undergo **Rigorous Imprisonment for one (1) year** for the offence punishable under **Section 506(i) of the IPC**.
- f) The substantive sentences of imprisonment imposed above shall run concurrently as per Section 31(1) of the CrPC.
- g) The convict shall be entitled to the benefit of set-off under Section 428 of the CrPC for the period of detention undergone from 19/11/2022 to 02/12/2022.
- h) Upon realisation, the entire fine amount shall be disbursed as compensation to the survivor (PW1) in accordance with Section 357(1)(b) of the CrPC.

50. The interim custody of the vehicle bearing Registration No. KL-18-Y-5825, granted by the learned Magistrate via the order in C.M.P. No. 6615 of 2022, is hereby made absolute, subject to the provisions of Section 452(4) of the CrPC.

51. Having regard to the mental trauma endured by PW1, this Court considers it just and proper to recommend the grant of compensation to the victim under Section 357A of the CrPC. Accordingly, a copy of this judgment shall be transmitted to the Secretary, District Legal Services Authority, Kozhikode, for necessary action in accordance with law. A free copy of this judgment shall also be furnished to the accused forthwith. Upon pronouncement of the sentence, the accused was informed of his statutory right to prefer an

appeal. Issue warrant of commitment.

(Dictated to the Confl. Assistant, transcribed and typed by him, corrected by me and pronounced in Open Court on this the 26th day of May , 2026).

Sd/-

DEVAN K. MENON
SPECIAL JUDGE,
FAST TRACK SPECIAL COURT,
NADAPURAM

APPENDIX

A. Prosecution witnesses:-

Rank		Name	Whether Eye witness, Police witness, Expert witness, Medical witness, Other witness	Date of Examination
PW1	:	Survivor (For anonymity, the name and address are not disclosed)(CW1)	: victim	: 31.12.2024
PW2	:	Mohanan Master (CW2)	: Other witness	: 04.02.2025
PW3	:	Ramesan(CW3)	: Other witness	: 04.02.2025
PW4	:	Brother of survivor (Being the brother of survivor, to keep anonymity of the survivor, the name and address are not disclosed)(CW4)	: Other witness	: 11.03.2025

PW5	:	Ratheesh.K.R.(CW9)	:	Other witness	:	11.03.2025
PW6	:	Biju Mohanan (CW13)	:	Polices witness	:	11.03.2025
PW7	:	Amrutha.N.CPO (CW15)	:	Police witness	:	11.03.2025
PW8	:	Dr. Jayesh.P. (CW)	:	Medical witness	:	08.04.2025
PW9	:	Sukumaran Rtd. S.V.O(CW19)	:	Official witness	:	08.04.2025
PW10	:	Shaji. K.S.(CW20)	:	Police witness	:	03.06.2025
PW11	:	Remya. K. S. (CW21)	:	Police witness	:	03.06.2025 & 12.08.2025
PW12	:	Gireesh Kumar.K.K. (CW22)	:	Police witness	:	03.06.2025
PW13	:	Sulochana.K.K. (CW23)	:	Police witness	:	03.06.2025 & 02.09.2025
PW14	:	Abdulla. K.(CW24)	:	Police witness	:	15.07.2025 & 18.11.2025
PW15	:	Vineeth Vijayan (CW25)	:	Police witness	:	15.07.2025 & 18.11.2025
PW16	:	Dr.Navya (Additional witness)	:	Medical witness	:	12.08.2025

B. Defence witnesses:

Sl. No.	Rank	Name	Whether Eye witness, Police witness, Expert witness, Medical witness, Other witness	Date of examination
1	Nil			

C. Court Witnesses:

Rank	Name	Whether Eye witness, Police witness, Expert witness, Medical witness, Other witness
Nil		

A. Prosecution Exhibits:

Sl. No.	Exhibit Number	Description	Date of documents
1.	Ext.P1/PW1	FIS	13.11.2022
2.	Ext.P2/PW2	Underlined portion of 161 statement of PW2	14.11.2022
3	Ext.P3/PW2	Underlined portion of 161 statement of PW2	14.11.2022
4	Ext.P4/PW2	Underlined portion of 161 statement of PW2	14.11.2022
5	Ext.P5/PW3	Underlined portion of 161 statement of PW3	15.11.2022
6.	Ext.P6/ PW3	Underlined portion of 161 statement of PW3	15.11.2022
7.	Ext.P7/PW3	Underlined portion of 161 statement of PW3	15.11.2022
8.	Ext.P8/PW3	Underlined portion of 161 statement PW3	15.11.2022
9.	Ext.P9/PW4	Scene mahazar	14.11.2022
10	Ext.P10/PW5	Recovery mahazar	23.11.2022
11.	Ext.P11/PW5	Recovery mahazar	13.11.2022

12.	Ext.P12/PW6	Seizure mahazar	14.11.2022
13.	Ext.P13/PW7	Seizure mahazar	19.11.2022
14	Ext.P14/PW8	Potency certificate	19.11.2022
15	Ext.P15/PW9	Site plan	27.12.2022
16	Ext.P16/PW10	Ownership certificate	18.11.2022
17	Ext.P17/PW12	FIR	13.11.2022
18	Ext.P18/PW15	Arrest memo	19.11.2022
19	Ext.P19/PW15	Inspection memo	19.11.2022
20	Ext.P20/PW15	Report for adding name and address of accused	—
21	Ext.P21/PW15	Confession extract	13.11.2022
22	Ext.P22/PW15	Confession extract	13.11.2022
23	Ext.P23/PW15	Copy of Forwarding note	19.11.2022
24	Ext.P24/PW15	Kaychit for vehicle release	15.12.2022
25	Ext.P25/PW15	Report for deleting and adding sections of IPC	--
26	Ext.26/PW15	Report for changing sections of IPC in FIR	—
27	Ext.27/PW16	Medical certificate of victim	13.11.2022

B. Defence Exhibits:

Sl. No	Exhibits Number	Description
	Nil	

C. Court Exhibits

Sl. No	Exhibits Number	Description
1	Ext.C1	DNA Analysis report dated

		24.05.2025 of FTSC, Kannur.
2	Ext.C2	DNA Analysis report dated 27.08.2025 of FTSC, Kannur

D. Material Objects:

Sl. No	Exhibits Number	Description
	Nil	

Sd
DEVAN K.MENON
SPECIAL JUDGE ,
FAST TRACK SPECIAL COURT,
NADAPURAM.

///TRUE COPY///

SPECIAL JUDGE

SC 341/2024

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S.C 341/2024

DATED 26th MAY 2026