T A B U L A R F O R M

1	Serial Number	:	Sessions Case No.18/2025
2	Name of Police Station and Crime No. of the offence	:	Taliparamba Police Police Station Crime No.573/2024.

DESCRIPTION OF THE ACCUSED

3.Name	4. Father's Name	5.Occupation	6. Residence	7. Age
Prasanth K.	S/o. Prabhakaran	–	Kayalil House, Palappuram, Ottapalam, Palakkad-679 103.	41/24

DATE OF

8. Occurrence	From 22.11.2023 to 12.05.2024
9. Complaint	08.06.2024
10. Apprehension of the accused	01.07.2024
11. Released on bail	01.07.2024
12. Commitment	--
13. Commencement of trial	21.06.2025
13A. Commencement of evidence	16.07.2025
14. Close of Trial	21.03.2026
15. Sentence/Order	26.03.2026
16. Service of copy of Judgment or finding on accused.	--
17. Explanation for delay	--
18. Period of detention undergone during investigation, inquiry or trial for the purpose of Section 428 Cr.P.C.	Arrested on 01.07.2024 and released on the same day.

Fast Track Special Court, (Sd/-)
Taliparamba. SPECIAL JUDGE,
Dated : 26.03.2026 FAST TRACK SPECIAL COURT, MATTANNUR,
(IN CHARGE OF SPECIAL JUDGE, TALIPARAMBA).

FAST TRACK SPECIAL COURT, TALIPARAMBA

Present:- Smt. Anit Joseph, Special Judge, Mattannur,

(In Charge of Special Judge, Taliparamba).

Thursday, the 26th day of March, 2026/5th Chaithra, 1948.

SESSIONS CASE No.18 OF 2025

(Crime No.573/2024 of Taliparamba Police Station).

Complainant	State: SHO, Taliparamba Police Station. Prosecution conducted by Smt. Sherymol Jose, Spl. Public Prosecutor, Taliparamba.
Accused	Prasanth K., S/o. Prabhakaran, Kayalil House, Palappuram, Ottapalam, Palakkad-679 103 Accused defended by Adv. P.M. Sajitha.
Charge	U/s.376(2)(n), 506 and 420 of IPC.
Plea of the accused	Not guilty
Finding of the Judge	Not guilty
Sentence/Order	The accused is acquitted of the offense punishable under section 376(2)(n), 506 and 420 of IPC, under section 258 (1) of BNSS. He is set at liberty. His bail bond is discharged.

This case coming on for hearing before me, upon perusing the records of evidence and proceeding and upon duly considering the same after hearing the Public Prosecutor and Counsel for the accused on 21.03.2026, I do adjudge the following :-

J U D G M E N T

1. This is a case instituted upon a final report filed by the Inspector of Police, Taliparamba Police Station in Crime No.573/2024 of that Police Station. In the case, the accused person named above stands charged for the offenses punishable under section 376(2)(n), 506 and 420 of IPC.

2. The Prosecution's case in the charge sheet is that, the accused who is a taxi driver, owns the taxi car bearing No.KL51G-0545. CW1 and CW2 used to call the accused for trips to various temples. When they went to various temples in accused’s car and stayed at different hotels ie., on 22.11.2023 at room number 303 of Neyyar Residency, Neyyattinkara, on 01.12.2023 and 02.12.2023 at room No.408 of Well View Residency, Parassinikadavu, on 22.01.2024 at room No.21 of Sri Ratna Guest House, Kollur, on 24.01.2024 at room No.116 of New Demar Mati Guest House, Udupi, from 14.02.2024 to 16.02.2024 at room No.202 of Nandini Tourist Home, Guruvayur, from 19.03.2024 to 22.03.2024 at room No.201 of Vrindavan Tourist Home in Ambalapuzha, and from 24.04.2024 to 26.04.2024 at room No.107 of KTDC’s Aqualand Tourist Home in Kollam, the accused raped CW1 against her will and without her consent. Moreover, the accused threatened CW1 that she would be killed, if she disclosed the sexual assault to anybody. Furthermore, the accused has not returned an amount of Rs.3,50,000/- obtained from CW1 by promising time bound repayment and thus, cheated her.

3. The FIR in the case was originally registered before Ottappalam Police Station by CW35, Inspector of Police, Ottappalam Police Station. Later, the case was transferred to Taliparamba Police Station. Thus, a new FIR was registered before Taliparamba Police Station as Cr.No.573/2024. Thereafter, an initial investigation was conducted by CW36, Inspector of Police Taliparamba. CW37, Inspector of Police, Taliparamba conducted a further investigation and after completing the investigation he laid a final report before the court.

4. On filing the final report, the Learned Judicial First Class Magistrate Taliparamba, took the case on file as CP.94/2024. After complying with all the legal formalities and after duly complying with the mandatory provisions of section 232 BNSS, the case was committed for trial to the Court of Sessions Thalassery. The case was taken on the file of Honorable Court of Sessions Thalassery as SC 18/2025. Thereafter the case was made over to First Additional District and Sessions Court, Thalassery. On the appearance of the accused, copies of prosecution materials were duly served to him.

5. Later, the case was transferred to this court for disposal as per the order of Hon'ble Sessions Judge, Thalassery, dated 14.03.2025. The accused appeared before this court on 08.05.2025. The accused was defended by a counsel appointed by him.

6. Thereafter both prosecution and defence were heard about the grounds of allegations leveled against the accused and the evidence proposed to be adduced by prosecution to prove the guilt of the accused. After hearing both sides, and after perusing the materials available before the court, my learned predecessor found that there is ground for presuming that the accused had committed the offences punishable under sections 376(2)(n), 506 and 420 of IPC. Hence, charges under said section were framed against the accused. Charges were read over to the accused in Malayalam, to which he pleaded not guilty and claimed to be tried.

7. In order to prove the prosecution case, PWs 1 to PW9 were examined and Exts.P1 to P27 were marked.

8. Upon closing the prosecution evidence, the accused was questioned under section 351 of BNSS. He denied all the incriminating circumstances that emerged from the evidence against him. The position of the accused during trial and enquiry under section 351 BNSS was that he never sexually assaulted PW1; he went on a trip with them and they had been cheating many people for offering land. They troubled him by demanding money that he didn't actually owe.

9. Then both sides were heard under Sec.255 of BNSS. After evaluating the evidence of prosecution, the defence version and hearing both sides, I found that there is no scope to pass an order of acquittal at that stage. Thus, the accused was called upon to enter on his defence. The defence examined none, but marked Ext.D1 through prosecution witnesses. Thereafter, I heard the Learned Special Public Prosecutor as well as the learned defense counsel.

10. Now the points that arise for consideration are:-

1. Has the prosecution succeeded in proving that the accused raped PW1 several times during the period between 22.11.2023 and 26.04.2024, at different hotels in various places, and thereby committed the offence punishable under Sec.376(2)(n) IPC ?

2. Has the prosecution succeeded in proving that the accused threatened PW1 that she would be killed if she disclosed the matter to anyone, and thereby committed the offence punishable under Sec. 506 of IPC?

3. Has the prosecution succeeded in proving that the accused borrowed Rs.3,50,000/- from PW1 by promising time bound return and cheated her without returning it, thereby committed the offence punishable under Sec.420 of IPC?

4. If the accused is found guilty of any of the offences, what shall be the sentence to be imposed?

11. **Points No.1 to 3** : These points are interlinked, and the evidence to be appreciated is also the same. Hence, for the sake of convenience and brevity, these points are discussed together. On these material points, both sides made substantive arguments. The Learned Special Public Prosecutor argued that the victim, in her statement before the Learned Judicial Magistrate as well before this court, stated that the accused - who was the taxi driver during her pilgrim trips with husband- sexually assaulted her several times at different locations mentioned in the case, and that part of her evidence could not be rebutted by the defense in any manner. According to the learned Public Prosecutor, the accused had exploited the helplessness of PW1 and abused her to quench his lust. She submitted that the consent reflected in the evidence of PW1 is vitiated. Pointing out the above, the learned prosecutor submitted that the accused person, who deceived and exploited the innocent victim, is liable to be punished with the maximum punishment provided by the law.

12. Per contra, the learned defence counsel submitted that the accused never had mala fide intention or clandestine motives, and that the multiple sexual assaults said to have been committed by him are false. According to her, the instances narrated by PW1 are indigestible to a common man with ordinary prudence. She highlighted the preposterous elements such as: during the trips on all occasions, the accused was provided accommodation in the

couple's room, despite one or two bitter experiences, PW1 did not avoid the accused; and without evading favourable circumstances, she created situations. On one occasion, she travelled and stayed alone with the accused. According to the learned defense counsel, the above circumstances indicate that PW1 volunteered and had sex with the accused on multiple occasions. There is no scope to hold that such sexual activities between two adults constitute rape. PW1 was mature enough to think about the consequences. She chose to maintain prolonged association with the accused, even after the alleged initial acts of sexual atrocity. This indicates voluntary participation. The peculiar disclosure situation is a reason to doubt a false case due to financial enmity. In the light of the above, she prayed for acquittal of the accused of all the charges levelled against him.

13. I have heard the rival contentions advanced on behalf of the parties. Also perused the records. Let me now analyze the evidence on record so as to find out whether the prosecution has been able to prove the guilt against the accused person in accordance with the relevant law or not.

14. PW1 is the survivor who is alleged to have been subjected to rape by the accused. Hence, it is appropriate to evaluate her evidence first. The evidence of PW1 was detailed and lengthy. She started her evidence by saying that she is a theist and used to visit temples with her husband; for their journeys, they used to depend on a driver named Ajith. In 2023, one day

when they called Ajith, he was on a trip. Consequently, when she searched for a substitute, she found the accused from Ottappalam taxi stand. On that occasion, she and her husband went to Ambalappuzha Srikrishna Temple in the accused's car. After explaining this introductory part, she plaintively narrated six specific sexual assaults that occurred between November 2023 and May 2024.

15. For better understanding the specific sexual assaults narrated by PW1 are separately described hereunder in chronological order.

First incident:

On November 22, 2023, she and her husband went to the Neyyattinkara Sree Krishna Swamy Temple in the accused's car and reached there in the afternoon. On November 22 and 23, they took a room there to visit the temple and have darshan. They took a room at the Neyyar Tourist Home. On the afternoon of the 22nd, the accused went out with her husband to buy flowers for the puja. After a while, only the accused came back. He told her that his stomach was not feeling well and he had to go to the bathroom. When she was lying in the room, the accused went to the bathroom and came straight to her and forcibly pressed his mouth on her and kissed her. His thick finger pressed against the hollow of her neck and she felt like she was suffocating. She pushed the accused away and went to the washroom and spat. He asked her if he kissed, would you spit? He then held her mouth and spat in her mouth. Then he

opened the room and left. He threatened her that if she told anyone about this, he would ruin her family life and kill her. So, when her husband came back, she was scared and didn't tell him. The next day they went back home.

Second incident:

On December 1, 2023, she and her husband went to the Parassinikkadavu temple in the accused's taxi. On the way, the accused drove the car to Kannur AKG Hospital and said that he had chest pain. The doctor examined him and said that there was nothing wrong with him. They reached Parassinikkadavu at 4AM and took a room near the Parassinikkadavu temple. In the morning, they went to the temple and returned to the room at 10AM. The accused was not feeling well. When he was sleeping in the room, he said that some light food would be enough for him. Then, her husband went to buy food. He told her to lock the door from the inside. When she went to lock the door, the accused locked the door. Then he sat on the bed and pushed her. Then he pulled her saree and underwear and inserted his penis into her genitals and sexually assaulted her. When she attempted to stop the accused, he grabbed her neck and said he would kill her. She did not tell anyone about this incident. That day after noon she did not go to the temple. She had a fever and shortness of breath. The next day she did not go to the temple. The next day, in the same room, the accused again forcibly sexually assaulted her. She did not tell her husband because she did not want to ruin her family life.

Third Incident:

The accused lured her husband by saying that there was a good Sri Krishna temple in Udupi. The husband is a devotee of Sri Krishna. On January 22, 23, and 24, 2024, they went to Mookambika. After the 24th, they went to Udupi. In Mookambika, they took a room together and stayed there. The accused raped her there too.

Fourth incident :

After dropping her husband in Udupi, the accused took her in the car and went to look for a room. He found a room he knew. There, the accused raped her. She could not respond because the accused said that he would destroy her family life. For safety reasons, during all the trips, the accused was also accommodated in the same room.

Fifth incident :

Normally, every year, she goes to the Ambalapuzha temple for three days in the month of March to attend Bhajana. She went in March 2024 as well. She went on the 19th. The husband had to give the keys of a completed villa to the party, so he did not come. Husband booked rooms at the Vrindavan Tourist Home. She went to attend Bhajan at 3 am. The accused called her at 10 am. When she said that she would not come, he showed signs that he would come

to her. So, she got up and went to the room. In the room the accused sexually assaulted her nefariously. When she was about to get to the reception, he put his hand on her neck and told that he would kill her. She went back to the room and stayed there for three days. The next day, on the 20th, the accused brutally raped her 9 to 10 times until she bled. He squeezed her breasts and thus,they turned blue. That day, she was lying on the ground with a cloth spread on the ground.

Sixth incident:

On March 24, her husband and she went to Guruvayur for darshan in the accused's taxi. There, the accused raped her in the room in Nandini Tourist Home. They stayed there for two days; the accused raped her once.

She provided the following additional details as well.

On the 22nd, while travelling in the car, the accused pulled out his erect penis from inside his underwear and told her to hold it. When she refused, he leaned her against the seat of the car and stabbed her in the neck. He said that "if you don't do this, it will be the end of you; he will drive the car into a post". Then, under his insistence, she had to do as he said.

16. The accused said that "we can continue the relationship; not tell anyone about this, only then you will have a happy life". Her husband is a very pure, honest and loving man, a devotee. She did not tell anyone because

she feared that her family life would be ruined and her children would find out. In the meantime, the accused has repeatedly asked for money, saying various things. He asked for one lakh rupees to repair the car. She had given a total of three and a half lakh rupees to the accused.

17. On May 7, 2024, when he asked for two lakh rupees, she said she would not give it. Then he tried to forcefully pull the gold bangle from her hand. He slapped her and he bit the middle finger of her right hand. On the 9th May, he said he would return the money. He then asked her to go alone to Puliyara temple. She went with her husband. When the accused saw her husband coming together, he took the car and left the place. Later, he did not answer the phone. Following this, she and her husband went to the accused's mother's sister's house. During the altercation, his mother's sister told the accused to file a complaint at the police station. Finally, PW1 and her husband went to the police station and waited for a long time, but the accused did not come. When the sub-inspector asked, she lost control and cried and told him everything.

18. Cross-Examination:

The cross- examination was mainly a doubt clearing session. The defense counsel asked PW1, normally, no one in the world would let a taxi driver sleep with them in bed; what is the reason for making this accused

sleep with her in all the places she took him to? In answer to this question PW1 said, once, when they went to break coconuts at the Pazhavangadi Ganapathy temple, a man tried to attack them, in that fear, they felt that if someone was with them, they would be protected. The further questions and answers were as follows: While your husband was with you, was there a need to take another young man into the room with you, for your own safety? "No matter which taxi driver I take, he will sleep in our own room. Even if my husband is not with me, I will put the driver in my room". It is not true to say that he was put in her room to make false allegations. It is not true to say that her husband had tacit permission for all her actions. When she was asked "Don't you know that not responding every time only creates more problems?" She replied, if she responds, she will lose her family life. When it was suggested that; she went with the accused without postponing the trip even when her husband was not there, and that it was on her own free will and that it was a sign of cooperation, she denied it. It is not correct to say that she took the initiative to create the circumstances and that her husband knew about. She admitted that she did not take medicine for the incident of bleeding due to rape. She denied the further suggestion that she was lying to make the case serious by saying that he had raped her nine or ten times in one day. What is to be elicited from the above evidence is the ingredients of 'Rape' defined under section 375 of IPC. This core issue will be discussed in detail later.

19. Now, we may evaluate the relevance of other witnesses' evidence. PW2 is the husband of PW1. He supported PW1's testimony by explaining the pre-incident and post-incident circumstances in the same manner as PW1. This witness categorically stated that before the SHO Ottappalam informed him of the matter, he was not aware of it; however after the SHO provided the information, PW1 herself disclosed everything to him.He withstood the cross-examination by innocently explaining his neutral role.

20. PW3 is the then front office staff of Well View Residency, Parassinikkadavu. He identified the relevant page of Guest Occupancy Register,containing an entry in the name of one Jayakumar, Palakkad, Ext. P9 invoice bill, Ext. P11 Adhar card copy of Jayakumar and a certificate under section 65B of Evidence Act. PW5, the receptionist in KTDC Acqua Land Tourist Home, Kollam, also provided similar evidence regarding an entry in their register dated 24.04.2024.There is nothing in these documents to prove that on the specific dates the accused had stayed with PW1 and her husband in the said lodges. It would negate 2 specific incidents alleged by PW1.

21. The doctor examined as PW6 conducted a medical examination on the survivor on 13.05.2024. She narrated the history as described by the victim. She did not make any opinion regarding hymen or the evidence of

previous sexual intercourse. This witness categorically stated that she had not examined the private part of the survivor, as she referred the survivor to a gynecologist. However, she stated that she had noticed a discoloration on the right breast of the survivor, which according to the survivor, was caused due to the squeezing by the accused. Indisputably,the medical examination was almost one year after the last sexual intercourse.

22. PW7 is the doctor who conducted a potency examination on the accused. On the basis of Ext. P16 certificate he opined that on examination there was nothing to suggest that the accused is incapable of performing sexual acts. There was no cross examination to suggest the contrary.

23. PW9 registered the second FIR/transfer FIR before the Thaliparamba Police station. Regarding the registration of this FIR as well as the original FIR, PW9 adduced evidence in tune with the evidence adduced by PW1 (The survivor). This witness conducted an initial investigation in the case. During the chief-examination he explained the formalities of the investigation completed by him.

24. PW8 conducted the final part of the investigation, and after completing the investigation, laid a final report before the court. He stuck to the charge laid in the case. The defence has not succeeded in bringing out some serious irregularity in the investigation conducted by this witness.This

witness and other official witnesses explained their part well and fully supported the prosecution.

25. As indicated earlier, what is to be ascertained on the basis of the above evidence is, whether repeated sexual intercourse under coercion and duress - as alleged by PW1- constitutes the ingredients of "rape". In order to satisfy the ingredients of "rape" defined under section 375 of IPC, what must be primarily established is the commission of penetrative sexual assaults- clause (a) to (d) - by a man on a woman against her will and without her consent. In fact, "against her will" and "without her consent" are the two primary pillars used to determine the lack of voluntariness on the part of the victim. This clearly indicates that consensual sex between two adults does not constitute the offense.

26. Here, the defense denied sexual intercourse, more specifically intercourse without consent. However, throughout the evidence, the prosecution projected a case of intentional exploitation and manipulation to coerce PW1 to grant consent. From the testimony of PW1, repeated sexual intercourse can be clearly gathered. According to PW1, just to preserve her family life, she did not disclose the repeated sexual assaults to her husband. As rightly argued by the learned defense counsel, while applying the common man's logic, it can be easily said that PW1 had not avoided the adverse and harmful situations,when the choice was her exclusive prerogative.

27. To recapitulate, what is to be ascertained is, whether the sexual intercourses was under coercion and duress. From the evidence of PW1, it is crystal clear that on many occasions she voluntarily created situations and travelled with the accused and stayed with him in hotel rooms. She herself stated that on that occasion one day,the accused raped her multiple times. Having sex 9 to 10 times in a day is tiresome. If it was under threat and coercion, PW1 could have alerted the people in the surroundings and brought the accused to light. Her excuse - just to preserve family life she did not disclose the incident- appears silly and ludicrous.

28. While ascertaining the elements of consent or vitiated consent, decisional autonomy of the female counterpart in an intimate action is very important. Decisional autonomy is nothing but an individual's ability to make independent choices without external influence. Passive consent given by a victim out of intense love and passion cannot be later termed as coercive consent. But, passive consent given under intense emotions like love and passion can later be considered coercive, if those emotions were manipulated or exploited to obtain that consent. Coercive consent occurs when someone feels pressured, manipulated, or emotionally compelled to agree to something against their true desires or better judgment. In cases where someone uses emotions like love to exploit or manipulate the other person into giving

consent, it could be viewed as coercive, especially if it leads to an unequal power dynamic or the exploitation of the other person's vulnerabilities. Even if the victim is capable of independent decisions, if they were unduly influenced or exploited due to a trusted relationship, it might be considered an abuse of trust in the context of giving consent. This commonly happens in love affair cases. However, consent is a complex legal issue depending on the specific situation of each case.

29. There is some distinction between obtaining consent and giving consent. The distinction lies in the action taken by the parties involved. "Obtaining consent" refers to actively seeking and receiving permission or agreement from another person before engaging in an activity, particularly in contexts like relationship. On the other hand, "giving consent" refers to the voluntary act of granting permission or agreement to engage in that activity. One is the act of acquiring permission, while the other is the act of granting it. Both are essential for ethical and legal interactions, ensuring that all parties involved willingly agree to the terms or actions at hand.

30. In the instant case, the excuse for not disclosing the repeated sexual assault offered by PW1 was already found silly and ludicrous. A married woman, who had once fallen into a trap created by a man and had sex with him, if she suppressed it from her husband and others just to preserve her family life, it can be easily believed; because, ordinarily, no husband however

kind and noble he would be, would excuse the infidelity of his wife. In other words, if an innocent woman who once happened to be the prey of a cunning predator kept the incident secret from her husband, it can be considered a circumstantial compulsion. Here, PW1 did not evade circumstances of repeated sexual assault. She has been struggling hard to present a believable case before the court.At any rate,this excuse is not sufficient to justify the inordinate delay in lodging the FIR.

31. Here we cannot ignore the fact that the complaint/FIR itself is highly belated. Delay in lodging FIR itself is not a reason to disbelieve the prosecution case. **In Unnikrishnan Vs. State of Kerala 2021(6) KLT 819, 2021 ICO 2160** it is held as follows; *" Delay, per se, is not a mitigating circumstances for the accused in a case of sexual assault. Delay in lodging the FIR cannot be used as a ritualistic formula for discarding the prosecution case and doubting its authenticity. It only puts the court on guard to search for and consider if any explanation had been offered for the delay. Once there is explanation for the delay in lodging the FIR, the court is only to see whether such explanation is satisfactory or not. Mere delay in lodging the FIR does not in any way render prosecution version brittle".*

32. In the instant case, by perusing the testimony of PW1, it can be gathered that following a specific altercation regarding money allegedly given to the accused, which took place at the accused's aunt's residence, both

parties went to the police station. At that time, PW1 disclosed the entire sexual assault story for the first time to the SHO. According to learned defense counsel, these peculiar circumstances of the disclosure are a strong reason to doubt the entire case. It cannot be completely discarded. The FIS and other materials before the court would go to show that at the time of filing the complaint PW1 was in a tough situation. Bringing a false case just to escape from that situation also can be doubted. However, the delay willfully caused by PW1 can be considered as a reason to render her version untrustworthy.

33. At any rate, the prosecution is bound to prove sexual activity "against the will" and "without the consent" of PW1. Resistance during any form of intimate activity may be an indication of non-consent. The expression 'against her will' refers to a situation where the act is done in spite of the victim's active opposition or resistance. It implies a positive assertion of dissent. It highlights the state of the victim's mind where she has a clear desire that the act should not take place. While this is the crux of the clause 'against her will', the victim's failure to make wise decisions by choosing or avoiding (decisional autonomy) is very important. It would render her versions doubtful.

34. The Apex court has clarified that 'against her will' and 'without her consent' are not synonyms. It is pertinent to note that Under the Explanation 2 of Section 375 (as amended) 'consent' is defined with strict parameters .It must be a clear, voluntary agreement communicated through words, gestures, or any

form of non-verbal communication. Submission is not consent; i.e a woman who does not physically resist the act of penetration is not, by that fact alone, regarded as consenting. That apart, consent is legally void if it is obtained through deception and other viciating factors like fear of injury or death, misconception of fact, unsoundness of mind or intoxication.

35. All these clauses ensure that the law looks beyond physical injury. It focuses on informed and cerebral consent rather than just the absence of a struggle. From the evidence of PW1 it is crystal clear that on many occasions she had sexual intercourse with the accused. The facts and circumstances unveiled before the court, especially the 6 long episodes of sexual assaults, reflects the passive consent. On close examination of all those circumstances, it can be understood that the lack of resistance was not due to duress or fear. It cannot be ignored that the victim had multiple opportunities to complain or escape, but chose to remain in the company of the accused. This gives strong reason to infer consent. In short, the conduct of the prosecutrix in maintaining a prolonged and voluntary association with the accused, even after the alleged initial acts of sexual atrocity, is inconsistent with the behaviour of a victim of a non-consent act.

36. By virtue of section 165 of BSA, the law presumes a lack of consent if the victim states in her testimony that she did not consent. However, this can be rebutted by establishing material contradictions, unnatural conduct and

absence of medical evidence. In the present case, the prosecutrix's decision to maintain prolonged contact, stay voluntarily in the company of the accused, and her failure to evade adverse situations leads to reasonable inferrence that the sexual acts were a result of conscious and voluntary participation.

37. Voluntary acts of the victim, if any, in having sexual intercourse would weaken her allegation of rape. This is made clear in the decision in **Visakh Kumar U Vs. state of Kerala and another 2020 KHC 760.** In the decision it is held that, " *when it is seen that the parties had voluntarily gone to the hotel room and that they voluntarily had sexual relationship, it cannot be said that the accused committed rape on the victim*".

38. In **Anilkumar & Radhika S Anil v State of Kerala & and others 2021 (1) KHC 435** it is unequivocally held that *'where full grown adults consent to have sexual intercourse and continuously indulged in such activity for quite some time, then the same could be construed only as an act of promiscuity on their part'*. It cannot be forgotten that at the time of the alleged rape PW1 was the wife of a gentle man. Forgetting said aspect, if she had fallen in the trap of the accused, there may be a thousand reasons for the same. An extra marital relationship by a partner would definitely break a family. All of a sudden if a secret love affair comes to light, it would embarrass the pair involved in it. In the instant case also the exasperating consequences of such a relationship can be inferred.

39. It shall not be forgotten that there is no medical or scientific evidence to corroborate the version of PW1. What is reflected more in the evidence is passive consent and active co-operation. In the circumstances, there is nothing wrong in concluding the discussion by holding that PW1's deeds and thoughts were inconsistent with the allegation of rape.

40. The upshot of the discussion is that the evidence on record is insufficient to hold the accused guilty of the offense of rape. The negative finding on this charge would automatically negate the charges of criminal intimidation. In the absence of convincing documentary evidence to prove the alleged money transaction, the accused cannot be held liable for cheating as well. Therefore, without much hesitation it can be undoubtedly held that the prosecution has not succeeded in proving the charges against the accused . Points No.1 to 3 are found against the prosecution.

41. **Point No. 4**:- In view of my finding on point No. 1 to 3 the accused is found not guilty of the offence charged against him. Hence this point does not arise for consideration.

In the result, the accused is acquitted of the offense punishable under section 376(2)(n), 506 and 420 of IPC, under section 258 (1) of BNSS. He is set at liberty. His bail bond is discharged.

Interim release of the vehicle (RP No.327/2024) as per order in CMP 4737/2024 on the file of Judicial First Class Magistrate Court, Taliparamba, dated 19.07.2024 is made absolute.

(Prepared and pronounced by me in open court on this the 26th day of March, 2026).

(Sd/-)

ANIT JOSEPH, SPECIAL JUDGE,
FAST TRACK SPECIAL COURT, MATTANNUR,
(IN CHARGE OF SPECIAL JUDGE, TALIPARAMBA).

APPENDIX:-

WITNESSES FOR THE PROSECUTION:-

Rank	Name	Whether eye witness, Police witness, Expert witness, Medical witness, Other witness
PW1	Victim	Eye witness
PW2	Jayakumar P.	Other witness
PW3	Premarajan K.M.	Other witness
PW4	Nidhin E.K.C.	Other witness
PW5	Sreehari T.	Other witness
PW6	Dr. Kavitha M.S.	Medical witness
PW7	Dr. Ashish K.P.	Medical witness

PW8	Shaji Patteri, Inspector of Police	Police witness
PW9	Benny Lalu M.L., Inspector of Police	Police witness

PROSECUTION EXHIBITS:-

Sl.No.	Exhibit No.	Description	Date
1	P1/PW1	FIS	12.05.2024
2	P2/PW2	Scene Mahazer	09.06.2024
3	P3/PW2	Annexure to Scene Mahazer I	14.06.2024
4	P4/PW2	Annexure to Scene Mahazer – 4	15.06.2024
5	P5/PW2	Annexure to Scene Mahazer – 5	27.07.2024
6	P6/PW2	Annexure to Scene Mahazer – 6	27.07.2024
7	P7/PW3	Seizure Mahazer	09.06.2024
8	P7(a)/PW3	Acknowledgement (Marked in Ext.P7)	09.06.2024
9	P8/PW3	Copy of register (Well view residency)	--
10	P9/PW3	Bill No.2898 of Well view residency	03.12.2023
11	P10/PW3	Certificate u/s.65(B)(2)(a) to (d) of Evidence Act.	09.06.2024
12	P11/PW3	Copy of Aadhar Card	--
13	P12/PW3	Application for licence for the year 2023-24	--
14	P13/PW5	Seizure Mahazer	15.06.2024
15	P14/PW5	Annexure to Scene Mahazer-3	--
16	P15/PW6	Medical Examination Report of the victim	13.05.2024
17	P16/PW7	Potency Certificate	01.07.2024
18	P17/PW8	FIR	12.05.2024
19	P18/PW8	Seizure Mahazer	27.07.2021
20	P19/PW8	Seizure Mahazer	27.07.2024
21	P20/PW8	Site plan	--
22	P20(a)/PW8	Site plan	–
23	P20(b)/PW8	Site plan	22.10.2024
24	P20(c)/PW8	Site plan	02.11.2024
25	P21/PW9	FIR	08.06.2024

26	P22/PW9	Seizure Mahazer	--
27	P23/PW9	Annexure to Scene Mahazer – 2	14.06.2024
28	P24/PW9	Seizure Mahazer	14.06.2024
29	P25/PW9	Seizure Mahazer	15.06.2024
30	P26/PW9	Correction report	15.07.2024
31	P27/PW9	Section adding report	08.06.2024

WITNESS FOR THE DEFENCE :- Nil

EXHIBITS FOR THE DEFENCE :-

Sl.No.	Exhibit No.	Description	Date
1	D1/PW2	Contradiction in 161 statement of PW2	13.05.2024

MATERIAL OBJECTS:- Nil

(Sd/-)
SPECIAL JUDGE,
FAST TRACK SPECIAL COURT, MATTANNUR,
(IN CHARGE OF SPECIAL JUDGE, TALIPARAMBA).