

TABULAR FORM

1.	Serial Number	:	Sessions Case No .210/2025
2.	Name of Police Station and Crime No. of the offence	:	Aralam Police Station Crime No. 78/2025

DESCRIPTION OF THE ACCUSED

3	4	5	6	7
Name	Father's Name	Occu- pation	Residence	Age
Pavins V M	Mathew	--	Vennilathil House, Karaparamba, Edoor, Aralam Amsom, Kannur District., Kerala.	39/2025

DATE OF

8.	Occurrence	:	07-02-2025
9.	Complaint	:	07-02-2025
10.	Apprehension of the accused	:	08-02-2025
11.	Release on bail	:	Judicial Custody
12.	Commitment	:	--
13.	Commencement of trial	:	29-07-2025
13.A	Commencement of evidence	:	14-01-2026
14.	Close of trial	:	08-04-2026
15.	Sentence/Order	:	22-04-2026
16.	Service of copy of judgment or finding on accused	:	22-04-2026
17.	Explanation for delay	:	No delay
18.	Period of detention undergone during investigation, enquiry or trial for the purpose of Sec. 428 Cr.P.C.	:	From 08-02-2025 to 22-04-2026

Fast Track Special Court, Mattannur

Dated: 22-04-2026

**Sd/-  
SPECIAL JUDGE**

**IN THE COURT OF SPECIAL JUDGE  
FAST TRACK SPECIAL COURT, MATTANNUR**

Present:- Smt. Anit Joseph, Special Judge, Fast Track Special Court,  
Mattannur.

Wednesday the 22<sup>nd</sup> day of April 2026/2<sup>nd</sup> Vaisakha 1948

**SESSIONS CASE No. 210/2025**

( Crime No. 78/2025 of Aralam Police Station)

Complainant	:	State: S.H.O Aralam Police Station : :(Prosecution conducted by : : Smt. P.V. Sheena, Spl. Public Prosecutor, : : Mattannur).
Accused	:	Pavins V M., : : S/o.Mathew, : : Age 39/2025, Vennilathil House, : : Karaparamba, Edoor, Aralam Amsom, : : Kannur District., Kerala. : :(Defended by Adv. Sam Isaac Pothiyil)
Charge	:	Under Section 126(2), 74, 351(3) of : : BNS
Plea of the accused	:	Not Guilty.
Finding of the Judge	:	Guilty
Sentence / Order:	:	(1) The accused is sentenced to : : undergo Simple Imprisonment for 1 : : (one) month and to pay a fine of : : Rs.5,000/-,(Five thousand only) in : : default to undergo Simple Imprisonment for 7 days for the offense punishable under Sec. 126(2) of BNS.  (2) He is further sentenced to undergo Simple Imprisonment for 2

(Two) years and to pay a fine of Rs.10,000/-(Ten thousand only) in default to undergo Simple Imprisonment for 15 days for the offense punishable under Sec. 74 of BNS.

3) He is further sentenced to undergo Simple Imprisonment for 2 (two) years and to pay a fine of Rs.10,000/-(Ten thousand only) in default to undergo Simple Imprisonment for 15 days for the offense punishable under Sec. 351(3) of BNS.

## **J U D G M E N T**

1. This is a case instituted upon a final report filed by the Sub Inspector of Police, Aralam police station in Crime No.78/2025 of that Police station. In the case, the accused person named above, stands charged for the offenses punishable under sections 74, 126(2),351(3), 232(1) of Bharatiya Nyaya Sanhitha and 9(1) r/w 10,11(i), (iv) r/w 12 of the Protection of Children from Sexual Offenses Act 2012, hereinafter referred to as the POCSO Act.

1.1 All precautions are taken so as to ensure that the identity of the alleged victim girl is not disclosed in any manner.

2. The summary of the Prosecution's case is as follows: on

07.02.2025, the accused while on bail in SC 559/2024 (crime No. 333/2024 of Aralam police station), violated the bail conditions imposed by the Court of Special Judge for the trial of offences under POCSO Act, Thalassery, by entering the Panchayat, where the victim in the aforementioned case permanently resides. Furthermore, on the same day, at approximately 9.15 A.M, when the victim, a 14 year old minor girl, was going to school, he wrongfully restrained her at Edoor, on the western side road margin of the public road lying in front of Indian Overseas Bank. He then caught hold of her hands and shoulder, with intent to outrage her modesty, and threatened her by stating that he would repeat the earlier sexual assault and kill her before evening if she did not compromise the case.

3. The prosecution contends that after the incident, CW1 did not tell anyone about it. She straight away went to the school and attended the morning class. After the class, she obtained her class teacher's mobile phone, called her mother and disclosed the incident to her. The mother wanted CW1 to come home. When she sought the permission of the class teacher, under the principal's instruction, the class teacher insisted her parents take the child from the school. Accordingly, CW1's father went to the school and brought

her home. By the time her mother reported the matter to the police, a police party also reached there. At home, she explained everything to the police and further gave a specific FI statement to the police, based on which the FIR was registered.

4. As the crucial first step of the legal process, the first information statement (Ext. P1) was lodged by the victim with CW14, Asst. Sub Inspector of police, Aralam Police Station. She herself registered the case as Aralam P.S crime No. 78/2025 under section 74, 126 (2), 351(3), 232(1) of Bharatiya Nyaya Sanhitha and Sec. 9(1) r/w Sec. 10, 11(i), (iv) r/w Sec. 12 of the Protection of Children from Sexual Offenses Act 2012. CW25 Sub Inspector of Police, Aralam police station conducted an investigation and after completing the investigation he himself laid a final report before the court.

5. During the course of investigation, the investigating officers, apart from recording the statement of available witnesses, had also procured the birth certificate of the victim, made arrangements for recording the statement of victim under section 183 of BNSS and also for her medical examination. The accused was arrested and remanded to judicial custody. His potency examination was also conducted. After completion of the investigation, CW25

filed a report under Section 193 of BNSS, on which, 1<sup>st</sup> Additional District and Sessions Court, Thalassery (Principal court for POCSO cases) took cognizance of the offences as empowered under Sec. 33(1) of the POCSO Act.

6. The case was taken on the file of Honorable Court of Sessions Thalassery as SC.210/2025. Thereafter the case was considered by First Additional District and Sessions Court, Thalassery.

7. Later, the case was transferred to this court for disposal as per the order of Hon'ble Sessions Judge Thalassery dated 13-05-2025. The accused, who was in judicial custody, was produced before the court on 16-06-2025. His remand was extended. On production of the accused before the court, copies of relevant documents relied on by prosecution were furnished to him. He is defended by a counsel appointed by him.

8. Thereafter, both prosecution and defense were heard about the grounds of the allegations levelled against the accused and the evidence proposed to be adduced by the prosecution to prove the guilt of the accused. After hearing both sides, and after perusing the materials available before the court, I found that there is ground for presuming that the accused had

committed the offences punishable under sections 74, 126(2), and 351(3) of the BNS. Hence, charges under said Sections were framed against the accused. The Charges were read over to the accused in Malayalam, to which he pleaded not guilty and claimed to be tried.

09. In the trial, PWs.1 to PW9 were examined and Exts. P1 to P9 were marked on the side of prosecution.

10. Upon closing the prosecution evidence, the accused person was questioned under section 351 of BNSS. He denied all the incriminating circumstances that emerged from the evidence against him. The stand of the accused during trial and inquiry under section 351 BNSS was that the accusations had been falsely brought against him only to strengthen the first case.

11. 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. Thereafter, I heard the learned Special Public Prosecutor as

well as the Learned defence counsel.

12. At the time of framing charge, no POCSO Act offences have been made out. In the circumstances, the accused was discharged of all the POCSO Act offenses (11(i), 11(iv) r/w 12) and was charged under sections 74, 126(2), 232(1), and 351(3) of the BNS only. Even in the absence of POCSO Act offenses, without transferring the case to magistrate court, the trial was conducted by this court, which is a Children's court.

13. Before starting the trial in the main case (SC 559/2024), this case was registered against the accused for intimidating the survivor. The prosecution brought such violation of a bail condition to the notice of the court, and the accused was heard. Thereafter, when the allegations were prima-facie found true, the court cancelled the accused's bail bond. Since then, he was in judicial custody in SC 559/2024 and this case. Meanwhile, on 31.07.2025 the accused was convicted and committed to Central Prison Kannur to suffer sentence in SC 559/2024. In the circumstances, a custodial trial was completed in this case.

14. I have framed the following points for determination :-

1. Did the accused, on 07.02.2025, while on bail in SC 559/2024 (crime No. 333/2024 of Aralam police station), at approximately 9.15 A.M, when PW1, a 14 year old minor girl, was going to school, wrongfully restraint her at Edoor, on the western side road margin of the public road lying in front of Indian Overseas Bank, and thereby commit the offense punishable under 126(2) of BNS?
2. Did the accused, on the above date and time, with intent to outrage the modesty of PW1 catch hold of her hands and shoulder, and thereby commit the offense punishable under section 74 of BNS?
3. Did the accused, on the above date and time, in the course of the above transactions criminally intimidate PW1, and thereby commit the offense punishable under section 351(3) of the BNS?
4. If the accused is found guilty of any of the offences, what shall be the sentence to be imposed?

15. **Points No. 1 to 3 :-** These points are interlinked and the evidence to be appreciated is also the same. So, 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 as before this court, reiterated that on 07.02.2025, while on bail in a POCSO case registered upon the complaint preferred by her (SC 559/2024-crime No.333/2024 of Aralam police station), the accused, in violation of the bail conditions imposed by the Court of Special Judge for the trial of offences under POCSO Act, Thalassery, entered the Panchayat, where she permanently resides. Furthermore, on the same day at approximately 9.15 A.M, when she was going to school, he wrongfully restrained her at Edoor, on the western side road margin of the public road lying in front of Indian Overseas Bank, caught hold of her hands and shoulders with intent to outrage her modesty, and threatened her by stating that he would repeat the earlier sexual assault and kill her before evening if she did not compromise the case. This part of her evidence could not be rebutted by the defense in any manner. The accusations against the accused person had been supported by all the witnesses, especially the mother of the victim who first gathered the

incident from the victim. In the light of the above, the learned Special Prosecutor submitted that the accused person, who has been strictly prohibited by the court from disturbing the survivor, has committed the heinous offense and therefore, he is liable to be punished with the maximum punishment provided by law.

16. Per contra, the learned defence counsel submitted that the evidence regarding the overt act adduced by the survivor is neither trustworthy nor inspiring. The context she provided is unbelievable. The victim has embellished the case by creating several convenient concoctions. Even though there are a lot of shops and institutions near the alleged place of occurrence, no one from these establishments was cited as an eyewitness. Despite the presence of CCTV in the IOB Bank building, no CCTV footage was produced before the court. This is contrary to the fundamental principles settled in a recent decision by the Apex Court. The case was falsely brought against the accused to add strength to the first false case. The Prosecution miserably failed to establish foundational facts by adducing convincing and cogent evidence. The case has been fabricated with ulterior motives. According to learned defense counsel, it is imprudent and injudicious to hold the accused guilty by relying on the fictional testimony of PW1. Pointing out the above,

he prayed for the acquittal of the accused of all the charges leveled against him.

17. 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.

18. The victim testified as PW1 is the prime witness. Hence it is appropriate to evaluate her evidence first. Her evidence is briefly as follows: On 7/2/2025, between 8:55 and 9:10 am, while walking to school for morning class, the accused of the earlier POCSO case she had given was standing in front of IOB Bank near Theyambadi Road. When he saw her, he kept staring at her. While she was walking, he suddenly jumped in front of her, grabbed her left shoulder and held her left hand. Then he told her to compromise the case she had given against him and not to proceed with the case. In the meantime, she shook off the accused's hand that was holding her and ran away. While she was running, the accused said from behind that if she goes ahead with the case, he will do the same thing again and he will take her in the evening.

19. By the time she reached school, morning class had started, so she sat in the class. After the class was over, she took the phone from her class teacher, Jessy, and called her mother to tell her about the matter. After that, her mother called the police and later, her father came to school and took her home. By the time she reached home, the police had come to her house. They questioned her and wrote down the things explained by her.

20. She finally stated that in the statement given to the magistrate she omitted to mention that the accused had said, "I will pick you up in the evening."

### Cross

21. During cross-examination, PW1 admitted that she did not tell the police that she had a morning class in social studies that day. She said she doesn't know what her father said to the teacher and Headmistress when he came to school to pick her. When it was brought to the notice of this witness that she had stated to the police that her mother immediately sent her father to school and told the teacher and HM that there is an emergency to take her from school, the witness said she didn't tell the police so. She admitted that there is a Social Service Society office next to IOB Bank, where the incident

is said to have taken place. But she did not admit that there would be many people at 9 o'clock in that location. She did not give all the statements in the presence of his mother. When she gave the Ext.P1 statement, her mother was with her for some time, but in the meantime, she had moved away for some time.

22. She denied the further suggestion that there was no incident as deposed by her and she is telling lies as instructed by her father and mother. When it was finally suggested that the case had been falsely brought against the accused only to add strength to her first case, the witness strongly denied it.

23. The account of the victim described in the foregoing paragraphs appears strong and convincing. Clarity, lack of ambiguity, and consistency on key details can be discerned per-se from the given narration. This carries significant weight. On close observation of the evidence tendered by PW1, there is nothing to doubt her credibility. Regarding the overt act, she adduced consistent evidence. She explained the attending circumstances and the overt act naturally in its sequel without missing any link. What could be gathered was a scene-by-scene description of the incident after recollecting the same

from the memory of the witness.

24. It must be kept in mind that a child witness may not show absolute consistency in deposition. Despite that, PW1 adduced consistent evidence. There are absolutely no discrepancies in her evidence all along. She narrated the minute details of the incident consistently and convincingly. During the cross-examination, learned defense counsel didn't get any gaps to invade and set foot. Two discrepancies-i.e PW1 stated to the police she had a morning class in social studies that day, and that her father took her from the school saying that there is some emergency, and in court she stated that she didn't give such statements to the police- highlighted by the defense has no significance. These discrepancies are not on the substratum of the case. At any rate, this trivial, immaterial variation is not a reason to undermine her entire evidence.

25. In fact, nothing significant to discredit the veracity of PW1 was elicited in her cross examination. She surpassed the test of cross examination by giving rational and intelligent answers to all the questions put to her after thoroughly comprehending the questions. Nothing in her statement could be found to be improvisation and imagination. No indication of tutoring also

could be gathered. Her demeanor, the coherence of her narrative, and her ability to withstand cross examination without wavering contribute to her credibility. Overall, the evidence of PW1 could be found to be trustworthy and inspiring. So, it can be undoubtedly held that PW1 adduced reliable and trustworthy evidence to inspire the court.

26. PW2 is the mother of PW1. This witness strongly supported PW1, and her version would prove that the circumstances explained by PW1 are one hundred percent true. Regarding the incident, PW2 provided the evidence in the following lines: on 07.02.2025, when PW1 alone went to school to attend the morning class, the accused, who was on bail in the earlier POCSO case registered upon PW1's, complaint, wrongfully restrained her on the road leading to her school, near IOB Bank Edoor, grabbed her shoulder, demanding compromise in the original case. According to this witness, the accused also intimidated PW1 warning dire consequences if she was not ready to compromise the case. After describing the above overt act part spoken by PW1, PW2 repeated the entire subsequent sequence narrated by PW1 in more or less similar words.

27. During cross-examination, this witness strongly denied the suggestion that the accusation had been falsely brought by her to add strength to the first case.

28. Although the defence suggested to this witness that the accusation had been falsely made by her and her family, the defence failed to shake the material part of the evidence of the mother. According to this witness, PW1 first called her through the class teacher's phone, soon she informed the matter to her husband, then within minutes PW1's father went to the school and picked PW1 from there. Once reached home, PW1 explained everything to her parents and the police, who had arrived there on the basis of the information passed by her. The said part of PW2's evidence remains un rebutted by the defence. The un rebutted evidence, unless inadmissible in law, must be admitted in evidence.

29. What is to be reiterated is that except for mere suggestions, there is absolutely no evidence to establish that the case has been falsely brought to strengthen the first case. There is no scope to accept such a ludicrous suggestion in priority to the consistent and plangent evidence of the mother of the victim. It would not diminish cognitive value of the

mother's evidence which is congruous with the evidence of the victim. It shall not be forgotten that the victim and her family were under the tension and trauma of the first case. It is imprudent to believe that in such a situation, they had come forward with a second false case. So, without much hesitation it can be undoubtedly held that the mother of the victim could corroborate her case.

30. Another question is whether the statement is made at or about the time of incident and can it be accepted under section 160 of the BSA. The evidence of PW2 (mother) and PW1(victim) would show that PW1 had informed PW2 immediately after completing the morning class through her class teacher's phone. In fact, there was no other opportunity for the victim to disclose the incident. What is important is, there were no chances for PW1 to manipulate things in her mind during the period. So, the evidence of PW1 and PW2 shows that PW1 had stated the incident to PW2 at the time when the event took place. Therefore the evidence of PW1 is corroborated by her former statement made to PW2, which is proved by the testimony of PW2

31. Now, let me evaluate as to whether the evidence of the survivor supported by her mother gets support from the evidence of her class teacher,

who is said to have provided a mobile phone to the survivor to contact her mother. The teacher, examined as PW6 explained the situations revealing her part in the manner as explained by PW1. During cross-examination nothing was brought out to diminish the probative value of the natural evidence presented by this witness.

32. The evidence of this witness consistent with the testimony of the victim is a good corroborative piece of evidence. The situation narrated by this witness, specifically the 'phone lending and sending PW1 home with her father after obtaining permission from the principal', corresponding to the victim's testimony, serves as powerful corroboration. It transforms the victim's verbal account into an independently verified fact, significantly strengthening the prosecution's case and making it much more difficult for the defence to refute the allegations.

33. The defense has not succeeded to shake the credibility of this independent witness by bringing out some material contradiction or omission in her statements. The suggestion during the cross-examination that she is deposing falsely as per the instruction of the police, has no impact. It would not belittle the sincere evidence provided by this teacher. In fact, the evidence

presented by this teacher would cut to the root of the defence case that the case is a concocted case by the survivor and family, who bent on punishing the accused . The evidence of PW6 can be said to be a strong piece of corroborative evidence that strengthens the victim's testimony.

34. We may now evaluate the evidence of other prosecution witnesses, who had played an incidental role during the investigation to see whether the chain of evidence is complete or not. PW1 in her evidence stated that the portion of Theyyampady road lying in front of IOB bank, Edoor is the place of occurrence. The above place is depicted in the scene mahazar prepared by the investigating officer. PW3, who identified his signature in the scene mahazar, (Ext.P3) confirmed that such a significant step had been completed by the investigating officer in his presence.

35. The only aspect elicited from this witness during cross-examination was that he usually opens the shop at 8.30 AM. Aside from attempting to create a smokescreen by eliciting this fact, the defense did not succeed in establishing any illegality or irregularity in the evidence provided by PW3.

36. Another witness examined by the prosecution to describe the scene of occurrence is PW5, the then Village Officer, Aralam Village, who prepared the Ext. P5 site plan. According to this witness, upon receiving a requisition from the Aralam police, he verified the location and prepared the site plan based on the scene mahazar. The scene of occurrence described in the Ext. P3 scene mahazar is clearly delineated in Ext.P5 site plan. During cross-examination, this witness re-affirmed his deeds and words by admitting the portions of his previous statement pointed out by the counsel. No significant points generating doubts against the place of occurrence were elicited from this witness. The scene mahazar and the site plan tally with each other. These documents, which are convincingly demonstrating the lye and nature of the location- a road branching from a town junction having few shops and a bank on one side, presumably lonely at morning hours before 9- lends strong corroboration to the victim's case.

37. PW10 recorded the FI statement of the survivor in the presence of her mother. In court, she identified Ext. P1 FIS. This witness herself registered the FIR on the same day. Regarding the registration of the FIR, she adduced evidence in tune with the evidence adduced by PW1 and PW2.

38. During cross-examination, this witness admitted that Ext.P1 does not show the time and nature of the instruction said to have been given by the Inspector. She did not admit that she had recorded the FIS from the police station to help the parents of PW1. This suggestion does not assume much importance. Unless and until some vested interest and bias is proved on the part of PW7, there is absolutely nothing to indicate that the allegations in Ext. P1 FIS are fabricated by PW7. Therefore, her evidence regarding the cornerstone of the case, i.e the FIS and FIR can be said to be strong and important.

39. PW9 conducted an investigation in the case. This witness made arrangements for recording the statement of the victim under section 183 of BNSS, prepared the scene mahazar, and obtained the site plan from the Village Officer concerned. In his chief examination he narrated the formalities of the investigation completed by him. Another crucial step completed by this witness was the arrest of the accused. He deposed that on 07.02.2025, after taking over the investigation in the case, in order to apprehend the accused, he tracked his location with the assistance of the Cyber Cell. Once the Cyber Cell personnel identified the presence of the accused at Thalassery, he contacted

the Thalassery Sub Inspector and forwarded the photo and name of the accused to the Sub-Inspector through WhatsApp, informing him of the presence at Thalassery as tracked by the Cyber Cell. According to PW9, after getting the message, the Thalassery police made a thorough search in and around the Thalassery bus stand. They finally found the accused near the Thalassery Bus-stand, took him to the station, and kept him there until PW9 and his party reached there and officially took the accused into custody as per Ext. P7 custody memo.

40. Under the cross-examination this witness admitted that he had not produced any documents to prove the so-called Cyber Cell tracking and consequent apprehension of the accused. He admitted that in the adjacent IOB bank building there is a CCTV installed by the bank. Failure to ensure fair and proper arrest was the remaining defect suggested during the cross examination. The witness categorically denied the concluding suggestion that he had laid the final report in the case without conducting a proper investigation.

41. PW8, who was an accompanying officer in the party headed to Thalassery under the leadership of PW9, provided similar evidence regarding

the arrest and subsequent procedures. According to this witness, after taking the accused into custody from the Thalassery police station, while they were proceeding with him towards Aralam Police Station, he became violent and caused hurt to him. PW9, the I.O also had described this in his evidence.

42. However, PW9 adduced substantive evidence. No significant shortfall having the force to cut the root of the prosecution case could be found in the investigation conducted by him. He fairly disclosed that after taking over the investigation, as per his instruction the accused was tracked by the Cyber Police, caught by the Thalassery police, and finally took into custody by him from Thalassery police station. We have already seen the corresponding evidence adduced by PW8. Immediately after registering the FIR, if the accused was tracked by the police by following his location, and then taken into custody in the aforementioned manner, no illegality and irregularity can be found in it.

43. The impropriety in the arrest procedure highlighted by the defense counsel has no significance. When demonstrating the tough arrest process discussed above, if there were some minor discrepancies, no

impropriety causing prejudice to the accused can be found in it. While evaluating the minute aspects pointed out by the learned defense counsel, no injudicious and indiscreet actions could be found on the part of the police. Apart from challenging the arrest and seizure procedures, no material contradiction or omission in the version of any of the prosecution witnesses could be proved through this witness.

44. In fact, the cross examination focused solely on peripheral issues, without touching the core of the case. When PW9 was in the box, The defense failed to poke holes in his investigation or the report. What it indicates is implied acceptance of the investigation, lack of alternative narrative and limited grounds for resistance. As observed earlier, without shaking the credibility of PW1 by pointing out glaring contradiction, omission, or utter incredulousness, what the defense has been concentrating on was insignificant and irrelevant peripheral aspects. In the given context, the testimony of the investigating officer can be said to be more credible and thorough. All other witnesses examined by the prosecution explained their role well and supported the prosecution. There is nothing to disbelieve the evidence of the witnesses examined by the prosecution. Therefore, it is clear that all the material facts that are brought by the prosecution goes against the accused

person .

45. Other oral and documentary evidence is also strong and persuasive. It is already found that PW2, the mother of the victim, fully supported her and mother's evidence can be accepted under section 160 of the BSA. Natural unveiling of the incident and involvement of the teacher-PW6-is another factor making the case believable.

46. During his examination u/s 351 of BNSS the accused stated that he had been falsely implicated in the case with ulterior motives under a conspiracy and the investigation conducted by the investigating officer was not proper, in pursuance thereof, a false charge sheet had been filed. In order to substantiate his claim, he offered a silly explanation that just to add strength to the first case this case has been falsely brought against him. Though this is situationally suitable, and thus, appears plausible, without any supporting evidence, this cannot be taken into account. At any rate, this blank contention would not outweigh the sterling testimony of PW1.

47. The defense counsel constantly argued that the case is a concocted case and that is why the prosecution failed to produce the CCTV visual or

eye witnesses, especially when PW3, the scene mahazar witness stated that he would open his shop daily by 8.30. He vehemently argued that CCTV footage from the IOB Bank is the best evidence and non-production of the same before the court is fatal to the prosecution. He has placed the decision in **Tomaso Bruno and Another Vs State of UP (2015 SCC 178)** to substantiate his argument.

48. Direct visuals of the incident recorded on CCTV cannot be insisted on in each and every case. If there is a visual, it would definitely be strong corroborative evidence. In the instant case, PW9 admitted that at the IOB Bank and ATM counter there is CCTV. Even If there are CCTV cameras, without understanding its focus and operation width, non production of the visuals from the said CCTV cannot be found fatal to the prosecution.

49. We have already found that PW1 adduced reliable and trustworthy evidence to inspire the court. Oral testimony of a witness can be appreciated by considering his or her cross examination. If he remains uncontroverted in cross examination, by weighing his testimony with the testimonies of other witnesses and also by evaluating whether his testimony is contradictory to the documentary evidence produced in the case.

50. In the instant case, PW2 and PW6 extended unstinted support to PW1. PW6, an independent witness, provided strong evidence to establish that the attending circumstances explained by PW1 and PW2 are one hundred percent true. Besides, the other witnesses have also corroborated the evidence of prosecutrix. There is nothing to disbelieve the evidence of the witnesses examined by the prosecution. Therefore, it can be undoubtedly held that the victim and other witnesses presented reliable evidence to establish the incident.

51. Once the evidence is found reliable and trustworthy to bring home the guilt of the accused, the next aspect to be ascertained is what charges have been proved against him. The first charge framed against the accused was wrongful restraint punishable under section 126(2) of BNS. Whoever wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits is said to commit the offense of wrongful restraint punishable under section 126 (2) of BNS. In the instant case, it is already found that the accused blocked the way of PW1 and wrongfully restrained her in such a manner as to prevent her from proceeding beyond the limits of his hostage. Such wrongful restriction made by the accused is sufficient to attract the ingredients of section 126

(2) of BNS. Therefore, it can be held that the charge under section 126 (2) of BNS has also been proved against the accused.

52. Charges under section 74 of BNS have been framed secondly against the accused. Section 74 of BNS deals with outraging the modesty of a woman. The evidence on record is clear that during the frenzied endeavor to restrain and threaten PW1, the accused placed hands on her shoulder. Such criminal force used by the accused with intent to intimidate PW1, attracts the ingredients of section 74 of BNS. What is established before the court is use of criminal force against PW1 from a public road. Such an act would be an outrage to the modesty of a woman. The essence of a woman's modesty is her sex. It is a virtue attached to a female owing to her sex. Knowledge that modesty is likely to be outraged is sufficient to constitute the offence without any deliberate intention having such outrage alone for its object. The accused herein, has been prosecuted for following and disturbing PW1, while on bail in an earlier case filed by her. Criminal force used by the accused against PW1 in the course of the alleged transaction can be said to be with clear knowledge that her modesty is likely to be outraged. So, without much hesitation it can be held that prosecution has succeeded in proving the

charges under section 74 BNS against the accused

53. Yet another charge framed against the accused person was criminal intimidation punishable under section 351(3) BNS. In order to constitute the offense of criminal intimidation punishable under section 351(3) of BNS, a threat against an individual to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or imprisonment for life, or with imprisonment for a term which may extend to 7 years, or to impute unchastity to a woman, shall be proved. In the instant case, PW1 stated that the accused threatened to kill her by evening if she did not compromise the case. No doubt, such threats made by the accused person caused alarm in the mind of PW1 and it is clear from her evidence. The evidence is sufficient to attract the offense under section 351(3) BNS. Therefore, it can be held that the charge under section 351(3) BNS also been proved against the accused

54. Succinctly, it can be held that prosecution has succeeded in proving the charges under 126 (2), 74 and 351(3) of the BNS against the accused. Points No. 1 to 3 are found in favour of the prosecution.

55. In the light of my finding on point No. 1 to 3, the accused is found guilty of the offences punishable under section 126 (2), 74 and 351(3) of the BNS, and convicted thereunder.

This is not a fit case to invoke the benevolent provisions of the Probation of Offenders' Act. The accused will be heard on the question of sentence to be imposed at 01.00 pm under section 258(2) of BNSS.

(Dictated to the Confidential Assistant, transcribed and typed by him, corrected and pronounced by me in open Court, this the 22<sup>nd</sup> day of April, 2026)

**ANIT JOSEPH, SPECIAL JUDGE  
FAST TRACK SPECIAL COURT, MATTANNUR**

56. Point No.4 :- Heard the accused on question of sentence under section 258(2) of BNSS. He did not make any submission. He did not offer any mitigating circumstances.

57. **In Dhananjay Chatterjee Vs State of West Bengal 1994 SCR (1) 37, 1994 SCC (2) 220 Hon'ble Supreme Court** observed as hereunder  
*“In our opinion, the measure of punishment in a given case must depend upon the atrocity of the crime; the conduct of the criminal and the defenseless and*

*unprotected state of the victim. Imposition of appropriate punishment is the manner in which the courts respond to the Society's cry for justice against the criminals. Justice demands that courts should impose punishment befitting the crime so that the courts reflect public abhorrence of the crime”.*

58. As held in the above decision, Public outcry for justice to innocent victims can be acknowledged by giving appropriate punishment to the perpetrators. While considering the nature and gravity of the offenses already evaluated, the accused person do not deserve any leniency. He mercilessly stalked the victim and continued harassing her. This is a reason to impose a strict and harsh punishment. However, it is well settled that punishment should be proportional to the crime. Hence, I am of the view that the accused person deserves some leniency.

**In the result,**

(1) The accused is sentenced to undergo Simple Imprisonment for 1 (one) month and to pay a fine of Rs 5,000/-, (Five thousand only) in default to undergo Simple Imprisonment for 7 days for the offense punishable under Sec. 126(2) of BNS.

2) He is further sentenced to undergo Simple Imprisonment for 2 (Two) years and to pay a fine of Rs 10,000/-, (Ten thousand only) in default to undergo Simple Imprisonment for 15 days for the offense punishable under Sec. 74 of BNS.

3) He is further sentenced to undergo Simple Imprisonment for 2 (two) years and to pay a fine of Rs 10,000/-, (Ten thousand only) in default to undergo Simple Imprisonment for 15 days for the offense punishable under Sec. 351(3) of BNS.

Sentence shall run concurrently. Set off is allowed U/s 468 of BNSS against the period undergone by the convict in this case from 08-02-2025 to 22-04-2026.

Out of the entire fine, Rs. 20,000/- (Twenty thousand only) shall be paid as compensation to PW1.

Furnish a copy of this judgment to the convicts free of cost. Also send a copy of this judgment to the Learned District Magistrate, Kannur as required under section 406 of BNSS.

The convict has been informed about his right to appeal against this judgment.

After considering the impact of the assault and the present condition of PW1, I do not feel that this is a fit case to recommend compensation under Victim Compensation Scheme.

(Dictated to the Confidential Assistant, transcribed by him, corrected and pronounced by me in open court on this the 22<sup>nd</sup> day of April, 2026).

**Sd/-**  
**ANIT JOSEPH, SPECIAL JUDGE,**  
**FAST TRACK SPECIAL COURT, MATTANNUR**

**APPENDIX**

**WITNESSES FOR THE PROSECUTION:**

<b><u>Witness No</u></b>	<b><u>Name of Witness</u></b>	<b><u>Description</u></b>
PW1 CW1	Name with held	Victim
PW2 CW2	Name with held	Other witness
PW3 CW4	James P.C	Other witness
PW4 CW7	Ajith P.G, Birth Registrar	Other witness
PW5 CW8	Sulochana P.S, Village Officer, Aralam	Other witness
PW6 CW24	Jessy V A	Other witness
PW7 CW14	Bindhu K V, Grade ASI, Aralam PS	Police Witness
PW8 CW10	Soji Augustine	Police Witness

PW9 CW25 Suhaib K., Sub Inspector of Police

Investigating  
Officer

**EXHIBITS FOR THE PROSECUTION:**

<b><u>No</u></b>	<b><u>Date of document</u></b>	<b><u>Description of the Exhibit</u></b>	<b><u>Proved by</u></b>
P1	07-02-2025	FIS in Cr.78/2025 of Aralam PS	PW1
P2	08-02-2025	Relevant Portion in Statement U/s 183 of BNSS	PW1
P3	07-02-2025	Scene Mahazar	PW3
P4	21-02-2025	Birth Certificate	PW4
P4a	21-02-2025	Certificate U/s 63 of BSA	PW4
P5	06-03-2025	Site Plan	PW5
P6	07-02-2025	FIR in Cr.78/2025 of Aralam PS	PW7
P7	07-02-2025	Custody Memo	PW8
P8	07-02-2025	Arrest Memo	PW9
P9	07-02-2025	Inspection Memo	PW9

**WITNESSES FOR THE DEFENCE: NIL**

**EXHIBITS FOR THE DEFENCE: NIL**

**MATERIAL OBJECTS: NIL**

Sd/-

**ANIT JOSEPH, SPECIAL JUDGE  
FAST TRACK SPECIAL COURT, MATTANNUR**

Fair/Copy of Judgment

IN THE COURT OF SPECIAL JUDGE  
FAST TRACK SPECIAL COURT,  
MATTANNUR.

**SESSIONS CASE No. 210 OF 2025**

**J U D G M E N T**

**22-04-2026**

**To**

- 1 The Registrar,  
High Court of Kerala,  
Ernakulam, Kochi – 682 031.
- 2 The District Police Chief,  
Kannur Rural.
- 3 The Public Prosecutor, Mattannur.
- 4 The Accused
- 5 Superintendent, Central Prison,  
Kannur