

TABULAR FORM

1.	Serial Number	:	Sessions Case No .484/2025
2.	Name of Police Station and Crime No. of the offence	:	Aralam Police Station Crime No. 379/2025

DESCRIPTION OF THE ACCUSED

3	4	5	6	7
Name	Father's Name	Occu- pation	Residence	Age
Jibin G P	Gopalan	-	Aralam Farm, Block 13, Plot No.421, Aralam PS, Kannur District.	28/2025

DATE OF

8.	Occurrence	:	01-12-2024 to 08-06-2025
9.	Complaint	:	09-06-2025
10.	Apprehension of the accused	:	10-06-2025
11.	Release on bail	:	21-08-2025
12.	Commitment	:	--
13.	Commencement of trial	:	02-12-2025
13.A	Commencement of evidence	:	23-03-2026
14.	Close of trial	:	25-03-2026
15.	Sentence/Order	:	31-03-2026
16.	Service of copy of judgment or finding on accused	:	--
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 10-06-2025 to 21-08-2025

Fast Track Special Court, Mattannur  
Dated: 31-03-2026

**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.

Tuesday the 31<sup>st</sup> day of March 2026/ 10<sup>th</sup> Chaithra 1948

**SESSIONS CASE No. 484/2025**

( Crime No. 379/2025 of Aralam Police Station)

Complainant	:	State: S.H.O Aralam Police Station (Prosecution conducted by Smt. P.V. Sheena, Spl. Public Prosecutor, Mattannur).
Accused	:	Jibin G P, S/o.Gopalan, 28/2025, Aralam Farm, Block 13, Plot No.421, Aralam PS, Kannur District. (Defended by Adv. Manoj Peter, Legal aid counsel)
Charge	:	Under Section 5(l), (n), 5(j)(ii), 5(q)r/w Sec 6(1) of POCSO Act and Sec.64(2) (f)(h)(m), 69, and 137(1)(b)(2) of BNS.
Plea of the accused	:	Not Guilty.
Finding of the Judge	:	Not Guilty
Sentence / Order:	:	Accused is acquitted U/s. 258 of BNSS of the offences U/s.5(l), (n), 5(j)(ii), 5(q) r/w 6(1) of the POCSO Act 2012, Sec. 64(2)(f),(h),(m), 69 and 137(1)(b) (2) of Bharatiya Nyaya Sanhitha. The bail bond of the accused person shall be in force for 6 months for the purpose of Section 481 of BNSS.

## J U D G M E N T

1. This is a case instituted upon a final report filed by the Inspector of Police, Karikkottakari Police Station in Crime No. 379/2025 of Aralam Police station. In the case, the accused person named above stands charged for the offenses punishable under sections 64(1), 64(2)(f),(n),(m), 69, 137(1)(b),137(2) of BNS as well as section 5(1),(j)(ii),(n),(p),(q) r/w Sec. 6 of the Protection of Children from Sexual Offences 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 Prosecution's case can be summarized as follows; The accused, being the husband of the survivor's maternal aunt (cheriyamma), resided with his family at the survivor's grandmother's house in Aralam amsom, Aralam farm, plot No.7 block No.37. While so, during the period from December 2024 to 06-06-2025, the accused repeatedly sexually assaulted the 17-year-old minor survivor after luring her with a promise of marriage. As a consequence of these repeated sexual assaults, the survivor became pregnant. Upon learning that the survivor was six months pregnant, the accused took her to his mother's house (located at Aralam farm, Block No.13 plot No. 421) on 06-06-2025 without the knowledge or consent of her parents. Subsequently,

between 06-06-2025 and 09-06-2025 the accused again sexually assaulted the survivor at that location.

3. The FIR in the case was registered by CW26, Inspector of police Aralam Police station. The investigation was conducted by CW27 Inspector of police Karikkottakari police station and after completing the investigation, he laid a final report before the court.

4. During the course of investigation, the investigating officer, apart from recording the statement of witnesses, had also made arrangements for recording the statement of the victim under section 183 of BNSS. The accused was arrested and remanded to judicial custody. After completion of the investigation, CW27 filed a final report under Section 193 of BNSS. Upon filing the final report 1<sup>st</sup> Additional District and Sessions Judge Thalassery took cognizance of the case as empowered under Sec.33 (1) of the POCSO Act.

5. The case was taken on the file of Honorable Court of Sessions Thalassery as SC 484/2025. Thereafter the case was considered by the First Additional District and Sessions Court, Thalassery. The accused, who was arrested and produced before the said court during the crime stage was

remanded to judicial custody. On 21-08-2025 the accused was enlarged on bail.

6. Later, the case was transferred to this court for disposal as per the order of Hon'ble Sessions Judge Thalassery dated 19-08-2025. The accused appeared before this court on 22-10-2025. Copies of prosecution materials were duly served to him. Advocate Manoj Peter was appointed as legal aid counsel by the DLSA Thalassery.

7. On the appearance of the accused, both prosecution and defense were heard about the grounds of the allegations leveled 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 5(l), (n), 5(j) (ii), 5(q) r/w 6(1) of the Protection of Children from Sexual Offences Act 2012, sections 64(2)(f),(h),(m),69, and 137(1)(b)(2) of Bharatiya Nyaya Sanhitha. Hence, charges under the said sections 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.

8. In order to prove the prosecution case, PW1 to PW3 were examined and Ext.P1 to P3 were marked. The victim and her mother's sister were examined as PW1 and PW2 respectively, and did not support the prosecution. In the circumstances, remaining witnesses were given up by the Learned Special Public Prosecutor.

9. Upon the closure of the prosecution evidence, the accused person was questioned under Sec. 351 of BNSS. He denied all the incriminating circumstances that emerged from the evidence against him.

10. Then both sides were heard under Sec.255 of BNSS. After hearing both sides and perusing the evidence on record, I found that there is no scope to proceed further.

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

1. Did the accused, during the period from December 2024 to 06-06-2025, and the period between 06-06-2025 and 09-06-2025, repeatedly sexually assault PW1, who was his wife's sister's minor daughter, at her grandmother's house and his own house, and thereby commit the offence punishable under 5(l), (n), r/w 6(1) of the Protection of

Children from Sexual Offences Act, in the alternative, the offence of rape punishable under section 64(2)(f),(m) of the Bharatiya Nyaya Sanhitha?

2. Did the accused, during the period between period from December 2024 to 06-06-2025, and the period between 06-06-2025 and 09-06-2025, by making a false promise of marriage repeatedly sexually assault PW1, who was his wife's sister's minor daughter, at her grandmother's house and his own house, and thereby commit the offence punishable under 69 of the Bharatiya Nyaya Sanhitha?
3. Did the accused, during the above period, as a consequence of the repeated sexual assaults mentioned above make PW1 pregnant and thereby commit the offence punishable under Sec. 5(j)(ii) r/w Sec. 6(1) of Protection of Children from Sexual Offences Act?
4. Did the accused, during the above period, as a consequence of the repeated sexual assaults mentioned above make PW1 pregnant and from 06.06.2025 to 09.06.2025 raped

the pregnant PW1, and thereby commit the offence punishable under section 5(q) r/w 6(1) of the Protection of Children from Sexual Offences Act, in the alternative, the offence of rape punishable under section 64(2)(h) of the Bharatiya Nyaya Sanhitha?

5. Did the accused, upon learning that the survivor was six months pregnant, take her to his mother's house (located at Aralam farm, Block No.13 plot No. 421) on 06-06-2025 without the knowledge or consent of her parents, and thereby commit the offence punishable under 137(1)(b)(2) of the Bharatiya Nyaya Sanhitha?
6. If the accused is found guilty of any of the offences, what shall be the sentence to be imposed?

12. **Points No. 1 to 5** :- 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. PW1 is the survivor, who is alleged to have been subjected to penetrative sexual assault by the accused. She had made Ext. P1 FIS statement and a statement U/s 183 of BNSS. Before the

court PW1 did not deny sexual intercourse with the accused and consequent pregnancy. She claimed a customary marriage with the accused, performed with the consent of both the families which resulted in lawful pregnancy. In the circumstances, the only issue for consideration is whether PW1 had attained majority at the time of the sexual intercourse and consequent impregnation.

13. During the chief examination PW1 stated that the accused was her aunt's husband and there are 3 children in that wedlock. According to her, after having 3 children, due to difference of opinion the marriage between the accused and her aunt was dissolved; after that, her marriage with the accused was solemnized as per the custom prevailing in their community, and at the time of marriage she had completed 18 years.

14. PW1 firmly stated that her date of birth is the 21<sup>st</sup> day of October 2006. She further stated that in the wedlock with the accused, she gave birth to a child who is now 5 months old. She categorically stated that the accused never sexually assaulted her before she attained majority. Likewise, while admitting the Ext. P1 First Information Statement, PW1 stated that it was given under the instruction of her mother and Manju. According to her, after

the divorce, when the accused failed to provide maintenance to the children born in the wedlock with Manju, her mother and Manju instructed her to file the complaint against the accused. This former marriage history of the accused was admitted by Smt. Manju, who was examined as PW2. Therefore, there is no reason to doubt the lawful marriage claimed by PW1. What is to be ascertained is the age of PW1 at the time of the alleged customary marriage to rule out child rape.

15. As per the prosecution records, at the time of the alleged sexual assault PW1 was only 17 years and 2 months old. Though PW1 stated that her date of birth is the 21<sup>st</sup> day of October 2006, it is contradictory to the document produced by the prosecution through PW3. While sticking to her case, PW1 explained that at the time of giving the Ext.P1 FI statement, on the basis of wrong information given by someone, she stated that her date of birth was 21-10-2007. However, PW1 categorically stated that her marriage with the accused was a lawful customary marriage performed after she attained majority. When PW1 provided such evidence, the prosecution lost the foundation for their case- that the date of birth of PW1 is 21-10-2007 and at the time of marriage, she was only 17 years and 2 months old.

16. The witness examined as PW2 is PW1's mother's younger sister, Manju. In tune with the evidence of PW1, PW2 also stated that the accused is her erstwhile husband and, after the dissolution of her marriage with the accused, he married PW1. PW2 categorically stated that the accused is the husband of PW1 and that their marriage was solemnized according to the custom prevailing in their community in the presence of both families. According to PW2, PW1 had completed 18 years of age at the time of marriage. However, PW2 was also unable to mention PW1's date of birth. So, the evidence of PW2 also does not help the prosecution to prove the crucial issue: the age of PW1 on the date of the alleged penetrative sexual assault.

17. PW3 is the Registrar of Births and Deaths in Thalassery Municipality. She stated that on the basis of the requisition of Aralam Police, she had issued Ext.P2 Birth Certificate along with Ext.P3 certificate under section 63 of BSA. As per Ext.P2 the date of birth of PW1 is 21-10-2007. The names of her father and mother shown in the said certificate are Mani S.K and Shalini S.K respectively.

18. To recapitulate, the only issue to be determined in the case is the age of PW1 as on her marriage. As provided under section 94 of JJ Act, to

determine the age of a child, who is a victim of a crime, the procedure in Rule 12 of the Juvenile Justice (Care and Protection of Children) Rules, 2017 is to be applied. As per section 94(2)(i) of the Act, the first document that can be taken into account in preferential order is date of birth certificate from the school or matriculation or equivalent certificate from the concerned examination board, if available. By virtue of section 94(2)(ii), in 2<sup>nd</sup> place comes the date of birth certificate given by the Corporation or a Municipal Authority or a Panchayat.

19. In the instant case, the only document produced by the prosecution to prove the date of birth of PW1 is the birth certificate issued by the Registrar of Births and Deaths from Thalassery Municipality. In the said document, PW1's date of birth is shown as 21-10-2007. Ordinarily, there is no reason to disregard a birth certificate issued by a competent authority. In the instant case, during cross-examination PW1 admitted that there are many persons named Many and Shalini in her colony. She further stated that her father and mother never lived in Shanakarankandy, Colony, Thillankery. In Ext. P2 the address of the specific child was shown as Shanakarankandy, Colony, Thillankery. It is contradictory to the address shown in the case records. The prosecution has not produced any documents to show that at the time of giving birth to PW1

her father and mother were living at Shanakarankandy Colony. Such address change and the 'common name' factor admitted by PW1 is a reason to doubt that the Ext. P2 may not be the Birth Certificate of PW1, who claimed to have been born on 21-10-2006.

20. The date of birth of the candidate as contained in the document must be proved by the admissible evidence i.e: by the evidence of those persons who can vouchsafe the truth of the facts in issue. In the absence of any such evidence, the document has no probative value and the date of birth mentioned therein cannot be accepted. Here, the suspicious elements surrounding Ext. P2 is a strong reason to doubt the said document. Therefore, it is unsafe to place reliance upon the said document alone.

21. In **Alex PV Vs state of Kerala 2021 KHC 405** , the mother is considered as a competent witness to give evidence regarding the date of birth of a victim. In the instant case, the mother of the survivor, who is a rustic village lady, did not come forward to provide her daughter's date of birth. In the circumstances, Ext. P2 Birth certificate alone cannot be relied on to believe that at the time of alleged sexual assault PW1 was only 17 years and 2 months old.

22. What is alleged as an offence in the case is sexual intercourse between the accused and PW1 who are husband and wife. In every case the position of the accused, the nature of the investigation and the gravity of the offence must be judged in the light of the material facts and the surrounding circumstances. In the given case, the date reflecting from the highly opposed document, if not correct, a finding on the basis of the said document would evoke devastating results. It would ruin the family life of the prosecutrix as well as the baby born to her. Therefore, it is improper and unjust to arrive at a conclusion in favour of the prosecution on the basis of the hyper technical evidence made available before the court.

23. The upshot of the discussion is that the prosecution failed to prove that as on the date of sexual assault PW1 was a child. Therefore, without much hesitation it can be held that prosecution has not succeeded in proving required facts to form the foundation for their case. Points No. 1 to 5 are found against the prosecution.

24. **Point. No.6:-** In view of my finding on point No. 1 to 5 the accused is found not guilty of the offences charged against him. Hence this point does not arise for consideration.

In the result, the accused is acquitted of the offences under section 5(l), (n), 5(j)(ii), 5(q) r/w 6(1) of the Protection of Children from Sexual Offences Act 2012, sections 64(2)(f),(h),(m),69, and 137(1)(b)(2) of Bharatiya Nyaya Sanhitha, under Section 258 of BNSS. The bail bond of the accused person shall be in force for 6 months for the purpose of Section 481 of BNSS.

The Properties received as per item No.204/2025, 205/2025 and 210/2025, being the waste cloths and samples shall be destroyed.

(Dictated to the Confidential Assistant, transcribed by him, corrected and pronounced by me in open court on the 31<sup>st</sup> day of March, 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	CW7	Name with held	Other Witness
PW3	CW13	Bindu Mol N, Registrar of Births & Deaths, Thalassery Municipality	Other Witness

**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	09-06-2025	FIS in Cr.379/2025 of Aralam PS	PW1
P2	05-08-2025	Birth Certificate	PW3
P3	05-08-2025	65(B) BSA Certificate	PW3

**WITNESSES FOR THE DEFENCE: NIL****EXHIBITS FOR THE DEFENCE: NIL****MATERIAL OBJECTS: NIL**

Sd/-

ANIT JOSEPH, SPECIAL JUDGE  
FAST TRACK SPECIAL COURT, MATTANNUR

**//True Copy//**

Fair/**C**opy of Judgment

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

**SESSIONS CASE No. 484 OF 2025**

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

**31-03-2026**

**To**

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