

IN THE COURT OF SESSIONS, KOTTAYAM DIVISION

Present: Sri. Manoj M., Sessions Judge

Saturday, the 18th day of April, 2026

28th day of Chaithra, 1948

SESSIONS CASE No.114/2023

(Crime No.1913/2022 of Pampady Police Station)

Complainant:-

State of Kerala represented by
Deputy Superintendent of Police, Kanjirappally.

By Public Prosecutor Sri. Agi Joseph

Accused:

Omanakkuttan K.M., aged 55 years,
S/o. Madhavan, Karickamattom Parambil House,
Velloor P.O., Karickamattom Bhagom,
Velloor Kara, Pampady Village.

By Adv. Neethu P.B. & Adv. Yazar Ahammad

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| Charge | : Under Secs.354A(1)(i), 509 and 506 of the Indian Penal Code and Secs. 3(1)(r), 3(1)(w)(ii) and 3(2)(va) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Amendment Act |
| Plea | : Not Guilty |
| Findings | : The accused is found not guilty of the offences punishable under Sec.354A(1)(i) of the I.P.C. and Secs.3(1)(w)(ii) and 3(1)(r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act and he is found guilty of the offences under Secs.506(i) and |

509 of the Indian Penal Code and Sec.3(2)(va) of the SC and ST (PoA) Act r/w.Secs.506(i) and 509 of I.P.C. and is convicted under Sec.235(2) Cr.P.C., which is pari materia to 258(2) of B.N.S.S.

Sentence/ Order : 1. Simple imprisonment for **six months** under Sec.506(i) of the Indian Penal Code.

2. Simple imprisonment for **six months** and to pay fine of Rs.2,500/- (Rupees Two Thousand and Five Hundred only) under Sec.509 of the Indian Penal Code, in default of payment of fine to undergo simple imprisonment for one month.

3. Simple imprisonment for **six months** under Sec.3(2)(va) of the SC and ST (PoA) Act r/w.506(i) of the I.P.C.

4. Simple imprisonment for **six months** and to pay fine of Rs.2,500/- (Rupees Two Thousand and Five Hundred only) under Sec.3(2)(va) of the SC and ST (PoA) Act r/w.509 of the I.P.C., in default of payment of fine to undergo simple imprisonment for one month.

The substantive sentences of imprisonment shall run concurrently. The fine amount, if realized, shall be given to PW1 as compensation under Sec.357(1)(b) of Cr.P.C. / 395(1)(b) of B.N.S.S.

Set off is allowed under Sec.428 of the Cr.P.C. / 468 of B.N.S.S. for the

period of detention undergone by the accused in connection with the investigation, inquiry and trial of this case.

In this case, the compensation awarded to PW1 is not adequate. PW1 is a member of the Scheduled Caste Community and she is from an economically backward community. Therefore, recommendation is made to the District Legal Services Authority, Kottayam under Sec.357A Cr.P.C. / 396(3) of B.N.S.S. to pay compensation to PW1 under the Victim Compensation Scheme.

Dates of Trial	: 15.09.2025, 16.09.2025, 17.09.2025, 26.09.2025, 06.11.2025, 17.11.2025
Date of Hearing	: 08.04.2026
Date of Order	: 18.04.2026

JUDGMENT

The accused stands charged by the Deputy Superintendent of Police, Kanjirappally in Crime No.1913/2022 of Pampady Police Station alleging commission of offences punishable under Secs.294(b), 354A(1)(i), 509 and 506(i) of the Indian Penal Code and Secs.3(1)(r), 3(1)(w)(ii) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015.

2. The prosecution case, in brief, is as follows :- PW1 Sudhi T.N., the mother of PW3, is a member of Hindu Paravan Community, a Scheduled Caste and the accused is a member of Hindu Ezhava Community, a forward caste. On 20.01.2022, the accused had sexually harassed PW3, who was then a child, by groping her breast, consequent to which, Pampady Police Station Crime No.103/2022 was registered against him for offences including offences under the POCSO Act and SC and ST (PoA) Act and he was arrested and remanded and the case was pending before the Fast Track Special Court Kottayam as SC No.205 of 2025. The trial in the said case commenced and PW1 to PW3 and CW4 deposed against the accused in the court on 07.12.2022 and 08.12.2022. Due to the said enmity, with knowledge that PW1 was a member of the Scheduled Caste, with intent to criminally intimidate her, sexually harass her and outrage her modesty, on 25.12.2022 at about 09.30 p.m. near the residence of the witnesses situated at Ward No.XVIII of Pampady Grama Panchayat, the accused stood in the Paruthalamattam - Nedumkuzhi concrete road and abused PW1 with obscene words ; then he criminally intimidated her

by threatening to kill her and her children ; then he abused her by exhorting that he had groped the breasts of her daughter and insulted and humiliated her in public view ; then the accused lifted his dhoti and exposed his nudity at PW1 and thereby outraged her modesty and made unwelcome advances and explicit sexual overtures at her. The accused has thus committed the above said offences.

3. PW9, a Senior Civil Police Officer attached to Pampady Police Station recorded the First Information Statement of PW1 and PW11, Inspector SHO of Pampady Police Station registered Ext.P13 F.I.R. PW8, Deputy Superintendent of Police, Kanjirappally conducted the preliminary investigation by arresting the accused and filing reports to court. PW12 Deputy Superintendent of Police, Kanjirappally conducted further investigation and filed the final report before this Court.

4. The accused was granted bail during the crime stage. Summons was issued to the accused, but it was reported that he was detained in some other cases. Thereafter, the appearance of the accused was secured by issuing production

warrant and on his appearance, the copies of prosecution case records were furnished to him under Section 207 of Cr.P.C. Thereafter, the accused was released on bail.

5. After preliminary hearing of both sides, charge under Secs.354A(1)(i), 509 and 506 of the Indian Penal Code and Secs.3(1)(r), 3(1)(w)(ii) and 3(2)(va) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Amendment Act were framed, read over and explained to the accused in Malayalam, to which he pleaded not guilty. As the ingredients of the offence under Sec.294(b) of the I.P.C. was not attracted, the charge was not framed under the said section.

6. To prove the case, the prosecution examined PW1 to PW12 and marked Exts.P1 to P16.

7. When questioned under Section 313(1)(b) of the Cr.P.C., corresponding to 351(1)(b) of the BNSS, the accused denied all the incriminating circumstances against him and filed a written statement stating that he is innocent. PW2 and his relative Madhu are on inimical terms with him and they had falsely implicated him in a case registered under the POCSO Act. The accused was convicted in the said case and since the

sentence imposed on him was not harsh enough to the expectation of PW2 and his family, they got enraged. Due to the said enmity, he was falsely implicated in this case. There are no independent witnesses in this case and he is innocent.

8. Both sides were heard under Sec.255 of the B.N.S.S. As the case is not a case of no evidence, the accused was called upon to enter on his defence. No defence evidence was adduced.

9. Heard the learned Public Prosecutor and the learned Defense Counsel. The Defense Counsel had also filed argument notes.

10. The points which arise for consideration are :

1. Whether PW1 is a member of the Hindu Paravan Community, a Scheduled Caste, and the accused is a member of the Hindu Ezhava community, a forward caste?
2. Whether on 25.12.2022 at 09.30 p.m., with the knowledge that PW1 was a member of the Scheduled Caste Community, the accused stood at the public concrete road in front of the residence of PW1 and made unwelcome sexual advances and explicit sexual overtures to PW1

and thereby committed an offence punishable under Sec.354(A)(1)(i) of the I.P.C. ?

3. Whether at the same time and place, the accused exhibited nudity at PW1, with intent to insult her modesty and thereby committed an offence punishable under Sec.509 of the I.P.C. ?
4. Whether at the above time and place, and in the course of the said transaction, the accused criminally intimidated PW1 by threatening to kill her and her children with intent to cause alarm to her and thereby committed an offence punishable under Sec.506(i) of the I.P.C. ?
5. Whether at the above time and public place, the accused intentionally insulted PW1 with knowledge that she is a member of the Scheduled Caste Community, with intent to humiliate and insult her in public view and thereby committed an offence punishable under Sec.3(1)(r) of the SC and ST (PoA) Act?
6. Whether at the above time and above public place and in the course of the above transaction, with the knowledge that PW1 is a member of the Scheduled Caste, the accused had done acts of a sexual nature towards PW1 and thereby committed an offence punishable under Sec.3(1)(w)(ii) of the SC and ST (PoA) Act?

7. Whether at or about the above time and place, by committing the above acts against PW1, with knowledge that she is a member of the Scheduled Caste Community, the accused has committed the scheduled offences under Secs.354(A)(1)(i), 509 and 506(i) of the I.P.C. and thereby committed an offence punishable under Sec.3(2)(va) of the SC and ST (PoA) Act?
8. What if any are the offences committed by the accused ?
9. If found guilty, what is the proper order as to sentence ?

11. Point No.1 :- PW1 Sudhi T.N., the wife of PW2 and mother of PW3 had testified that she is a member of the Hindu Paravan Community, a Scheduled Caste. PW4 Suresh Joseph, who was working as Village Officer at Pampady Village Office during the relevant period, testified that as per the direction of the police, he forwarded Ext.P3 report (photocopy), after conducting local enquiry and perusing the report of the Vazhoor Village Office, stating that PW1 Sudhi T.N. is a member of Hindu Paravan community, a Scheduled Caste. In cross-examination, PW4 admitted that PW1 was born and brought up in Vazhoor village.

PW5 Tency Varghese K., who was working as Village Officer of Pampady during the relevant period testified that he conducted local enquiry about the caste of the accused and certified that the accused belongs to Hindu Ezhava Community, a forward caste and forwarded Ext.P4 caste certificate of the accused to the police.

12. PW6 Anilkumar S.N., who was the then Tahsildar Kottayam, testified that as per the direction of the Kanjirappally Dy.S.P., he issued Ext.P5 Community Certificate of PW1, certifying that PW1 was a member of the Hindu Paravan community, a Scheduled Caste. He had issued the said Ext.P5 on the basis of the report of Pampady Village Officer and Vazhoor Village Officer. The photocopy of the report of Vazhoor Village Officer was marked as Ext.P6 subject to proof.

13. PW10 Rajani K., who was working as Vazhoor Village Officer during the period January, 2023 was summoned as an additional witness. She testified that she had conducted local enquiry and inspection of certificates of PW1 to ascertain her caste status. She also inspected the community certificate

issued with respect to the caste of PW1 on a prior occasion. It was revealed that PW1 was a member of the Hindu Parava Community, and she forwarded the report to the Tahsildar. Ext.P6 is the photocopy of the said report. There is a clerical error in writing the date in Ext.P6. The prosecution marked the original files pertaining to the issuance of community certificate of PW1. PW10 testified that she had examined the school certificate of PW1 and a prior community certificate issued to her and certified that PW1 is a member of Hindu Parava community. She has also attached the facing sheet of the SSLC certificate of PW1 along with the report, which shows that PW1 is a member of the Hindu Paravan community. The original file containing the report is marked as Ext.P6(a).

14. The counsel for the defence contended that the evidence of the revenue officers has not proved that PW1 is a member of the Hindu Paravan Community. According to him, there are clerical errors in Ext.P6 report and the report of Vazhoor Village Officer is not certified under Section 65B of the Indian Evidence Act. Ext.P6 is a computer generated document and it is also full of mistakes and contradicting the case of

prosecution. PW10 was examined to fill up the lacuna in prosecution case. Then also, the prosecution has not succeeded in proving the fact that PW1 is a member of Hindu Paravan community.

15. The learned Public Prosecutor per contra contended that the evidence adduced by the prosecution has proved that PW1 is a member of Hindu Paravan Community and that the accused is a member of Hindu Ezhava Community.

16. I have considered the rival contentions in Ext.P6(a) file pertaining to the issue of caste certificate of PW1, the facing sheet of the SSLC certificate of PW1 is attached. It shows that PW1 is a member of Hindu Paravan Community. The said facing sheet is marked as Ext.P12. The evidence of the revenue authorities would reveal that though PW1 was born and brought up at Vazhoor Village, she was residing at the time of occurrence at Pampady Village. Both Village Officers have conducted local enquiry and certified that PW1 is a member of Hindu Paravan Community. Apart from that, PW1 herself has stated that she is a member of Hindu Paravan Community. The report of the Tahsildar has also categorically

stated that PW1 is a member of Hindu Paravan community. The community certificate was marked as Ext.P5. It is true that there are some clerical errors in the report of Village Officer. However, the evidence of PW4, PW5, PW6 and PW10 revealed that local enquiry was conducted, certificates were perused and they came to a conclusion that PW1 is a member of the Hindu Paravan Community based on relevant facts. Thus, it is found that the evidence of the revenue authorities are reliable and trustworthy. Apart from that, the accused does not have a case that PW1 belongs to some other community. In the said circumstances, it is found that PW1 is a member of the Hindu Paravan, a Scheduled Caste Community. PW5 has testified that the accused is a member of Hindu Ezhava Community, a forward community, which is not a Scheduled Caste. The accused does not have a case that he is a member of the Scheduled Caste or Scheduled Tribe Community. Hence point No.1 is found in favour of the prosecution and it is found that the prosecution has proved beyond a reasonable doubt that the accused is a member of Hindu Ezhava Community and PW1 is a member of Hindu Parava Community, a Scheduled Caste.

17. Point Nos.2 to 7 :- PW1 Sudhi T.N. testified that on 25.12.2002 at about 09.30 p.m., the accused came in front of her house and exhorted that herself and her family members had not deposed in favour of him in court and abused her with obscene words and threatened to kill her and her children. He also exhorted that he had groped the breast of her daughter ; then the accused lifted his dhoti and exhibited his nudity. Thereafter the accused lied down in the road. They informed the police, the police came in a vehicle, seeing which, the accused escaped from the scene of occurrence. She witnessed the incident in the light of the street light and the light in the front portion of her house. She has given Ext.P1 F.I.S. to the police.

18. PW2, Manoj Kumar, the husband of PW1, has also testified regarding the incident. He has also stated that on 25.12.2002 after 09.00 p.m. the incident occurred and the accused did the above said acts which were narrated by PW2.

19. PW3, the daughter of PW1 and PW2 had testified that on 25.12.2022 in the night, the incident occurred. She also

corroborated the version of PW1 and PW2 regarding the incident. According to her, there was a previous case under POCSO Act, in which the accused had sexually harassed her and the accused was convicted and sentenced in the said case.

20. The counsel for the accused contended that the evidence of PW1, PW2 and PW3 are not believable and they are not trustworthy. It was contended that PW1 and PW2 narrated the date of incident as happened in the year 2002, whereas as per the prosecution case, the date of incident occurred on 25.12.2022.

21. I have considered the testimony of PW1 to PW3. Though they have been cross-examined at length, no material contradiction or discrepancy was brought out in their version to discredit their evidence. The mistake in the year deposed by PW1 and PW2 as 2002 is obviously a typographical error, in view of the fact that PW3 had correctly deposed the date of incident as 25.12.2022. The substratum of the evidence of PW1 to PW3 are not shaken. Moreover, the case of the accused is that since PW1 to PW3 considered that the

sentence imposed by the court in the POCSO case against the accused for allegedly sexually harassing PW3 was not harsh enough, he was falsely implicated in this case. The said contention is not tenable in view of the fact that as per Ext.P16 judgment in SC No.205 of 2022, the accused was convicted on 28.04.2023, i.e. about 4 months after the date of incident. Therefore, the said defence is not probable and the evidence of witnesses that since they had deposed in favour of the accused in the Sessions Case, the accused committed the offence, appears to be believable.

22. PW4, who was working as Pampady Village Officer testified that he has inspected the scene of occurrence and prepared Exhibit P2 scene plan. Though in cross-examination, he stated that the house number is 8/169 and the defence contended that the scene of occurrence has shifted, the said contention is not tenable.

23. PW7 Scaria K.P. has testified that he has attested Ext.P7 scene mahazar prepared by the police.

24. PW9 Sindhumol V.P., who was working as Senior Civil

Police Officer at Pampady Police Station testified that she has recorded Exhibit P1 F.I.S. given by PW1.

25. PW8 Babukuttan N., Dy.S.P., Kanjirappally deposed that he had conducted preliminary investigation and arrested the accused vide Ext.P10 arrest records. He prepared Ext.P7 scene mahazar.

26. PW11 Suvarnakumar D., the SHO of Pampady Police Station deposed that he had registered Ext.P13 F.I.R. on the basis of the F.I.S. recorded by PW9.

27. PW12 Anilkumar M, the Dy.S.P., Kanjirappally, the successor in office of PW8, stated that he had completed the investigation and filed report against the accused. Ext.P16, certified copy of the judgment, in which the accused was convicted, was marked through him.

28. The counsel for the accused vehemently contended that the prosecution has failed to prove the offences alleged against the accused and the accused is innocent. The learned Public Prosecutor contended that the prosecution has proved the alleged offences against the accused beyond a reasonable doubt.

29. I have analyzed the evidence of PW1 to PW3. It is found that the substratum of their testimony is not shaken and their testimony has a ring of truth about the same. Their version regarding the alleged incident, which occurred on 25.12.2022 is reliable and trustworthy. Hence the oral evidence regarding the prosecution case tendered by PW1 to PW3 as to the incident on the date of occurrence has proved the alleged acts committed by the accused.

30. The moot question to be considered is whether the alleged acts amount to the offences alleged against the accused. To answer the said question, the law on the point is discussed below.

Adverting to S.354A of IPC, the same reads as under :

"S.354A: - Sexual harassment and punishment for sexual harassment :

1. A man committing any of the following acts -

(i) physical contact and advances involving unwelcome and explicit sexual overtures; or

(ii) a demand or request for sexual favours; or

(iii) showing pornography against the will of a woman; or

(iv) making sexually coloured remarks, shall be guilty of the offence of sexual harassment.

2. Any man who commits the offence specified in clause (i) or clause (ii) or clause (iii) of sub-section (1) shall be punished with rigorous imprisonment for a term which may extend to three years, or with fine, or with both.

3. Any man who commits the offence specified in clause (iv) of sub-section (1) shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both."

31. On reading the penal provision, the same deals with sexual harassment and punishment for sexual harassment. It has been specifically provided that if a man commits an act of physical contact and advances involving unwelcome and explicit sexual overtures, the same is an offence under Sec.354A(1)(i) of IPC.

32. Sec.509 of the I.P.C. reads as follows :

"509. Word, gesture or act intended to insult the modesty of a woman.

Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object, shall be seen, by such woman, or intrudes

upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to three years, and also with fine."

33. The offence under the provision is attracted if the ingredients, such as utterance of any word, making of any sound or gesture, exhibition of any object with the intention to insult the modesty of a woman or with intention to intrude upon the privacy of such a woman, are satisfied. Mere utterances of unpleasant or abusive words without an intention either to insult the modesty of the women or to intrude upon the privacy of such women would not attract the offence under S.509 of the IPC. This Court in **Basheer v. State of Kerala** [2014 (4) KLT SN 81(C.No.81)] held that mere insult or false allegation would not attract a prosecution under S.509 of IPC. The said judgment was relied on in **Ramesh v. Sub Inspector of Police** [2021 (1) KLT 735], **Jayaprakash P.P v. Sheeba Revi** [2023 (4) KHC 597] and **Joseph v. State of Kerala** [2024 KLT OnLine 1660].

"503. Criminal intimidation. - Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to

cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threats, commits criminal intimidation.

Explanation. - A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section.

506. Punishment for criminal intimidation. - Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

if threat be to cause death or grievous hurt, etc. - and if the threat be 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 seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both."

34. Section 3(1)(w) of SC and ST (PoA) Act reads as follows ;

“Whoever not being a member of the scheduled caste or scheduled tribe

(i) intentionally touches a woman belonging to a Scheduled Caste or a Scheduled Tribe, knowing that she belongs to a Scheduled Caste or a Scheduled Tribe, when such act of touching is of a sexual nature and is without the recipient's consent ;

(ii) uses words, acts or gestures of a sexual nature towards a woman belonging to a Scheduled Caste or a Scheduled Tribe, knowing that she belongs to a Scheduled Caste or a Scheduled Tribe.

Explanation.-- For the purposes of sub-clause (i), the expression "consent" means an unequivocal voluntary agreement when the person by words, gestures, or any form of non-verbal communication, communicates willingness to participate in the specific act :

Provided that a woman belonging to a Scheduled Caste or a Scheduled Tribe who does not offer physical resistance to any act of a sexual nature is not by reason only of that fact, is to be regarded as consenting to the sexual activity:

Provided further that a woman's sexual history, including with the offender shall not imply consent or mitigate the offence;”

6451: 2024 INSC 625), the Hon'ble Supreme Court discussed the scope of Secs.3(1)(r) of the SC and ST (PoA) Act and held as follows :

“60. Thus, the dictum as laid aforesaid is that the offence under S.3(1)(r) of the Act, 1989 is not established merely on the fact that the complainant is a member of a Scheduled Caste or a Scheduled Tribe, unless there is an intention to humiliate such a member for the reason that he belongs to such community. In other words, it is not the purport of the Act, 1989 that every act of intentional insult or intimidation meted by a person who is not a member of a Scheduled Caste or Scheduled Tribe to a person who belongs to a Scheduled Caste or Scheduled Tribe would attract S.3(1)(r) of the Act, 1989 merely because it is committed against a person who happens to be a member of a Scheduled Caste or Scheduled Tribe. On the contrary, S.3(1)(r) of the Act, 1989 is attracted where the reason for the intentional insult or intimidation is that the person who is subjected to it belongs to a Scheduled Caste or Scheduled Tribe. We say so because the object behind the enactment of the Act, 1989 was to provide stringent provisions for punishment of offences which are targeted towards persons belonging to the SC / ST communities for the reason of their caste status.

61. a. *Meaning of the expression "intent to humiliate" appearing in S.3(1)(r) of the Act, 1989.*

The words "with intent to humiliate" as they appear in the text of S.3(1)(r) of the Act, 1989 are inextricably linked to the caste identity of the person who is subjected to intentional insult or intimidation. Not every intentional insult or intimidation of a member of a SC / ST community will result into a feeling of caste - based humiliation. It is only in those cases where the intentional insult or intimidation takes place either due to the prevailing practice of untouchability or to reinforce the historically entrenched ideas like the superiority of the "upper castes" over the "lower castes / untouchables", the notions of 'purity' and 'pollution', etc. that it could be said to be an insult or intimidation of the type envisaged by the Act, 1989.

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69. *What appears from the aforesaid discussion is that the expression "intent to humiliate" as it appears in S.3(1)(r) of the Act, 1989 must necessarily be construed in the larger context in which the concept of humiliation of the marginalised groups has been understood by various scholars. It is not ordinary insult or intimidation which would amount to 'humiliation' that is sought to be made punishable under the Act, 1989. The Parliament, by*

way of different legislations, has over the years sought to target humiliation based on different grounds and identities which exist in the society. The Protection of Women from Domestic Violence Act, 2005 seeks to punish humiliation based on gender inequalities by specifically including the term 'humiliation' in the definition of "domestic violence". Similarly, The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 includes treatment causing humiliation to a female employee and which may likely affect her health and safety within the definition of sexual harassment.

70. In our considered view, it is in a similar vein that the term 'humiliation' as it appears in S.3(1)(r) of the Act, 1989 must be construed, that is, in a way that it deprecates the infliction of humiliation against members of the Scheduled Castes and Scheduled Tribes wherein such humiliation is intricately associated with the caste identity of such members.

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80. At the cost of repetition, the words in S.3(1)(r) of the Act, 1989 are altogether different. Mere knowledge of the fact that the victim is a member of the Scheduled Caste or Scheduled Tribe is not sufficient to attract S.3(1)(r) of the Act, 1989. As

discussed earlier, the offence must have been committed against the person on the ground or for the reason that such person is a member of Scheduled Caste or Scheduled Tribe. When we are considering whether prima facie materials exist, warranting arrest of the appellant, there is nothing to indicate that the allegations / statements alleged to have been made by the appellant were for the reason that the complainant is a member of a Scheduled Caste".

36. In this case, even according to the prosecution charge sheet, independent witnesses have not directly seen the incident. In this case, no independent witness is examined by the prosecution to prove that they have heard or seen directly what the accused had said to insult or humiliate PW1. Therefore, there is no material to conclude that the accused has committed the offence in public view. Thus, in view of the dictum in **Shajan Skariah's** case, reproduced above, it cannot be held that the accused has committed the offence solely because PW1 was a member of Scheduled Caste and it was committed in public view. Therefore, the offence under Sec.3(1)(r) of the SC and ST (PoA) Act is not attracted.

37. It needs to be noticed that to attract the provision of Sec.3(1)(w)(ii) of the SC and ST (PoA) Act, the accused should

use words, acts or gestures of a sexual nature. In this case, the evidence of PW1 to PW3 discloses that the accused had lifted his dhoti and exposed his nudity. It is an obscene or lewd act. It cannot be held that the accused had done the act with a sexual intent. His predominant intention could only be that it was intended to insult the modesty of a woman. Therefore, on going through the ingredients of Sec.3(1)(w)(ii) of the SC and ST (PoA) Act, I am of the considered view that the ingredients of the said provision are not attracted in this case.

38. The offences under Sec.354A(1)(i) of the Indian Penal Code require sexual harassment by making physical contact or advances or involving unwelcome and explicit sexual overtures or demand or request for sexual favours. In this case, it cannot be held that by mere lifting the dhoti and exposing the nudity, such intent of sexual overtures was made out. Therefore, the offence under Sec.354A(1)(i) of I.P.C. is also not made out

39. However, the witnesses have clearly deposed that the accused threatened PW1 to kill her and her children and also exposed his nudity. The intention of the accused to criminally

intimidate PW1 and insult her modesty is obvious by committing the above said acts. The above acts would establish ingredients of Secs.509 and 506(i) of I.P.C. The accused was not armed with any dangerous weapon and hence only the offence under the first part of Sec.506(i) of the I.P.C. is attracted, because it cannot be said that PW1 to PW3 were put in fear of death. The threats of the accused has caused alarm to PW1. Thus, on a consideration of the facts and circumstances of the case and evaluating the evidence on record, I hold that the prosecution has failed to prove that the accused has committed the offences under Sec.354A(1)(i) of I.P.C. and Secs.3(1)(w)(ii) and 3(1)(r) of the SC and ST (PoA) Act. The prosecution has proved that the accused has committed the offences under Secs.506(i) and 509 of I.P.C. Both Secs.506(i) and 509 of the I.P.C. are scheduled offences under the provisions of the SC and ST (PoA) Act.

40. Point No.8 :- In the result, the accused is found not guilty of the offences punishable under Sec.354A(1)(i) of the I.P.C. and Secs.3(1)(w)(ii) and 3(1)(r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act and he is found guilty of the offences under Secs.506(i)

and 509 of the Indian Penal Code and Sec.3(2)(va) of the SC and ST (PoA) Act r/w.Secs.506(i) and 509 of I.P.C. and is convicted under Sec.235(2) Cr.P.C., which is pari materia to 258(2) of B.N.S.S. This is not a fit case to invoke the benevolent provisions of the Probation of Offenders Act and hence the accused should be heard on the question of sentence.

The bail bond executed by the accused stands cancelled.

Dictated to the Confdl. Asst., transcribed and typed by her, corrected by me and pronounced in the open Court, on this the 18th day of April, 2026.

Sd/-
Manoj M.
Sessions Judge

18.04.2026 at 03.15 p.m.

41. Point No.9 : The accused was heard on the question of sentence under Sec.235(2) Cr.P.C. / 258(2) B.N.S.S. He pleaded for mercy and prayed for imposing a lenient sentence.

42. Heard the learned counsel for the accused and the learned Public Prosecutor on the question of sentence.

43. Considering the facts and circumstances of the case, I am of the view that a sentence of imprisonment for six months each under Secs.506(i) and 509 of the I.P.C. and fine of Rs.2,500/- (Rupees Two Thousand and Five Hundred Only) under Sec.509 of I.P.C. would be sufficient in the interest of justice. Under Sec.3(2)(va) of SC and ST (PoA) Act, the accused is awarded the same sentence for the offences under Secs.506(i) and 509 of the I.P.C.

44. In the result, the accused is sentenced to undergo

- i. simple imprisonment for **six months** under Sec.506(i) of the Indian Penal Code,
- ii. simple imprisonment for **six months** and to pay fine of Rs.2,500/- (Rupees Two Thousand and Five Hundred only) under Sec.509 of the Indian Penal Code, in default of payment of fine to undergo simple imprisonment for one month.
- iii. simple imprisonment for **six months** under Sec.3(2)(va) of the SC and ST (PoA) Act r/w.506(i) of the I.P.C.

- iv. simple imprisonment for **six months** and to pay fine of Rs.2,500/- (Rupees Two Thousand and Five Hundred only) under Sec.3(2)(va) of the SC and ST (PoA) Act r/w.509 of the I.P.C., in default of payment of fine to undergo simple imprisonment for one month.

The substantive sentences of imprisonment shall run concurrently. The fine amount, if realized, shall be given to PW1 as compensation under Sec.357(1)(b) of Cr.P.C. / 395(1) (b) of B.N.S.S.

Set off is allowed under Sec.428 of the Cr.P.C. / 468 of B.N.S.S. for the period of detention undergone by the accused in connection with the investigation, inquiry and trial of this case.

In this case, the compensation awarded to PW1 is not adequate. PW1 is a member of the Scheduled Caste Community and she is from an economically backward community. Therefore, recommendation is made to the

District Legal Services Authority, Kottayam under Sec.357A Cr.P.C. / 396(3) of B.N.S.S. to pay compensation to PW1 under the Victim Compensation Scheme.

Dictated to the Confdl. Asst., transcribed and typed by her, corrected by me and pronounced in the open Court, on this the 18th day of April, 2026.

Sd/-
Manoj M.
Sessions Judge

APPENDIX

A. Witness examined for the Prosecution:-

Rank		Date	Name	Description of Witness
PW1	CW1	15.09.2025 16.09.2025	Sudhi T.N.	Eye witness -FIS given
PW2	CW2	15.09.2025 16.09.2025	Manojkumar K.N.	Eye witness
PW3	CW3	15.09.2025 16.09.2025	Kamalendhu Manoj	Eye witness
PW4	CW8	16.09.2025	Suresh Joseph Village Officer	Prepared scene plan
PW5	CW9	16.09.2025	Tency Varghese K. Village Officer	Issued caste certificate of Accused
PW6	CW10	16.09.2025	Anilkumar S.N. Tahasildar	Issued community certificate of CW1/PW1

PW7	CW6	16.09.2025	Scaria K.P.	Written in scene Mahazar
PW8	CW14	17.09.2025	Babukkuttan N. Dy.S.P.	Investigation, arrest etc.
PW9	CW11	18.09.2025	Sindhumol V.P. SCPO	FIS recorded
PW10	Addl. witnesses	26.09.2025	Rajani K. Village Officer	Additional witness - produced original of File No. B3-471869/2023 of Taluk Office, Kottayam
PW11	CW13	06.11.2025	Suvarnakumar D. Police Inspector	FIR registered
PW12	CW15	17.11.2025	Anilkumar M. Dy.S.P.	Final report submitted

B. Witness examined for the Defence :- NIL

C. Court Witness:- NIL

List of Prosecution/Defence/Court Exhibits

A. Exhibits marked for the Prosecution:-

Sl. No.	Exhibit Number	Date	Description	The witness who proved or attested the Document
1.	Ext.P1/PW1	26.12.22	First Information Statement	PW1
2.	Ext.P2/PW4	07.01.23	Scene Plan	PW4
3.	Ext.P3/PW4	07.01.23	Copy of report regarding community of CW1/PW1 issued by Pampady Village Officer	PW4
4.	Ext.P4/PW5	08.02.23	Caste certificate of accused	PW5

5.	Ext.P5/PW6	09.01.23	Community certificate of CW1/PW1	PW6
6.	Ext.P6/PW6	09.01.23	Copy of report regarding community of CW1/PW1 issued by Vazhoor Village Officer (Subject to proof)	PW6
7.	Ext.P6(a)/PW10	09.01.23	Original file of B3-471869/2023 of Taluk Office, Kottayam dt. 09.01.2023 ie, community certificate of CW1/PW1	PW10
8.	Ext.P7/PW7	26.12.22	Scene Mahazar	PW7
9.	Ext.P8/PW8	26.12.22	Order No. J4-343/DCRB/2022-K of the District Police Chief, Kottayam Dated 26.12.2022	PW8
10.	Ext.P9/PW8	26.12.22	Report regarding taken charge of investigation by CW14/PW8 dated 26.12.2022	PW8
11.	Ext.P10/PW8	26.12.22	Arrest Memo	PW8
12.	Ext.P10(a)/PW8	26.12.22	Inspection Memo	PW8
13.	Ext.P10(b)/PW8	26.12.22	Arrest Intimation	PW8
14.	Ext.P10(c) / PW8	26.12.22	Custody Memo	PW8
15.	Ext.P11/PW8	26.12.22	Address report of accused	PW8
16.	Ext.P12/PW10	NIL	Copy of the first page of SSLC of CW1/PW1	PW10
17.	Ext.P13/PW11	26.12.22	First Information Report	PW11
18.	Ext.P14/PW12	03.02.23	Copy of Order No. J4-72/DCRB/2023-K, of the District Police Chief, Kottayam	PW12
19.	Ext.P15/PW12	04.02.23	Report regarding taken charge of investigation by CW15/PW12	PW12
20.	Ext.P16/PW12	28.04.23	Certified copy of Judgment in S.C. No. 205/2022 of the Fast Track Special Court, Kottayam	PW12

B. Exhibits marked for the Defence:- NIL

C. Court Exhibits:- NIL

D. Material Objects :- NIL

Id/-
Sessions Judge.

Serial No. of the Case : Sessions Case No.114/2023

Crime Number and : Crime No. 1913/2022

Name of Police Station : Pampady Police Station

DESCRIPTION OF THE ACCUSED

Name	Father's Name	Occupation	Residence	Age
Omanakkuttan K.M.	Madhavan	Coolie	Karickamattom Parambil House, Velloor P.O., Karickamattom Bhagom, Velloor Kara, Pampady Village.	55

Dates of

Occurrence : 25.12.2022

Complaint : 26.12.2022

Apprehension : 26.12.2022

Release on bail : 15.02.2023

Committal : NIL

Commencement of trial : 15.09.2025

Close of trial : 17.11.2025

Date of Hearing : 08.04.2026

Copy of JUDGMENT in S.C. No.114/2023 Dt : 18.04.2026

Date of Judgment	:	18.04.2026
Reason for delay	:	No delay
Remarks	:	NIL

Id/-
Sessions Judge.

//True copy//

Copied by:
Compared by:

By Order,

Sd/-
Sheristadar