

IN THE COURT OF THE JUDICIAL MAGISTRATE OF FIRST CLASS,
PATTAMBI

Present:- Smt. Neema Noor Mohamed, Judicial Magistrate of First Class.

Wednesday, this the 6th day of May, 2026/ 16th day of Vaisakha, 1948 S.E.

Calendar Case No. 1167/2016.

State represented by the Sub Inspector of Police, Pattambi Police Station in crime No. 276/2016. (By Smt. Resmi.V.S, Grade II A.P.P.)		Complainant
Muhammed, aged 50/16 years, S/o. Kunjappu Haji, Kodyil House, Choorakkode P.O, Pattambi Taluk, Palakkad. (By Adv. Sri. P. Gopinath)		Accused
Offence	Punishable under sections 354 D, 294(b) and 506(i) IPC.	
Plea	Not guilty	
Finding	Not guilty	
Sentence or order	The accused is found not guilty for the offences punishable under sections 354 D and 506(i) IPC and is acquitted of these offences under section 248(1) Cr.P.C. The bail bond executed by the accused stand cancelled and he is set at liberty forthwith.	

DATE OF

Offence	Complaint	Apprehension	Release on Bail	Commencement of Trial	Close of Trial	Order	Explanation for delay
04/01/16 to 04/04/16	04/04/16	23/11/18	23/11/18	08/01/26	05/05/26	06/05/26	No delay

DESCRIPTION OF ACCUSED

Name	Father's Name	Age	Residence	Taluk
Muhammed	Kunjappu Haji	50/16	Choorakkode	Pattambi

J U D G M E N T

This is a case instituted upon the final report submitted by the Sub Inspector of Police, Pattambi Police Station in crime No. 276/2016 against accused alleging the commission of offences punishable under Sections 354 D, 294(b) and 506(i) IPC.

2. The summary of the prosecution case is as follows: From 01/01/2016 onwards, on multiple occasions, the accused followed PW1 while she was proceeding to her workplace at Choorakode as well as Plachikode ration shops, and repeatedly subjected her to harassment. It is alleged that he demanded that she accede to his wishes, and upon her refusal, issued threats, including threats to her life, used obscene language, and sought to intimidate her by initiating false petitions against her. Thus the accused alleged to have committed the aforesaid offences.

3. On receipt of First Information Statement from PW1, PW4 registered the First Information Report and after completing investigation, he filed the final report before the court.

4. The accused appeared before the court and he was released on bail. Accused was represented by a counsel of his choice. The copies of all relevant prosecution records was furnished to the accused under section 207 of Cr.P.C. As per order in CMP 789/2022 dated 10/11/2023, the accused was discharged from the offence under section 294(b) IPC. Charge framed for the offence 354 D and 506(i) IPC and was read over and explained to the accused to which he pleaded not guilty and claimed to be tried.

5. From the side of prosecution, PW1 to PW4 were examined and Exts. P1 to P4 were marked. After completion of prosecution evidence, the accused was examined under Sec. 313(1)(b) Cr.P.C for enabling the accused personally to explain any circumstances appearing in the evidence against him.

6. Accused was then called upon to enter upon his defence and produce evidence. From the side of accused, Exts. D1 and D2 were marked.

7. After completion of evidence, both sides were heard.

8. Learned Assistant Public Prosecutor for the State argued that the testimony of PW1, being the victim, is natural, cogent, and consistent, and that the same clearly establishes the acts of stalking and intimidation committed by the accused. It was contended that the evidence of the victim in cases of this nature stands on a higher footing, and if found credible, does not require substantial corroboration. The learned APP further submitted that the minor inconsistencies, if any, in the testimony of PW1 do not go to the root of the prosecution case and are liable to be ignored. It was argued that the evidence of PW2 and PW3 lends sufficient corroboration to the version of PW1, particularly with regard to the conduct of the accused and the surrounding circumstances. It was also contended that the delay in lodging the First Information Statement has been reasonably explained in view of the continuous nature of the harassment and the circumstances faced by PW1.

9. The learned defence counsel argued that the prosecution has failed to establish the allegations against the accused beyond reasonable doubt. It is contended

that the testimony of PW1 is riddled with material contradictions, particularly with respect to the period of occurrence and the place of employment, which goes to the root of the prosecution case. It is further argued that PW1 has not specified the exact dates or instances of the alleged stalking and harassment, thereby rendering the allegations vague and unsubstantiated. The learned counsel further submitted that there is no independent evidence to corroborate the version of PW1, despite the alleged incidents having occurred in public places. It is also contended that there is an unexplained delay in lodging the First Information Statement, which casts doubt on the genuineness of the prosecution case. It is additionally argued that there existed prior animosity between the accused and PW2, and by extension PW1, arising out of earlier disputes and petitions, which provides a motive for false implication. The learned counsel also pointed out the absence of documentary evidence to prove that PW1 was employed in the ration shops as alleged, and that even the Investigating Officer has admitted to not having collected such evidence. The learned defence counsel also highlighted, placing reliance on the decision of the Hon'ble Supreme Court in ***Dilawar Singh v. State of Delhi (2007) 12 SCC 641***, that the Apex Court has emphasised the necessity of a plausible and satisfactory explanation for delay in lodging the FIR, and that unexplained delay casts a serious doubt on the prosecution case. The learned defence counsel further relied on the decision of the Hon'ble Kerala High Court in ***Jayaprakash v. Sheba Ravi (2023 (4) KLT 298)***, wherein it was held that, in order to attract Section 354D IPC, the prosecution must establish that a man followed a woman and contacted or attempted to contact her repeatedly with a view

to foster personal interaction, despite a clear indication of disinterest on the part of the woman. It was further observed that the provision contemplates acts indicative of sexual intent, and that mere contact, devoid of such intent, would not suffice to constitute the offence of stalking. The learned defence also placed reliance on the decision in ***Siddharth Dravid v. State of Kerala (2024 KLT Online 2404)***, wherein it was held that absence of any indication of sexual intent in the statement of the victim would negate the offence under Section 354D IPC. Further, reliance was placed on the judgment of the Hon'ble Kerala High Court in ***Vijayakumar v. State (1994 KHC 277)***, wherein it was held that when the prosecution adduces two sets of evidence which are mutually contradictory and destructive of each other, the same cannot be treated as reliable or trustworthy. In the same line, the learned defence also relied on the decision of the Hon'ble Supreme Court in ***Harchand Singh v. State of Haryana (1974 KHC 574)***, wherein it was held that if one set of evidence completely contradicts and destroys the other, the Court would be left with no reliable and trustworthy evidence upon which a conviction can be based.

10. The following points arose for consideration;

1. *Whether the accused stalked PW1 as alleged by the prosecution to commit the offence punishable under section 354 D IPC ?*
2. *Whether the accused criminally intimidated PW1 as alleged by the prosecution to commit the offence punishable under section 506(i) IPC ?*
3. *Whether the accused committed any of the above offences with which he is*

charged ?

4. *If the accused is found guilty, what should be the proper sentence or order?*

11. **Point No. 1 to 3:-** These points are considered together for the sake of convenience and brevity. PW1, the victim in the present case, deposed that she was working as a salesgirl in a ration shop at Choorakode from 2011 to 2015. According to her, during the year 2015 and even prior thereto, the accused used to speak to her in a lewd manner and misbehaved with her. She further stated that the accused was residing adjacent to the ration shop in which she was employed and used to demand that she accede to his wishes, failing which he threatened to initiate false cases against her and the ration shop, thereby intimidating her. PW1 further deposed that, as she did not yield to his demands, the accused lodged petitions against the ration shop and against her, as a result of which the licence of the ration shop was suspended, leading to the loss of her employment. She stated that the said ration shop was situated at Choorakode. Thereafter, according to PW1, the said ration shop was merged with another ration shop run by one C. Mohammed Kutty (CW3), and upon such merger, the shop resumed functioning. The new licensee initially appointed two other persons; however, as they were inexperienced, PW1 was subsequently reappointed to work in the said shop. PW1 further deposed that when she resumed work in the new ration shop, the accused again began to harass her by frequently following her on his motorcycle. She stated that this caused her considerable mental agony. She also deposed that the accused made allegations against her before the new

licensee and instigated him to remove her from service. According to PW1, being unable to bear the harassment any longer, she gave FIS on 04/04/2016, which she identified in court bearing her signature and was marked as Ext. P1. She correctly identified the accused in the dock. PW1 further stated that the police recorded her statement again on the following day, and that she also gave a statement before the learned Magistrate, JFCM, Ottapalam. She deposed that the accused continued to harass her, and that while she was working at the ration shop at Choorakode, the accused used to come with goondas and make inquiries about her, often in her absence, and that these facts were also stated before the Magistrate. She further deposed that there was an earlier case registered against the accused in the year 2015 as C.C. No. 1593/2015, in which the accused was convicted for offences relating to outraging her modesty and criminal intimidation. This witness was duly cross-examined. She deposed that she had worked in two ration shops and that, while she was working in the ration shop in the year 2015, she had submitted a petition against the accused. She further stated that the entire incident arose in that case while she was working in the first ration shop. She testified that she had not produced any documents before the police to prove her employment in the said ration shops and denied the suggestion that she had never worked in any of those ration shops. She asserted that she had initially worked in ration shop bearing No. ARD 10 and thereafter in ration shop bearing No. ARD 258. She further stated that relevant records would be available in the Taluk Supply Office to show her employment in those ration shops. She further testified that the cause of action for the present case

arose while she was working in the second ration shop and that the incident pertains to the period from January 2016. She deposed that Kunjalavi (PW2) was the first licensee of the ration shop where she initially worked. She further stated that she had not worked in any ration shop other than ARD No. 10 and ARD No. 258 as a salesgirl from 01/02/2016 onwards. However, on being confronted with records from the Taluk Supply Office, she admitted that the records showed her employment in ARD No. 42 from 01/02/2016. She, however, explained that at the relevant time Pattambi Taluk had not been bifurcated and that the ration shop number was then shown as ARD 258, which was subsequently changed to ARD 42. She maintained that the ration shop bore No. 258 at the time of submission of her complaint and that the number had not changed. She further stated that she did not possess any documentary evidence to show that she was working in ARD 258 from 01/01/2016. She deposed that the licence of the ration shop of Kunjalavi (PW2) was suspended due to certain discrepancies. She deposed that the second ration shop, under the licensee Mohammad (CW3) was situated in a place there was many shops adjacent to it and was a bus route also, which is approximately five kilometres away from Choorakode. She further stated that she did not recollect the exact dates on which the accused allegedly stalked her and admitted that from 01/01/2016 to 04/04/2016 she had not submitted any petition before any authority in respect of the alleged incidents. She was confronted with her statement recorded under Section 164 Cr.P.C. before the learned Magistrate, wherein it was recorded that the cause of action arose in the year 2015. She was also questioned regarding whether the accused had filed any petition

against her before the Superintendent of Police. Initially, she expressed inability to recollect the same; however, upon being shown the statement again, she admitted that she had stated that the accused had filed a petition against her before the Superintendent of Police. She further admitted that she had stated to the police that the accused used to come with goondas to the ration shop where she worked, and the said omission was put to her as a material contradiction. She was also confronted with a certified copy of her deposition in C.C. No. 15931/2015, wherein she had stated she was called from Pattambi police station to enquire regarding allegation against her for giving false case against accused and the omission was marked as Ext. D1. She denied the suggestion that she had falsely implicated the accused due to animosity arising out of the petition allegedly filed by the accused against her.

12. PW2 deposed that he knows PW1 and that she had worked in his ration shop at Choorakode. He testified that, as PW1 belonged to a financially weak family, she was employed in his ration shop. According to this witness, the accused was the Secretary of the *Choorakode Padashekhara Samiti*. He further deposed that he is an agriculturist and that he had signed a petition against the accused alleging corruption, pursuant to which the accused was removed from the position of Secretary of that Samiti. He stated that, as a result of the said incident, the accused developed animosity towards him and thereafter submitted petitions against his ration shop before the District Collector and the District Supply Officer on several occasions. He further deposed that, based on such petitions, officials from the District Supply Office inspected his ration shop and, upon finding discrepancies in certain bills, directed

closure of the shop, resulting in suspension of his licence. Thereafter, his ration shop was merged with another ration shop. PW2 further deposed that he is aware that PW1 continued to work in the ration shop with which his shop was merged. He also deposed that even prior to the present case, he was aware that the accused had harassed PW1 and that she had lodged a complaint before the police, pursuant to which the accused was convicted. He further testified that his ration shop was attached to the ration shop of CW3. According to him, while PW1 was working under CW3 also, she had complained of harassment by the accused, which she had informed him about, and also stated that she had submitted a petition before the police in that regard. He deposed that the police had recorded his statement in connection with this case and that he had furnished all the above information to the police. He further stated that he would be able to identify the accused. This witness was duly cross-examined. He testified that, at the time of the alleged incident in the present case, he was not running ration shop bearing No. ARD 10, as the same had already been attached to the licence of Mohammed Kutty (CW3). He further deposed that he had not produced any documents before the police to show that he had been running ARD No. 10, and that there were no documents to establish that PW1 had been working in the said ration shop. He added that PW1 was only engaged for weighing goods in the ration shop. However, he denied the suggestion that PW1 had never worked in his ration shop. He further deposed that he had not advised PW1 to initiate any legal proceedings against the accused in respect of the alleged harassment. He stated that he was not aware of the specific dates on which the

accused allegedly stalked PW1. He also testified that he had worked as a government contractor for some time and admitted that, during the said period when he was working as a government contractor, revenue recovery proceedings had been initiated against him on account of discrepancies. He further asserted that only minor discrepancies in billing had led to the suspension of license of his ration shop. He further deposed that he was not aware as to who had submitted petitions against his ration shop.

13. PW3 deposed that she had worked along with PW1 in the ration shop at Choorakode. She stated that the incident alleged in the present case occurred in the year 2016, and that at the relevant time PW1 was working in another ration shop. She further deposed that PW1 used to frequently visit the ration shop at Choorakode to assist with billing and other related work. According to this witness, on one occasion, the accused came to the ration shop and inquired about the whereabouts of PW1 and asked whether PW1 used to come there to weigh rice and other goods. She replied to accused, stating that PW1 used to come there for such purposes. Upon hearing this, the accused left the place. She stated that she had disclosed these facts to the police and correctly identified the accused in the dock. In cross-examination, PW3 stated that, at the time when she was working in the ration shop, the licence was in the name of Mohammed Kutty (CW3). She further stated that she had not produced any documents to show that she had worked in the said ration shop. She admitted that she had prior acquaintance with the accused, who was residing adjacent to the ration shop where she worked. She further stated that she did not recollect the exact date on

which the accused had come and made inquiries about PW1. She also stated that the ration shop in which she was working was having the No. ARD 36.

14. PW4, the Investigating Officer, deposed that on 04/04/2016, while he was working as a Sub Inspector at Pattambi Police Station, he registered the present crime on the basis of the First Information Statement of PW1, which was recorded by the Woman Civil Police Officer, Subhashini. He identified the First Information Statement as Ext. P1 and the FIR bearing his signature as Ext. P2. He further deposed that he questioned the witnesses and recorded their statements during the course of investigation. He also stated that he obtained the statement of PW1 recorded by the learned Magistrate. On 07/04/2016, he arrested the accused and released him on bail bond, which was marked as Ext. P3. He further stated that he incorporated Sections 294(b) IPC and 506(i) IPC in the case, and the report adding the said sections was prepared by him and marked as Ext. P4. He correctly identified the accused in the dock. In cross-examination, PW4 deposed that he had not collected any documents to establish that PW1 had worked in the ration shop of PW2 or to show that the said ration shop had merged with another ration shop. He further stated that PW1 had not produced any documents to show that she had worked in either of the ration shops. He deposed that, on the basis of the investigation conducted by him, he understood that PW1 had worked in ration shops bearing Nos. ARD 258 and ARD 10. He further stated that there was no specific reason for not citing the Woman Civil Police Officer, Subhashini, as a prosecution witness. He was confronted with the statement of PW1 recorded under Section 161 Cr.P.C., and he stated that PW1 had not given any

statement therein to the effect that the accused had come to the ration shop accompanied by goondas.

15. The offence alleged in the present case are under section 354 D and 506(i) of IPC.

Section 354 D IPC reads thus:

(1) Any man who (i) follows a woman and contacts, or attempts to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or (ii). monitors the use by a woman of the internet, email or any other form of electronic communication, commits the offence of stalking

Provided that such conduct shall not amount to stalking if the man who pursued it proves that—

1.it was pursued for the purpose of preventing or detecting crime and the man accused of stalking had been entrusted with the responsibility of prevention and detection of crime by the State; or

2.it was pursued under any law or to comply with any condition or requirement imposed by any person under any law; or

3.in the particular circumstances such conduct was reasonable and justified.

(2) Whoever commits the offence of stalking shall be punished on first conviction with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and be punished on a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Section 506(i) IPC reads thus:

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.

16. In the present case, the prosecution seeks to establish the offence primarily on the basis of the testimony of PW1, supported in part by PW2 and PW3, and the investigation conducted by PW4. CW3 and CW6 could not be examined as they were no more during the course of trial. CW4 and CW5 could also not be procured by prosecution to adduce evidence as they had serious health issues to appear before this court as per the report of the police. Upon a careful evaluation of the entire evidence on record, certain material infirmities emerge which go to the root of the prosecution case. At the outset, the testimony of PW1 suffers from material contradictions and inconsistencies. While she has deposed regarding continuous harassment and stalking by the accused, she has failed to specify the exact dates or even approximate occasions on which such acts allegedly took place. In her cross-examination, she has categorically stated that she does not recollect the specific dates of the alleged incidents. Further, her statement under Section 164 Cr.P.C. indicates that the cause of action arose in the year 2015, whereas the prosecution case is that the incidents occurred from 01/01/2016 onwards. Such inconsistencies as to the period of occurrence assume significance in a case alleging a continuing offence like stalking. Further, there are material contradictions with respect to her place of employment. PW1 has stated that she worked in ration shops bearing Nos. ARD 10 and ARD 258, whereas official records Ext. D2, as admitted by her, reflect her employment in ARD No. 42 from 01/02/2016. Hence Ext. D2 which is the RTI reply given by the Taluk Supply office thus stands admitted in evidence on admission of the contents of the documents by the PW1 and the document being a public document. She has also

admitted that she has not produced any documentary evidence to substantiate her employment in the said ration shops during the relevant period. PW4, the Investigating Officer, has also admitted that no such documents were collected during investigation. This creates uncertainty regarding her place of work at the relevant time, which is crucial to the prosecution case, as the alleged incidents are stated to have occurred in and around such workplaces.

17. The prosecution has also failed to adduce any independent evidence to corroborate the allegations of stalking. Although the alleged acts are said to have occurred in public places such as ration shops and during transit, no independent witnesses have been examined to support the version of PW1. PW3 only speaks about a solitary instance where the accused made an inquiry regarding PW1 and does not depose to any act amounting to stalking or harassment as alleged. PW2's testimony is largely hearsay insofar as the alleged stalking of PW1 is concerned.

18. Another significant aspect is the delay in lodging the First Information Statement. Though the prosecution alleges that the acts of harassment commenced from 01/01/2016, PW1 has admitted that she did not lodge any complaint before any authority until 04/04/2016. No satisfactory explanation has been offered for this delay, particularly when the allegations pertain to repeated acts of intimidation and harassment.

19. The evidence also discloses pre-existing animosity between the accused and PW2, which, by PW2's own admission, arose out of petitions filed against the accused alleging corruption, leading to his removal from the position of Secretary of

Choorakkode Padasekhara Samiti. PW2 has further admitted that petitions were subsequently filed against his ration shop by the accused in several occasions, resulting in inspection by the Taluk Supply officer and consequently leading to suspension of his licence. PW1 has also admitted that the accused had filed complaints and petitions against her and the ration shop. This background of admitted hostility raises the possibility of exaggeration or false implication, which requires the Court to exercise caution in accepting the prosecution version without independent corroboration.

20. In the above factual backdrop, it is necessary to examine the applicability of Section 354 D IPC. The said provision contemplates “stalking,” which includes following a woman and contacting or attempting to contact her repeatedly despite a clear indication of disinterest to foster personal interaction repeatedly. The essence of the offence lies in repeated conduct, continuity, and a clear intention to harass despite resistance.

21. In the present case, the prosecution has failed to establish, with requisite clarity and certainty, the essential ingredients of the offence of stalking. There is no cogent evidence regarding the specific instances of following, the frequency or continuity of such acts, or the precise circumstances under which the alleged conduct occurred. The lack of specific dates, absence of consistent and corroborated testimony, and the contradictions in the version of PW1 render it unsafe to conclude that there was a persistent course of conduct amounting to stalking within the meaning of Section 354 D IPC.

22. Similarly, the allegations relating to criminal intimidation is not supported by specific and reliable evidence. There is no utterance from the victim/PW1 as to the alarm caused to prove the intention of accused to injure her in any manner. Hence the offence under section 506(i) IPC is not proved beyond reasonable doubt by the prosecution.

23. In criminal jurisprudence, the burden lies squarely on the prosecution to prove the guilt of the accused beyond reasonable doubt. In the present case, the cumulative effect of the material contradictions in the testimony of PW1, absence of specific particulars regarding the alleged incidents, lack of independent corroboration, unexplained delay in lodging the complaint, uncertainty regarding the place of occurrence, and the admitted background of animosity between the parties, creates reasonable doubt as to the veracity of the prosecution case. Accordingly, this Court finds that the prosecution has failed to establish the guilt of the accused beyond reasonable doubt. Accordingly, the accused is found not guilty and is hereby acquitted of all the charges levelled against him. The points are found against the prosecution.

24. **Point No. 4:-** In view of the findings on foregoing points, this point did not require adjudication.

In the result,

1. ***The accused is found not guilty for the offences punishable under sections 354 D and 506(i) IPC and is acquitted of these offences under section 248(1) Cr.P.C.***

2. The bail bond executed by the accused stand cancelled and he is set at liberty forthwith.

Dictated to Confidential Assistant, transcriber by her, corrected and pronounced by me in open court, this the 6th day of May, 2025.

Sd/-
Judicial Magistrate of First Class
Pattambi.

APPENDIX

Witnesses examined for the Prosecution:-

PW1:	Haseena, aged 45 years, D/o. Muhammed, Vallapuzha, Pattambi	First informant CW1
PW2:	K.P. Kunjalavi, aged 74 years, S/o. Moidukutty Haji, Vallapuzha, Pattambi.	Eye witness CW2
PW3:	Sujatha, aged 50 years, D/o. Vasu, Vallapuzha, Pattambi.	Eye witness CW7
PW4:	SI Laisad Muhammed, aged 46 years, S/o.Muhammed Sadiq, Komalapuram, Ambalapuzha.	Police witness CW8

Witnesses examined for the Defence:- NIL

Exhibits marked for Prosecution:-

P1: 04/04/2016 First Informant Statement (PW1)
P2: 04/04/2016 First Informant Report (PW4)
P3: 07/04/2016 Bail Bond (PW4)
P4: 16/07/2016 Report to add section (PW4)

Exhibits marked for Defence:-

D1: 17/01/2019 Certified copy of deposition in CC 1593/2015 (PW1)
D2: 12/07/2018 Reply letter from Taluk Supply office.

Sd/-
Judicial Magistrate of First Class,
Pattambi.

// True Copy //

Judicial Magistrate of First Class,
Pattambi.