



2026:KER:73113

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE JOBIN SEBASTIAN

TUESDAY, THE 22ND DAY OF SEPTEMBER 2026 / 31ST BHADRA, 1948

CRL.MC NO. 5421 OF 2026

AGAINST THE ORDER/JUDGMENT IN CC NO.738 OF 2022 OF JUDICIAL
MAGISTRATE OF FIRST CLASS -II, THRISSUR

PETITIONER:

RAJA VARIER
AGED 57 YEARS
S/O K G GOPALAKRISHNA VARRIOR,
RESIDING AT GRA 701, THEKKEVARRIYAM,
GOWREESAPATTOM, PATTOM P.O,
THIRUVANANTHAPURAM, PIN - 695004

BY ADVS.
SRI.M.P.SREEKRISHNAN
SMT.THEJALAKSHMI R.S.

RESPONDENTS:

1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,, PIN - 682031

2

BY SMT.MEGHA K.XAVIER, SR.PP-R1

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
17.09.202, THE COURT ON 22.09.2026 PASSED THE FOLLOWING:



2026:KER:73113

CRL.MC NO. 5421 OF 2026

2

ORDER

This petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, the "BNSS"), by the 1st accused in Crime No. 209 of 2022 of Thrissur West Police Station, registered alleging commission of offences punishable under Sections 354 and 354A of the Indian Penal Code (for short, the "IPC"), and now pending as C.C. No. 738 of 2022 on the file of the Judicial First Class Magistrate Court-II, Thrissur, seeking an order quashing the FIR, final report and all further proceedings pursuant thereto in the aforesaid case.

2. The prosecution case, in brief, is that on 21.11.2021, at about 3.00 p.m., the 1st accused, while taking a class for the de facto complainant at the School of Drama and Fine Arts College, Thrissur, beat her on her palm and thereby outraged her modesty. When she complained about the same, the 2nd accused, who is the Head of the Department, allegedly abused her by using obscene words over the telephone, with the intention of insulting her modesty. Thus, the accused are alleged to have committed the aforesaid offences.

3. I heard Sri. M.P. Sreekrishnan, the learned counsel for the petitioner, and Smt. Megha K. Xavier, the learned Senior Public



Prosecutor.

4. The learned counsel for the petitioner submitted that the case has been foisted against the petitioner for reasons known only to the de facto complainant. According to the learned counsel, the petitioner is a reputed academician in the field of drama and theatre arts and had been invited as a visiting faculty to conduct an orientation class on Early Malayalam Theatre for the students of the School of Drama and Fine Arts, Thrissur. While taking the class, he noticed the de facto complainant, who was one of the students, sitting in a drowsy mood. It is submitted that, with the bona fide intention of awakening her, the petitioner gave a trivial beat on her palm. Infuriated by the same, the present case was allegedly foisted against the petitioner. It is further submitted that, following the incident, the petitioner approached the police with a false statement and that the Head of the Department was also implicated as the 2nd accused on the allegation that he had insulted the modesty of the de facto complainant through certain conversations he had with her over the telephone. The learned counsel further submitted that the 2nd accused in the case has already been exonerated by this Court by invoking the power under Section 528 of the BNSS. According to the learned counsel, a bare



perusal of the First Information Statement itself would reveal that the ingredients of an offence under Section 354 of the IPC are not made out. On these premises, the learned counsel for the petitioner sought an order quashing the criminal proceedings against the petitioner.

5. The Senior Public Prosecutor opposed the application.

6. Before considering the rival contentions, it must be borne in mind that this Court possesses inherent powers under Section 482 of the Code of Criminal Procedure, 1973 (for short, the "Cr.P.C."), corresponding to Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to quash criminal proceedings in appropriate cases. However, such power is extraordinary in nature and is to be exercised sparingly, cautiously and only when it is necessary either to prevent abuse of the process of law or to secure the ends of justice.

7. One of the well-recognised grounds for quashing criminal proceedings is that, even if the allegations contained in the complaint or First Information Statement are taken at their face value and accepted in their entirety, they do not disclose the commission of any offence or make out a case against the accused. At the same time, while exercising jurisdiction under Section 528 of the BNSS, this Court is not expected to



conduct a meticulous examination of the evidence, appreciate the probative value of the materials collected during the investigation, or undertake a mini-trial.

8. The scope of inquiry in a petition seeking quashing of criminal proceedings is limited to examining whether the allegations, on a plain reading, together with the materials available on record, disclose the essential ingredients of the alleged offence. If the allegations raise disputed questions of fact requiring appreciation of evidence, such matters are ordinarily to be adjudicated by the trial court after a full-fledged trial.

9. Keeping the above principles in mind, while considering the question as to whether the alleged act attributed to the petitioner would attract an offence under Section 354 of the IPC, it is to be noted that, from the First Information Statement itself, it can be gathered that the alleged incident occurred while the de facto complainant was attending a class surrounded by several other students. In such circumstances, it is difficult to accept that a person of ordinary prudence would venture to touch the body of one of the students with an intention to satisfy his lust.

10. Moreover, in order to attract an offence under Section 354 of



the IPC, the requisite mens rea must be established. A bare perusal of Section 354 of the IPC makes it abundantly clear that one of the essential ingredients constituting the offence is an assault or use of criminal force against a woman with the intention of outraging her modesty. Therefore, the intention to outrage the modesty of the woman is *sine qua non* for attracting the offence under Section 354 of the IPC.

11. In the case at hand, the allegation against the petitioner is that he beat the de facto complainant on her palm while she was attending the class. The petitioner has a specific contention that the act was committed only with the bona fide intention of awakening her from a drowsy mood while she was attending the class. As already stated, the alleged act was committed while the de facto complainant was surrounded by other girl and boy students, all of whom were attending the class taken by the petitioner. Therefore, even if the act attributed to the petitioner is taken at its face value, the same, in the circumstances narrated in the First Information Statement, would not constitute the ingredients necessary to attract an offence under Section 354 of the IPC, as the requisite intention to outrage the modesty of the de facto complainant is apparently lacking.



12. In the circumstances, I am unable to discern how an intention to outrage the modesty of the de facto complainant can be attributed to the petitioner merely on the allegation that he, being her teacher, beat her on the palm in the presence of the other students. The allegations, even if accepted in their entirety, do not disclose the requisite mens rea necessary to constitute an offence under Section 354 of the IPC.

In the result, this petition is allowed. Annexure A1 FIR, Annexure A2 final report in Crime No. 209 of 2022 of Thrissur West Police Station, and all further proceedings in C.C. No. 738 of 2022 on the file of the Judicial First Class Magistrate Court-II, Thrissur, as against the petitioner/accused No.1, are hereby quashed in exercise of the powers conferred under Section 528 of the BNSS, 2023.

Sd/-
JOBIN SEBASTIAN
JUDGE



2026:KER:73113

CRL.MC NO. 5421 OF 2026

APPENDIX OF CRL.MC NO. 5421 OF 2026

PETITIONER ANNEXURES

Annexure A1	A TRUE COPY OF THE FIRST INFORMATION REPORT DATED 25.02.2022 ON THE FILES OF THRISSUR WEST POLICE STATION
Annexure A2	A TRUE COPY OF THE FINAL REPORT DATED NILL
Annexure A3	A TRUE COPY OF THE ORDER DATED 11.2.2026 IN CRL.MC 8593 OF 2026 ON THE FILES OF THIS HON'BLE COURT