

IN THE JUDICIAL FIRST-CLASS MAGISTRATE COURT, NEDUMKANDAM**Present: Sri. Karun Rajan, Judicial First-Class Magistrate, Nedumkandam****Friday, the 29th day of May, 2026 /08th day of Jyaishta, 1948****C.C 263/2019**

Complainant : State represented by the Sub Inspector of Police,
Vandanmedu Police Station, in Cr. No. 407/2018
(By Sri. Shinto K. Eapen, APP, Nedumkandam)

Accused : Sooraj, aged 31/19 S/o Sasidharan,
Velliyamkunnath house, Kottamuri bhagam,
Parapuzha kara, Manarkadu village, Kottiyam
district.
(By Adv: Cherian P T)

Offences : Punishable under sections 509, 201 IPC of Indian
Penal Code and 120(o) Kerala Police Act

Finding : Not guilty.

Sentence or order : Only one accused faced trial. Accused is found not
guilty of the offences punishable under Sections
509, 201 IPC of Indian Penal Code and 120(o)
Kerala Police Act, and is accordingly acquitted
under Section 248(1) CrPC. His bail bond stands
cancelled, and he is set at liberty.

Description of accused

SI NO	Name	Father's name/ Husband's name	Occupation	Residence	Age
(1)	(2)	(3)	(4)	(5)	(6)
1	Sooraj	Sasidharan	Pvt. Job	Kottamuri	31/19

Date of

Occurrence	Complaint	Apprehension/ Appearance	Release on bail	Commitment	Commencement of trial	Commencement of evidence	Close of trial	Sentence or order	Service of copy of judgment or finding on accused	Period of detention for the purpose of S. 428 Cr.P. C.	Explanation of delay
15/10/2018	03/12/2018	17/12/2018	17/12/2018	-	08/05/2023	13/06/2024	25/05/2026	29/05/2026	-	-	No delay

This case having been finally heard on the 29th day of May, 2026 and this Court delivered the following today: -

J U D G M E N T

The accused stands charge-sheeted by Sub Inspector of Police, Vandanmedu Police Station, in Cr. No. 407/2018 for the alleged commission of offences punishable under Sections 509, 201 IPC of Indian Penal Code and 120(o) Kerala Police Act. The court took cognizance of the said offences.

2. Prosecution case, in brief, is as follows: - With the intention and knowledge to defame PW1 and to interfere with the privacy of PW1, the accused,

during the period between 15/10/2018 and 27/10/2018, at the front office of an establishment named Carmelia Resort situated at Puliyanmala Kara in Vandanmedu Village, took possession of PW1's mobile phone and copied the private conversations contained in the said phone to his own phone, made other persons listen to the same, thereby interfering with the privacy of PW1 and defaming PW1. On coming to know that PW1 had lodged a complaint regarding the said information, the accused also destroyed his own mobile phone. By doing so, the accused are alleged to have committed offences punishable under Sections 324 and 326 of the Indian Penal Code.

3. On the appearance of accused, he was served with copies of all the relevant prosecution records. After hearing the accused and perusal of the prosecution records, a charge was framed against the accused under Sections 509, 201 IPC of Indian Penal Code and 120(o) Kerala Police Act. The charge was read over and explained to accused. Accused pleaded not guilty to the charge and claimed to be tried.

4. PW1 to PW7 were examined on the part of the prosecution and Exhibits P1 to P10 were marked. Thereafter, the accused was questioned under section 313 (1)(b) Cr.P.C. The accused denied all the incriminating circumstances that appeared in evidence and pleaded innocence.

5. I heard both sides and perused the records.

6. The following points arise for consideration: -

- 1) Whether the accused with the intention and knowledge to insult the modesty of PW1 and to interfere with the privacy of PW1, during the period between 15/10/2018 and 27/10/2018, at the front office of

Carmelia Resort situated at Puliyanmala Kara in Vandanmedu Village, took possession of the mobile phone of PW1, copied the private conversations contained therein to your own mobile phone, and made other persons listen to the same, thereby intruding upon the privacy of PW1 and insulting the modesty of PW1, and thereby committed an offence punishable under Section 509 of the Indian Penal Code., as alleged?

- 2) Whether accused, knowing or having reason to believe that an offence had been committed and that PW1 had lodged a complaint regarding the same, destroyed your mobile phone, which contained material evidence relating to the aforesaid offences, with the intention of causing disappearance of evidence and screening yourself from legal punishment, and thereby committed an offence punishable under Section 201 of the Indian Penal Code, as alleged?
- 3) Whether accused, during the aforesaid period, at the aforesaid place, caused annoyance to PW1 by misuse of communication devices and by circulating and disclosing the private conversations of PW1 to other persons without consent, and thereby committed an offence punishable under Section 120(o) of the Kerala Police Act, as alleged?
- 4) Whether the accused are entitled to acquittal or conviction, and if convicted, what sentence should be imposed?

7. Point Nos. 1 to 3: - Before going into the discussion of evidence, it is apposite to first understand the legal principles involved in the case at hand.

8. To satisfy the ingredients of Section 120(o) of the Kerala Police Act, the prosecution must establish that the accused caused a nuisance to another person through a specific, recognized means of communication. The statutory language requires that such nuisance be conveyed through repeated, undesirable, or anonymous calls, letters, writings, messages, e-mails, or through a messenger.

9. The essential ingredients of Section 509 IPC require the coexistence of a specific criminal intention (*mens rea*) and a prohibited act (*actus reus*). The prosecution must prove that the accused intended to insult the modesty of a woman. Such intention must be carried out either by uttering words, making sounds or gestures, exhibiting objects intending that the woman should hear or see them, or by intruding upon her privacy.

10. Section 201 IPC deals with causing disappearance of evidence of an offence and requires strict proof of several essential ingredients. First, it must be proved that a principal offence had in fact been committed. Secondly, the accused must have known or had reason to believe that such offence had been committed. Thirdly, the accused must have committed an overt act by causing evidence of the offence to disappear or by giving information which he knew or believed to be false. Most importantly, such act must have been committed with the intention of screening the offender from legal punishment.

11. The evidentiary foundation of Section 201 IPC is inseparably connected with proof of the principal offence. If the prosecution fails to establish the commission of the main offence, the secondary allegation of destruction of evidence cannot

independently survive. Having understood the legal principles, the evidence adduced in the present case may now be considered.

12. PW1 deposed that during the relevant period she was working as a Guest Relation Executive at Carmelia Haven Resort situated at Vandanmedu and that the accused Suraj was also employed in the same resort during the year 2016. According to her, the accused somehow recorded her phone calls and made other persons listen to those recordings. She came to know about this through Praveen of the Ayurveda Department, Ajay, the Store Keeper, and Danny of the Housekeeping Department. On learning about the same, she questioned the accused, who allegedly admitted that he had played the recordings before others. PW1 further stated that the accused had been troubling her even prior to the incident and had threatened that unless she acted according to his wishes, he would circulate the recordings. She stated that this incident occurred during the year 2018 when she was staying at home following the floods and consequent unemployment. PW1 also deposed that while attending her duties she used to keep her mobile phone at the front office and that the accused used to ask her to unlock the phone, ostensibly for viewing photographs. However, she admitted that she did not know how the accused obtained the alleged recordings. She further stated that the conduct of the accused caused her mental distress and that, after considerable deliberation, she lodged the complaint. She identified Ext.P1 First Information Statement and also identified the accused before court.

13. PW3 deposed that during the year 2018 he was working as the General Manager of Carmelia Resort situated at Puliyanmala. According to him, both the

complainant and the accused were employees of the resort. He stated that after the floods of 2018 the complainant left the institution. PW3 further deposed that the complainant informed him over phone that the accused had misused her mobile phone. According to him, the accused was then working as Front Office Manager. He stated that he informed the concerned doctor about the complaint, but before any internal enquiry could be conducted, the police arrived at the institution. He also stated that he was informed that the complainant's conversations had been copied.

14. PW4 deposed that he had signed the scene mahazar prepared by the police in connection with the present case and identified Ext.P2 scene mahazar dated 04.12.2018.

15. PW5 deposed that he had signed as witness in the seizure mahazar prepared by the police and identified Ext.P3 mahazar dated 02.02.2019.

16. PW6, the then SHO of Vandanmedu Police Station, deposed that on the basis of the statement given by the complainant, Crime No.407/2018 was registered under Section 120 of the Kerala Police Act and Section 509 IPC. He identified Ext.P4 FIR. He further stated that he conducted the initial investigation, prepared Ext.P2 scene mahazar, and later seized from the accused a Nokia mobile phone bearing IMEI Nos.356042083148557 and 356042083148595 with Airtel SIM No.9633529894 under Ext.P3 seizure mahazar. He identified Ext.P5 property list and Ext.P6 forwarding note for forensic examination. According to him, the Cyber Forensic Report received from the laboratory revealed that the audio files could not be retrieved. He identified the Cyber Forensic Report as Ext.P7. He further stated that thereafter the investigation

was continued by PW7.

17. PW7 deposed that during further investigation he found that Section 201 IPC was also attracted and accordingly submitted Ext.P9 report incorporating the said offence. He also stated that Section 354 IPC was deleted as no materials were available to attract the said offence and identified Ext.P10 report. Thereafter, the final report was laid before court.

18. On an appreciation of the entire evidence, this Court finds substantial legal and evidentiary deficiencies in the prosecution case.

19. Insofar as the offence under Section 120(o) of the Kerala Police Act is concerned, the prosecution has failed to establish the essential statutory ingredients. The evidence of PW1 only indicates that the accused allegedly copied her conversations and played them before third parties. The provision, however, specifically contemplates causing nuisance through repeated or undesirable communication directed to the victim through recognized means such as calls, messages, letters, or similar modes of communication. The evidence on record does not disclose that the accused sent any repeated or anonymous communication to PW1 so as to constitute the offence contemplated under Section 120(o). At best, the allegations disclose misuse of private information and workplace misconduct, but not the precise statutory offence alleged. Hence, the offence under Section 120(o) of the Kerala Police Act is not attracted.

20. The next question is whether the offence under Section 509 IPC is made out. The primary weakness in the prosecution case lies in the complete absence of evidence

regarding the nature and contents of the alleged recordings. To constitute an insult to the modesty of a woman, the act complained of must bear a clear nexus to her femininity, sexual dignity, or womanhood. In the present case, there is absolutely no evidence regarding the contents of the conversations allegedly copied or circulated. Further, PW1 merely stated that the accused threatened to circulate the recordings unless she acted according to his wishes. The phrase “according to his wishes” remains vague and undefined. There is no evidence to show that such wishes were sexual, indecent, or directed specifically against her modesty as a woman. Criminal intention under Section 509 IPC cannot be presumed in the absence of clear evidence establishing gender-specific insult or indignity.

21. Additionally, the evidence does not show that the accused uttered any words, made gestures, or exhibited the recordings to PW1 herself with the intention that she should hear or see them. On the contrary, the allegation is that the recordings were played before third parties. The statutory language of Section 509 IPC specifically requires that the offending act must be intended to be heard or seen by the woman concerned. That ingredient is conspicuously absent in the present case.

22. More importantly, PW1 admittedly had no direct knowledge of the accused playing the recordings before others. Her knowledge was derived only from what Praveen, Ajay, and Danny allegedly informed her. Therefore, her testimony regarding publication of the recordings is purely hearsay in nature. The prosecution failed to examine any of these material witnesses who allegedly heard the recordings directly. Their non-examination leaves a complete gap in the chain of evidence connecting the

accused with the alleged act of circulation. In the absence of direct evidence from these crucial witnesses, the allegation remains unsubstantiated.

23. The forensic evidence also does not advance the prosecution case. Ext.P7 Cyber Forensic Report specifically states that the alleged audio files could not be retrieved from the seized mobile phone. Thus, there is no scientific evidence corroborating the allegation that such recordings existed or were circulated by the accused. Consequently, the offence under Section 509 IPC is not proved beyond reasonable doubt.

24. The charge under Section 201 IPC is equally unsustainable. The very foundation of Section 201 IPC is proof of the principal offence and proof of deliberate destruction of evidence with the intention of screening the offender from punishment. In the present case, the prosecution has failed to establish the principal offences themselves. Further, Ext.P7 only reveals that the audio files could not be retrieved from the mobile phone. Mere non-retrieval of files cannot automatically lead to the inference that the accused intentionally deleted or destroyed evidence. The prosecution has adduced no evidence to prove deliberate erasure or tampering. The possibility that the files never existed, were stored elsewhere, or became unavailable due to ordinary usage cannot be ruled out. Hence, the essential ingredients of Section 201 IPC are also not established.

25. In view of the foregoing discussion, this Court finds that the prosecution has failed to prove the offences alleged against the accused under Section 120(o) of the Kerala Police Act, Section 509 IPC, and Section 201 IPC beyond reasonable doubt.

The evidence adduced is insufficient, legally inadequate, and suffers from serious evidentiary lacunae. Consequently, the accused is entitled to the benefit of doubt and is liable to be acquitted.

26. Point No. 4: - Accused is found not guilty of offences under sections 509, 201 IPC of Indian Penal Code and 120(o) Kerala Police Act. He is acquitted under section 248(1) CRPC. His bail bond is cancelled and he is set at liberty. Property as per PR No.70/19 (mobile phone) shall be disposed according to law after the appeal period.

Dictated to the Confidential Assistant, transcribed and typed by him, corrected by me and pronounced in open Court on this day, the 30th of May 2026.

Sd/-

Judicial First-Class Magistrate, Nedumkandam

APPENDIX

A – Prosecution witnesses.

Rank	Name	Whether eye-witness, police witness, expert witness, medical witness, other witness
PW1	Princy	Eye witness, dated 13/06/2024
PW2	Ajayakumar	Eye witness, dated 08/04/2025
PW3	Jiju James	Eye witness, dated 08/05/2025
PW4	Saneesh Jose	Other witness, dated 18/12/2025
PW5	Anilkumar	Other witness, dated 02/03/2026
PW6	E G Shanilkumar	Police witness, dated 30/04/2026
PW6	Joseph	Police witness, dated 19/05/2026

B- Defence witness

Rank	Name	Whether eye-witness, police witness, expert witness, medical witness, other witness
		Nil

C- Court Witness

Rank	Name	Whether eye-witness, police witness, expert witness, medical witness, other witness
		Nil

List of Prosecution/Defence/Court Exhibits**A – Prosecution Exhibits**

Sl. No.	Ext. No.	Description
1.	Ext.P1/PW1	FIS, dated 03/12/2018
2.	Ext.P2/PW4	Scene mahazar, dated 04/12/2018
3.	Ext.P3/PW5	Mahazar, dated 02/02/2019
4.	Ext.P4/PW6	FIR, dated 03/12/2018
5.	Ext.P5 /PW6	Property list, dated 02/02/2019
6.	Ext.P6/PW6	Forwarding note, dated 02/02/2019
7.	Ext.P7/PW6	Cyber Forensic report, dated 18/01/2023
8.	Ext.P8/PW6	Report, dated 02/02/2019
9.	Ext.P9/PW7	Report, dated 18/04/2019
10.	Ext.P10/PW7	Report, dated 11/04/2019

B- Defence Exhibits

Sl. No.	Ext. No.	Description
	NIL	

C- Court Exhibits

Sl. No.	Ext. No.	Description
		Nil

D- Material Objects

Sl. No.	Material Objects	Description
	NIL	

Sd/-
Judicial First-Class Magistrate, Nedumkandam