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| IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE -II KANNUR | |
| Present: Sri. Raphael.E.V Judicial First Class Magistrate-II, Kannur | |
| Dated this the Thursday, the 30th day of April, 2026 (10th day of Vaisakha, 1948 S.E) | |
| <u>C.C- 1527-18</u> | |
| Complainant | : State rep. by Sub Inspector of Police, Valapattanam Police Station (in Cr. No.913/18) (By APP, Gr-II, Kannur) |
| Accused | : P.Manesh, S/o.Purushothaman, Age 40/18, Raman Vilakam, Nr.Koratti Palam, Koonthallur amsom, Chirayinkeezh Taluk, Thiruvananthapuram. (by Adv: Sri.Nithin.C.H) |
| Offence | U/s. 2 of Prevention of Insult to National : Honour Act. |
| Pleading | : Not Guilty. |
| Finding | : Not Guilty. |
| Sentence or Order | : The accused is found not guilty of the offences punishable u/s 2 of Prevention of Insult to National Honour Act and he is acquitted u/s 248 (1) of Cr. P.C. He is set at liberty and his bail bonds stand cancelled. |

| <u>Description of Accused</u> | | | | | |
|-------------------------------|-----------|--------------------|------------|-----------|-------|
| Sl. No | Name | Father's Name | Occupation | Residence | Age |
| 1 | P.Manesh, | S/o. Purushothaman | | TVM | 40/18 |

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| Date of:- | |
| Offence | : 01/1/2018 |
| Complaint | : 19/9/2018 |
| Apprehension | : 05/4/2019 |
| Released on bail | : 05/4/2019 |
| Commencement of trial | : 16/9/2016 |
| Close of trial | : 27/4/2026 |
| Sentence/Order | : 30/4/2026 |
| Service copy of judgment | : |

J U D G M E N T

1. The case is charge sheeted by the Sub Inspector of Police Valapattanam in Crime No.913/18 for the offences punishable U/s 2 of Prevention of Insult to National Honour Act.

2. **Case of the prosecution in brief is as follows:** Accused uploaded picture of Mahathma Gandhi in defaming manner in the face book page of accused on 8/1/2018, 18/6/2018 and published the same in the social media of Facebook. Thereby accused is alleged to to have committed offence punishable under sections 2 of Prevention of Insult to National Honour Act.

3. The accused appeared before the Court. He was enlarged on bail. Copies of relevant prosecution records were furnished to him. After hearing both

sides and after perusing the materials available before the Court, it is found that there is ground for presuming that the accused had committed the offence. Charge framed U/s 2 of Prevention of Insult to National Honour Act. read over to the accused in Malayalam, he pleaded not guilty and claimed to be tried. The accused were defended by a lawyer of his choice. Case was posted for evidence. A1 absconding.

4. On the side of the prosecution, PW1 to PW6 were examined and Ext P1 to P9 were marked MO1 and MO1(a) marked. On closure of prosecution evidence, the accused was questioned under Sec.313(1) (b) Cr.P.C. He denied the incriminating circumstances put to him and maintained innocence. No evidence has been adduced from the side of the accused.

5. Both sides were heard.

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

1 Whether the accused published picture of Mahathma Gandhi in defaming manner in the face book page of the accused as alleged by the prosecution as alleged by the prosecution?

2. If found guilty what would be the proper sentence?

7. PW1 was serving as a Sr.civil police officer in the Cyber cell of Kannur district. On getting the request from the investigating officer in this case, he took

screen shot of the face book account of the accused, copied in CD subscriber details of mobile phone wherein account of face-book logged in. Ext P1 is the mahazar prepared for seizing the subscriber detail of Mobile phone No. 9388880880 Ext P2 is screen shot, MO1 is the CD produced before the court.

8. PW2 is a defacto complainant in this case. PW2 is a social worker namely 'പ്രതികരണവേദി എന്ന കൂട്ടായ്മ'. He found that somebody posted picture of Mahathma Gandhi with a sexual comments with picture of two girls along with Mahathma Gandhi was posted. He took the screen short and made complaint before the Chief Minister of Kerala through mail.

9. PW3 is an attesting witness to Ext P4 seizure mahazar prepared by the police. Complainant produced five screen shot pages of face book before the police.

10. PW4 was serving as a Civil police officer in Cyber Cell Kannur district at the time of the incident in this case. He is an attesting witness to Ext P1 seizure mahazar prepared by the police. He identified MO1 CD in sealed cover MO1(a) is CD produced before the court.

11. PW5 is the investigating officer in this case. He released the accused on execution of 41A notice. Face book profile page, posts and friend list were downloaded in a CD and the same was seized as per Ext P1 seizure mahazar.

Mobile phone sim detail were produced and marked as Ext P7. He filed Ext P8 report to add the name and address of the accused.

12. PW6 was serving as Sub Inspection of Valapattanam police station. He registered Ext P9 FIR in this case on receipt of forwarded complaint. Ext P3 is the email copy forwarded to the police station directing the police to take action.

13. **Point No. 1** : On analysis of the entire evidence in this case it is seen that prosecution attempted to prove the point that accused uploaded photos of Mahathma Gandhi along with two girls in sexually defaming manner.

14. Learned counsel for the accused contented that as per section 2 of National Honour Act an offence will lie only if national flag or constitution is mutilated or shown in a defaming manner. It has nothing to do with the person great leader of independence like Mahathma Gandhi. On perusal of section 2 of National Honour Act it is seen that offence will be applicable if the subject matter is regularly national flag or constitution. Here in this case defaming matters were seen uploaded in the face book page. Therefore the contention of the learned counsel for the accused appears to be in a right perspective. Hence the this court of the view that prosecution failed to prove an offence punishable U/s section 2 of National Honour Act. In the result, the accused is entitled for acquittal.

17. **Point No.2:-** In view of the findings in Points No.1, this point does not arise for consideration.

In the result, the accused is found not guilty of the offences punishable u/s 2 of Prevention of Insult to National Honour Act and he is acquitted u/s 248(1) Cr.PC for the above said offences. His bail bonds stand cancelled and he is set at liberty.

MOs shall be destroyed after appeal period

(Dictated to the Confidential Assistant, typed by her, corrected and pronounced by me in open court, this the 30th day of April, 2026).

sd/-
Judicial First Class Magistrate-II
Kannur

APPENDIX

List of Prosecution/Defence/Court Witnesses

A. Prosecution Witnesses

| Rank | Name | Whether Eye witness, Police witness, Expert witness, Medical witness, Other witness |
|------|---------------|---|
| PW1 | Sreejith | Expert witness |
| PW2 | Mujeeb Rahman | Other witness |
| PW3 | P.Ashokan | Police witness |
| PW4 | Vijesh | Expert witness |
| PW5 | Vijayakumar | Police witness |

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|-----|----------|----------------|
| PW6 | Latheesh | Police witness |
|-----|----------|----------------|

B. Defence Witnesses

Nil

C. Court Witnesses

Nil

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

| Sl.No. | Exhibit number | Description |
|--------|----------------|--|
| 1. | Ext.P1/PW1 | Scene mahazar- dated nil |
| 2. | Ext.P2/PW1 | Print out of face book post dated nil |
| 3 | Ext.P3/PW5 | Complaint-dated nil |
| 4 | Ext.P4/PW3 | Seizure mahazar dated nil |
| 5 | Ext.P5/PW3 | Screen shot face book pages dated nil |
| 6 | Ext.P6/PW5 | 41A notice-15/11/2018 |
| 7 | Ext.P7 /PW3 | Mobile phone sim details-10/3/2017. |
| 8 | Ext.P8/PW5 | Report to add the name and address of accused. Dated nil |
| 9 | Ext.P9/PW6 | FIR-dated 19/9/2018 |

B. Defence Exhibits

Nil

C. Court Exhibits

Nil

D. Material Objects

| Sl.No. | Material Objects | Description |
|--------|------------------|-------------|
| 1. | MO1 | CD |
| 2. | MO1(a) | CD |

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