

TABULAR FORM

1	Serial Number	:	Sessions Case No.499/2022
2	Name of Police Station and Crime No. of the offence	:	Pariyaram Medical College Police Station Crime No.156/2022.

**DESCRIPTION OF THE ACCUSED**

3.Name	4. Father's Name	5.Occupation	6. Residence	7. Age
Sachin Chandran E	S/o. Chandran K	–	Ettammal House, Sreestha,Pariyaram Medical College, Cheruthazham Amsom.	28/22

**DATE OF**

8. Occurrence	During February 2022 onwards.
9. Complaint	08.03.2022
10. Apprehension of the accused	23.05.2022
11. Released on bail	22.06.2022
12. Commitment	--
13. Commencement of trial	26.10.2023
13A. Commencement of evidence	23.10.2024
14. Close of Trial	17.04.2026
15. Sentence/Order	24.04.2026
16. Service of copy of Judgment or finding on accused.	--
17. Explanation for delay	--
18. Period of detention undergone during investigation, inquiry or trial for the purpose of Section 428 Cr.P.C.	From 23.05.2022 to 22.06.2022.

Fast Track Special Court,  
Taliparamba.

Dated : 24.04.2026

(Sd/-)

SPECIAL JUDGE,

FAST TRACK SPECIAL COURT, MATTANNUR,  
(IN CHARGE OF SPECIAL JUDGE, TALIPARAMBA).

**FAST TRACK SPECIAL COURT, TALIPARAMBA**  
**Present:- Smt. Anit Joseph, Special Judge, Mattannur,**  
**(In Charge of Special Judge, Taliparamba).**

Friday, the 24<sup>th</sup> day of April, 2026/4<sup>th</sup> Vaisakha, 1948.

**SESSIONS CASE No.499 OF 2022**

**(Crime No.156/2022 of Pariyaram Medical College Police Station).**

Complainant	State: SHO, Pariyaram Medical College Police Station. Prosecution conducted by Smt. Sherymol Jose, Spl. Public Prosecutor, Taliparamba.
Accused	Sachin Chandran E, S/o. Chandran K, Ettammal House, Sreestha, Pariyaram Medical College, Cheruthazham Amsom  Accused defended by Adv. T. Dileep Kumar.
Charge	U/s.354D of IPC and 13(c) r/w 14 and 11(v) r/w 12 of POCSO Act.
Plea of the accused	Not guilty
Finding of the Judge	Not guilty
Sentence/Order	In the result, the accused is acquitted of the offenses punishable under sections 354(D) of IPC, 11(v) r/w 12 and 13(c) r/w 14 of the Protection of Children from Sexual Offences Act 2012, under section 258 of BNSS. The bail bond of the accused shall be in force for 6 months for the purpose of Section 481 of BNSS.

This case coming on for hearing before me, upon perusing the records of evidence and proceeding and upon duly considering the same after hearing the Public Prosecutor and Counsel for the accused on 17.04.2026, I do adjudge the following :-

## J U D G M E N T

1. This is a case instituted upon a final report filed by the Inspector of Police, Pariyaram Medical College Police Station in Crime No. 156/2022 of that Police station. In the case, the accused person named above, stands charged for the offenses punishable under sections 354(D) of IPC, 11(v) r/w 12, 13(c) r/w 14 of the Protection of Children from Sexual Offenses Act 2012, hereinafter referred to as the POCSO Act.

1.1 All precautions are taken so as to ensure that the identity of the alleged victim girl is not disclosed in any manner.

2. The case of the Prosecution can be summarized as follows:- From February 2022 onwards, the accused, through a banned online application named VPNIFY (Virtual Private network) and by using a secondary mobile number calling and messaging app from the dark web, created morphed obscene pictures of 12 - year- old CW4 and her mother, CW1. Thereafter, with sexual intent, he repeatedly forwarded the said images to CW1's husband and brother-in-law. Furthermore, the accused discreetly and constantly followed CW4 ( the survivor child) online and forwarded her naked photos and obscene pictures through social media.

3. The first information statement (Ext.P1) was lodged by CW1 with CW17, Sub Inspector of Police, Pariyaram Medical College Police Station. Based on the FIS, CW17 himself registered the FIR as Crime No.156/2022 under Sec.354(D) of IPC and 11(v) r/w 12, 13(c) r/w 14 of the Protection of Children from Sexual Offences Act, and conducted a preliminary investigation. CW18 Inspector of Police, Pariyaram Medical College Police Station completed the investigation and laid a final report before the court.

4. During the course of investigation, the investigating officer, apart from recording the statement of available witnesses, had also procured the Birth Certificate of the minor victim (CW4), made arrangements for recording the statement of victim and her mother (complainant) under section 164 of Cr.P.C. The accused was arrested and remanded to judicial custody. After completion of the investigation, CW18 filed a report under Section 173 of Cr.PC., on which, 1st Additional District and Sessions Court, Thalassery (Principal court for POCSO cases) took cognizance of the offences as empowered under Sec. 33(1) of the POCSO Act.

5. The case was taken on the file of Honorable Court of Sessions, Thalassery as SC 499/2022. Thereafter the case was considered by the Additional District and Sessions Court, Thalassery. On the appearance of the accused, copies of prosecution materials were duly served to him. The accused was defended by a counsel appointed by him.

6. Later, the case was transferred to this court as per the order of Sessions Judge, Thalassery dated 26.06.2023 for disposal. The accused appeared before this court on 17.08.2023.

7. Thereafter, both prosecution and defense were heard about the grounds of the allegations levelled against the accused and the evidence proposed to be adduced by the prosecution to prove the guilt of the accused. After hearing both sides, and after perusing the materials available before the court, my learned predecessor found that there is ground for presuming that the accused had committed the offences punishable under section 354(D) of IPC, 11(v) r/w 12 and 13(c) r/w 14 of the Protection of Children from Sexual Offences Act. Hence, charges under said sections were framed against the accused. The Charges were read over to the accused in Malayalam, to which he pleaded not guilty and claimed to be tried.

8. In the trial, PWs 1 to PW21 were examined, Exts.P1 to P40 were marked and MO-1 to MO-9 were identified on the side of prosecution.

9. Upon closing the prosecution evidence, the accused was questioned under Sec.351 of BNSS. He denied all the incriminating circumstances that emerged from the evidence against him. The stand of the accused during the trial and the enquiry under section 351 of BNSS was that he never sent any threat message or obscene photos or messages to the survivor or her parents or

her relatives through his mobile phone or WhatsApp or Instagram. The police falsely implicated him in the case without any basis, only due to suspicion. Furthermore, the investigation conducted in the case was improper; consequently, a false charge sheet was filed.

10. Then both sides were heard under Sec.255 of BNSS. After evaluating the evidence of prosecution, the defence version and hearing both sides, I found that there is no scope to pass an order of acquittal at that stage. Thus, the accused was called upon to enter on his defence. The defence examined none. Thereafter, I heard the learned Special Public Prosecutor as well as the Learned defence counsel.

11. I have raised the following points for determination :

1. Has the prosecution succeeded in proving the juvenility of PW5 as on the date of the incident?
2. Did the accused constantly follow and contact PW1 and PW5 through social media platforms with sexual intent and thereby commit the offence of stalking, punishable under section 354D of IPC?
3. Did the accused use PW5, a child, for pornographic purpose by creating the morphed images of her sexual organs, and then storing the images for personal use, and for distribution and thereby commit the offence punishable u/s.13(c) r/w 14 of POCSO Act?

4. Did the accused constantly follow PW1 and PW5 with sexual intent, and thereby commit the offence of sexual harassment punishable under section 11(v) r/w 12 of POCSO Act?
5. If the accused is found guilty of any of the offences, what shall be the sentence to be imposed?

12. **Points No.1:** The prosecution has examined as many as 21 witness. Since the case is one registered under the POCSO Act, alleging morphing of the photos of a child and publishing it through Whatsapp, the first and foremost aspect to be proved by the prosecution is that PW5 was a child as on the date of the incident. As provided under section 94 of JJ Act, to determine the age of a child, who is a victim of a crime, the procedure in Rule 12 of the Juvenile Justice (Care and Protection of Children) Rules, 2017 is to be applied. As per section 94(2)(i) of the Act, the first document that can be taken into account in preferential order is date of birth certificate from the school or matriculation or equivalent certificate from the concerned examination board, if available. By virtue of section 94(2)(ii), in 2nd place comes the date of birth certificate given by the Corporation or a Municipal Authority or a Panchayath.

13. In the instant case prosecution produced the Birth certificate of PW5 to prove her age as on the date of the incident. There is nothing wrong in relying on a Birth Certificate extract issued by a competent authority. Unless the entries therein are proved to be wrong entries made on the basis of

incorrect information, the same recorded at some prior point of time as part of an official act can be believed and acted upon.

14. Prosecution examined PW13 to prove the birth certificate in court. Before the court PW13 identified the Birth Certificate issued by him while working as the Registrar of Births and Deaths in Taliparamba Municipality and the same was marked as Ext.P14. It is clear from the evidence of PW13 that Ext. P14 is a computer generated copy and he had generated it from the system maintained in his custody. To prove the authenticity of the certificate, the required certificate under Section 63 BSA is not made available before the court. In Ext.P14 the name of the survivor as well as the names of her parents are clearly recorded. In the circumstances, I do not find any reason to disregard Ext. P14. As per Ext. P14, the date of birth of PW5 is 07-02-2010. Simply relying on Ext.P14, it can be held that as on the date of the incident which allegedly started in 2022, the survivor (PW5) was only 12 years old. That apart, the defence has not disputed the age of PW5 mentioned by the prosecution. In the absence of dispute from the part of defence, it can be conclusively held that as on the date of the incident PW1 was 12 years old. The upshot of the discussion is that as on the date of the incident PW5 was a child as defined u/s 2(1)(d) of the POCSO Act and prosecution has succeeded in establishing the same before the court. Point No.1 is found in favour of prosecution.

15. **Points No. 2 to 4:-** These points are interlinked and the evidence to be appreciated is also the same. So, for the sake of convenience and brevity these points are discussed together. As indicated initially, someone continuously sent the morphed vulgar photos of PW5, a minor girl, to her relatives. They filed a complaint with the police. The police tried to track the perpetrator. The photos were sent through internet-generated WhatsApp numbers. So, the person could not be identified by tracking the SIM number. When the police sent the images received to the relatives of the victim to WhatsApp, they gave a reply stating that since the number was net generated, they are unable to provide the details of the person who did so. However, they could trace the internet source. Accordingly, they issued a reply to the District Police Chief, Kannur stating that the internet from the specific SIM allotted to the accused was used to send the messages. Based on this, the police obtained the details of the SIM owner/the accused. Later they apprehended the accused, completed the investigation and charge sheet the case against him. The Learned Special Public Prosecutor would argue that the tracking method adopted by the police is proper and convincing and therefore, such technical evidence alone can be the base for conviction.

16. Per contra, the learned defence counsel submitted that the evidence presented before the court is vague, ambiguous, unconnected, unconvincing

and therefore, inadmissible and unreliable. According to him, the prosecution miserably failed to establish the identity of the accused. In order to substantiate the contention, he advanced the following specific arguments. The testimony provided by the investigating officer regarding the identification process was incoherent and lacked the necessary detail to be considered credible. Specifically, the officer's description of the steps taken contradicts the documents produced before the court. The letter/ intimation from Whatsapp, presented by the prosecution as their foundation document, has not been properly proved before the court through the proper person on the basis of the proper certificate. The alleged morphing has not been scientifically proved. The connection between the phone numbers involved i.e the sending from a specific phone to another specific phone- has not been proved. This blatant misalignment indicates that the identification process was either improperly conducted or inaccurately reported. The screenshots produced before the court are neither primary evidence nor secondary. Such unscientifically extracted images are not a substitute for an authentic FSL report. According to the learned defense counsel, it is imprudent and injudicious to fasten criminal liability on the accused by relying on the weak and obscure evidence presented by the prosecution. In the light of the above, he prayed for acquittal of the accused of all the charges levelled against him.

17. I have heard the rival contentions advanced on behalf of the parties. Also perused the records. Let me now analyze the evidence on record so as to find out whether the prosecution has been able to prove the guilt against the accused person in accordance with the relevant law or not.

18. In the given set of facts, the burden on the prosecution is manifold. The primary aspect to be established by the prosecution is that the accused created morphed vulgar photos of minor PW5 and then forwarded the images to specific relatives of the said child. The complainant/informant, examined as PW1, narrated all elements of the cyber nuisance in detail. According to her, while she and her relatives were struggling to find the offender behind the cyber crime- i.e, the person who created obscene images of her and her daughter and constantly forwarded them to her relatives through WhatsApp- the accused, an acquaintance of hers, involved himself in the matter by pretending to be their well-wisher. He then expressed an opinion that his neighbour, Gokuldas, was the person behind this mischief. According to PW1, though she initially believed him, she later realized that she had once handed her mobile phone to the accused, who is an experienced mobile phone repairer, and that he might have misused the photos on her phone. She additionally realized that the accused had enmity toward Gokuldas and had utilised the opportunity to trap Gokuldas in the case. PW1 strongly stated her belief that, in order to take revenge on Gokuldas, the accused created all the

obscene photos and forwarded them to her relatives.

19. During the cross-examination PW1 admitted that in the year 2019, she filed a police case alleging that someone had sent filthy messages to her through Instagram, and after an investigation the police identified that the offender was Gokuldas. She further admitted that she had not proceeded with the case against Gokuldas.

20. PW2 is PW1's husband, PW3 is her husband's brother, PW4 is PW1's own brother and PW5 is her daughter against whom the sexual harassment is alleged to have committed. All these witnesses presented evidence in tune with the evidence provided by PW1. Apart from describing the nature of nuisance and its impact, these witnesses did not provide any clear information regarding the accused. By explaining the previous acquaintance and the mobile phone repair incident, PW1 laid a good foundation to doubt the accused. In the given set of facts, what is additionally required is scientific/technical evidence to connect the accused with the case. Since the WhatsApp number was net-generated, a virtual number, the identity of the user was anonymous. In the circumstances, what is to be convincingly established is that the accused created the images on his mobile phone and transferred them through the specific social media platform to PW1 to PW4.

21. We have learned the crux of the prosecution case that upon receiving the complaint preferred by PW1, the police tried to track the

perpetrator. They sent the images received to the relatives of the victim to the WhatsApp authority. The authority gave a reply stating that since the number was net generated, they are unable to provide the details of the person who did so. However, they could trace the account particulars and some other data to find out the internet source. Accordingly, they issued a reply to the District Police Chief stating that the internet from the specific SIM allotted to the accused was used to send the messages. Based on this, the police contacted the Internet Service Provider (Jio) and obtained the details of the SIM owner, the accused. Then the police apprehended the accused, seized his mobile phones and forwarded them to FSL for examination. After completing such steps, a charge sheet was laid against the accused.

22. As per the prosecution's case, in order to ascertain the identity of the person who sent the morphed messages, the investigating officer obtained the "hit details" of the net-generated WhatsApp number used by the perpetrator from the WhatsApp authority through the District Police Chief. Upon the request of the District Police Chief, the WhatsApp authority sent the "hit details". The then Cyber Cell Assistant Sub Inspector, (PW9 Othenan) downloaded the email, took a print out, and produced it before the investigating officer(PW20). As per the explanation of PW20, the WhatsApp authority identified the account particulars, generated time, date range, connection device type, Build Number OS, Last seen, and Last IP of the

person who sent the messages. After obtaining these 'hit details' from WhatsApp LEA, the cyber cell addressed the Jio Internet Service Provider for the IPDR details. Accordingly, JIO Internet Service Provider furnished the pivotal information: i.e. the connected mobile number was 7012181846. The subscriber name: Sachin Chandran E, Father/Spouse name: K Chandran, Present address: Ittammal House, Sreestha PO, Sreestha, Ezhom, Kannur KL670303. As per the definite case of PW20, based on these hit details, they addressed the ISP and obtained the details of the user of SIM number 7012181846 - the man behind the mischievous act- who is none other than the accused.

23. The case further explained by PW20 was simple : by using the Jio network linked to SIM Number 7012181846, the accused generated a virtual WhatsApp number and forwarded the images to PW1 to PW4 after maintaining his anonymity. According to PW20, the hit details provided by the WhatsApp authorities gave the primary data of the user/perpetrator; by resorting to these hit details, they identified the SIM number, and the specific internet source used by the accused. This type of high-profile tracking is essential to identifying modern-era perpetrators. However, what is at stake is the admissibility of the documents produced before the court to prove the aforementioned investigative procedures.

24. The learned Special PP vehemently argued that the tracking method adopted by the investigating officer was proper and convincing and therefore, such technical evidence alone can be the base for conviction.

25. I do agree that the identification of the accused via the internet source is a standard and proper investigation procedure. The use of internet-generated numbers, virtual numbers, creates an untraceable anonymity. However, deep study into the subject reveals that every digital communication leaves a footprint at the gateway level. If the investigation has established a one-to-one correlation between the time the vulgar images were sent and the data session active on the accused's SIM card, this constitutes scientifically sound identification. While WhatsApp may not provide a name, they provide the source IP address and a timestamp for the message transmission. The internet service provider maintains records, IPDR, that map a dynamic IP address to a specific GPRS/LTE session linked to a unique SIM card/subscriber ID at a specific microsecond. The virtual nature of the WhatsApp number does not shield the physical data pipe (the SIM) used to access the internet. If the Internet Service Provider confirmed that the specific SIM allotted to the accused was the sole source of data traffic used to access the specific WhatsApp gateway, at the exact time the photos were sent, this constitutes a strong circumstantial link.

26. In the instant case, there is no evidence to prove the exact sending time and receiving times of the images. Had there been evidence to establish the specific date and time of receipt of the images on the mobile phones of the above - referred witnesses, a comparison could have been made with the IPDR maintained by the Internet Service Provider. These records, which map a dynamic IP address to a specific GPRS/LTE session linked to a unique SIM card or subscriber ID at a specific microsecond, could have confirmed the connection. In other words, based on the data provided by the Internet Service provider, access through the specific WhatsApp gateway and the transmission of messages to the specific numbers of PW1 and her relatives could have been convincingly proven. Here, the prosecution failed to produce the WhatsApp chat history of the witnesses to prove that, on specific dates and at specific times, they received certain images from the anonymous, net-generated number. Aside from some screenshots claimed to have been taken from the mobile phones of PW2, PW3 and PW4, no scientific evidence was produced before the court to prove the crucial delivery of the messages.

27. Indisputably, 3 mobile phones had been seized from the possession of the accused. PW7, a civil Police Officer attached to Pariyaram Policestation, said that he had seen the investigating officer seizing one mobile phone from the possession of the accused on 6.04.2022. Like wise, PW8, a Senior civil Police Officer attached to the same Policestation, said that he had seen the

investigating officer seizing two mobile phones from the accused's residence on 23.05.22. PW6, a police officer attached to Kannur Rural cyber cell said that he had verified the mobile phone seized from the possession of the accused and found an application 'Second Number' which is for creating unknown numbers for making calls. According to him, after identifying the specific feature on the accused's phone, he told the investigating officer that FSL assistance is required to identify the details of the call made by the accused through the specific application.

28. As per the evidence in the foregoing paragraph, after the apprehension of the accused, three mobile phones used by him were seized and forwarded to the FSL. If the accused has some connection with the case, some traces of the illegal activities said to have been performed by the accused would be there on the phone. However, on physical examination of the accused's phone at the FSL, no traces of the morphed photos or WhatsApp account could be found. It is definitely an adverse factor rendering the prosecution's case unbelievable. However, in this modern era of cutting-edge technology, there would be techniques to erase the browser history and other operation history, and a cunning and tech-savvy perpetrator can easily resort to these methods to delete the traces of his illegal activity from the phone. Therefore, the absence of traces on physical examination itself is not a reason to disbelieve the prosecution case.

29. However, in the realm of modern cyber crime, the locus of the crime often shifts from the physical hardware to the virtual network. While the Forensic Science Laboratory report is negative regarding the device's internal storage, the Internet Protocol detail record IPDR provided by the service provider acts as an electronic signature of the data session. If the ISP records unequivocally tie the data traffic of the accused's registered sim to the specific WhatsApp\_transmission timestamp, the lack of local data on the handset can be attributed to deliberate delusion or the use of ephemeral web platforms. Consequently, the identification based on the internet source is deemed proper and scientifically sound. The negative FSL report on the device does not erase the digital footprint left behind on the ISPs' servers, which remains a formidable piece of circumstantial evidence against the accused.

30. Under the BSA, this digital footprint is considered proper identification, provided a valid Section 63 certificate is submitted to authenticate the electronic record. For the ISP/IPDR tracking to be admissible, it must strictly comply with the law established in **Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal AIR 2020 SC 4908** . Any printout or soft copy of the IPDR-ISP logs is secondary evidence and must be accompanied by a Section 63 BSA certificate. Without this certificate, the digital tracking is inadmissible per se. The certificate must be signed by a person occupying a responsible official position in the telecom or ISP company. An example is a

nodal officer. By the certificate, the author must identify the electronic record containing the statement (The IPDR logs) It must describe the manner in which it was produced, (for example, generated from the ISP's central server). It must certify that the computer network was operating properly during that period.

31. In the instant case, the prosecution failed to produce such a print out. Instead of producing the print out of the official email received from the responsible official at WhatsApp, along with a certificate under section 63 BSA issued by the same official, PW9, a Cyber Cell Inspector copied the email allegedly received from WhatsApp onto a letterhead. This copy on the letterhead- from PW9 to the Deputy Superintendent of Police, Payyannur Police station- was produced before the court to prove the transaction between WhatsApp authorities and the Cyber Cell, without any certificate under section 63 of the BSA. This letter has no legal sanctity. This is against the fundamentals of the provision; therefore the object of the provision was not served. This serious mistake, committed by the inspector concerned regarding a primary aspect of the evidence, undermined a significant portion of the case. Due to this infirmity, the identification of the accused via the internet source has not been convincingly proved before the court.

32. What is more distressing is that during the trial this document was not marked in evidence even though the specific inspector was examined as PW9. In fact, a printout titled "WhatsApp Business Record" was marked through PW10- the attesting witness to the seizure mahazar prepared by PW20- while seizing the alleged WhatsApp authority message copied by PW9. This method of marking documents is totally alien to the provisions of Section 63 of the BSA. The email information allegedly received from WhatsApp authorities and Jio had not been properly proved before the court.

33. The WhatsApp authority and the internet Service provider(Jio) are two distinct entities. Under these circumstances, a common letter from both the authorities cannot be expected. If the sequence explained by PW20 is true, it must be presumed that after obtaining the above- referred "hit list" containing the primary data of the user, the Cyber Cell addressed the ISP(Jio) to obtain the SIM number and address of the particular user. If that were the proper procedure, there would have been two distinct letters: one from WhatsApp LEA and one from the ISP(Jio). The prosecution failed to produce these letters- from WhatsApp LEA and Jio to prove the data tracking said to have been made by the Cyber Cell. The lack of clarity regarding these procedural aspects, combined with the improper creation and marking of material documents- these two man-made flaws- have affected the very root of the prosecution's case.

34. If the prosecution can prove that the SIM was in the exclusive possession of the accused at the time of the internet source log, the burden under section 109 of the BSA may shift to the accused to explain how his specific data connection was utilized to send the morphed images. Here, the prosecution failed to prove such facts with the time stamp of the internet log.

35. We have already seen that on physical examination of the accused's phone at the FSL, no traces of the morphed photos or WhatsApp account could be found. When the navigation codes in the FSL report were found insufficient to open and understand the annexed Pen drive, the special PP summoned the specific expert to open and explain the pen drive. The witness examined as PW21 opened the pendrive and pointed out some obscene images in open court. No clear and understandable image of PW5 could be seen during this exercise. The investigating officer failed to ask the FSL to identify the morphed photos, if any, of the minor PW5 after providing a standard photo. In the circumstances, this crucial question was left unanswered. When examined before the court, PW1 said that there were morphed photos on the phone. According to PW21, she had identified this morphing with her bare eyes. It is surprising to note that in this advanced era of science and technology, there are no tools to identify a morphed photo in the FSL. However, when the court compared the images pointed out by PW21 with PW5's passport-size photographs available in the file, no conclusive opinion could be arrived at that

the images are of the said child.

36. The fact that the physical phone examined in the lab contained no traces of the morphed photos or the WhatsApp account poses a challenge. It is the contention of the defence counsel that the absence of incriminating material on the seized handset material objects creates a reasonable doubt. No doubt, the lack of physical evidence on the phone creates a missing link. The prosecution must explain how the accused sent the images if the device shows no trace. There may be technical reasons for missing the data. Since the perpetrator used a net generated number, they likely used a web based service or a temporary application that does not store data on the local handsets' and flash memory. The accused may have used "disappearing messages", cleared the cache, or performed a factory reset before the device was seized. If the photos were sent via mobile browser, web pods in incognito mode, local forensic tools might find zero artifacts on the device.

37. In this scenario, the case shifts from direct physical evidence to images on the phone to circumstantial technical evidence, the IPDR-ISP reports. If the prosecution has produced a valid Section 63 BSA certificate from the ISP Nodal Office, the IPDR evidence is sufficient to establish that the accused's data connection was the source of the vulgar transmissions. The lack of local data on the device is consistent with professional scrubbing or web-

based usage and does not override the forensic certainty of the network logs.

38. While evaluating the entire evidence, we cannot ignore that the identification of the accused via the internet source is not convincingly proved before the court. What is to be ascertained in the case is the validity of IP-based identification. In cases involving internet-generated numbers, requires a balance between network forensic certainty and device-level evidence. Here, the prosecution case suffers from a foundational infirmity regarding the technical evidence. While the accused's mobile device was forwarded to the FSL, the investigating officer failed to provide a standard, non-morphed photograph of the victim for comparative analysis. Furthermore, the I.O neglected to pose a specific query to the forensic experts as to whether the allegedly morphed images were generated using the seized hardware. In the absence of such a comparison and a specific forensic finding, the casual link between the accused's device and the incriminating material remains unestablished. This lacuna in the investigation is fatal to the prosecution's case, as the court cannot rely on mere assumptions in the absence of a definitive forensic nexus.

39. While going through the evidence presented by the prosecution witnesses, especially the investigating officer, several procedural irregularities and the technically unreliability of the identification can be perceived. The

shortfalls in the identification procedure, apparently unveiled in the evidence, gives strong reason to doubt the prosecution case. The highly technical steps-incoherently explained by the investigating officer, not in harmony with the case presented by other witnesses, alone gives reason to hold that the evidence regarding identity is not conclusive.

40. At any rate, the defense succeeded in throwing reasonable doubt on the prosecution case. The following observation in **Chandrababu @ Babu's** case is to the point. *“It is well settled that it is not necessary for the defence to prove its case with the same rigor as the prosecution is required to prove its case, and it is sufficient if the defence succeeds in throwing a reasonable doubt on the prosecution case which is sufficient to enable the court to reject the prosecution case”*.

41. If the allegation was relating to the offense under section 3,5,7 and section 9, by virtue of section 29 of the Act, there is a presumption in favour of prosecution. Here the allegations are distinct. Therefore, the presumption cannot be invoked in favour of the prosecution.

42. What is critical is that the prosecution failed to bring trustworthy and inspiring evidence to prove the identity of the accused. Huge ambiguity and uncertainty in the evidence regarding identity is a strong reason to hold that the prosecution failed to establish the case against the accused beyond reasonable doubt. Identity is a foundational fact as well. Both in proof beyond

doubt theory and in foundational facts theory, what is to be essentially established is the connection between the accused and the offense. Here, there is no convincing and cogent evidence to connect the accused with the offense. So, after going through the entire evidence, without any hesitation it can be held that prosecution has not succeeded to bring on record facts that would form the foundation for the presumption by adducing convincing and cogent evidence. The upshot of the discussion is that prosecution has not succeeded in proving any of the charges against the accused. Points No. 2 to 4 are found against the prosecution.

43. **Point No. 5** :- In the light of my finding on point Nos. 2 to 4 the accused is found not guilty of all the offences charged against him. Hence, this point does not arise for consideration.

In the result, the accused is acquitted of the offenses punishable under sections 354(D) of IPC, 11(v) r/w 12 and 13(c) r/w 14 of the Protection of Children from Sexual Offences Act 2012, under section 258 of BNSS. The bail bond of the accused shall be in force for 6 months for the purpose of Section 481 of BNSS.

MO1 and MO2 CDs shall be preserved along with documents. MOs 5 and 6-print outs of obscene screenshot images- shall be destroyed after appeal period. MO7, photograph of the minor PW5 shall also be destroyed

accordingly without causing any damage to the reputation of the child. MO4 SIM card, MO3, MO8 and MO9 mobile phones, being the devices allegedly used for committing the offense, shall be destroyed after appeal period according to rules.

(Prepared and pronounced by me in open Court, this the 24<sup>th</sup> day of April, 2026)

(Sd/-)  
ANIT JOSEPH, SPECIAL JUDGE,  
FAST TRACK SPECIAL COURT, MATTANNUR,  
(IN CHARGE OF SPECIAL JUDGE, TALIPARAMBA).

**APPENDIX:-**

**WITNESSES FOR THE PROSECUTION:-**

Rank	Name	Whether eye witness, Police witness, Expert witness, Medical witness, Other witness
PW1	Victim	Eye witness
PW2	Ratheesh T.P.	Other witness
PW3	Rajesh T.P.	Other witness
PW4	Pramod V.P.	Other witness
PW5	Victim	Eye witness
PW6	Shinju N., Havildar	Police witness
PW7	Aneesh M, SCPO	Police witness
PW8	Madhu M., Asst. Sub Inspector (Gr.)	Police witness
PW9	Othenan M., Asst. Sub Inspector	Police witness
PW10	Purushothaman C, Sub Inspector	Police witness
PW11	Aji Sankar	Other witness

PW12	Sajith M.V.	Other witness
PW13	Abdul Sathar M., Clean City Manager	Other witness
PW14	Sreejith P.T., SCPO	Police witness
PW15	Sajeev P.K.	Other witness
PW16	Augustine Joseph	Other witness
PW17	Biju V.V., SCPO	Police witness
PW18	Vasudevan K.	Other witness
PW19	Roopa Madhusoodhanan, Sub Inspector	Police witness
PW20	Babu K.V. (Rtd. Asst. Commissioner of Police)	Police witness
PW21	Lijith P.S. (Scientific Officer)	Expert witness

**PROSECUTION EXHIBITS:-**

Sl.No.	Exhibit No.	Description	Date
1	P1/PW1	FIS	08.03.2022
2	P2/PW4	Seizure Mahazer	10.03.2022
3	P3/PW4	Seizure Mahazer	15.03.2022
4	P4/PW7	Seizure Mahazer	06.04.2022
5	P5	Label in Nokia Mobile	--
6	P5 (a)	Label in Realme Mobile	--
7	P6/PW8	Seizure Mahazer	23.06.2023
8	P7/PW8	Seizure Mahazer	23.07.2022
9	P8/PW8	Seizure Mahazer	28.04.2022
10	P9/PW10	Seizure Mahazer	01.05.2022
11	P10/PW10	Hit details	--
12	P11/PW11	Prepaid Customer Application Form	--
13	P12/PW11	Certificate u/s.65B(4)(c) of the Evidence Act	11.06.2022
14	P13/PW12	Search List	23.05.2022
15	P14/PW13	Extract of Birth Register	--
16	P15(a)/PW11	Customer Application Form	19.09.2017
17	P15(b)/PW11	Prepaid Customer Application Form	04.01.2017
18	P15(c)/PW11	Prepaid Customer Application Form	--

19	P16/PW11	Certificate u/s.65B(4)(c) of the Evidence Act	14.06.2022
20	P17/PW11	Copy of Aadhar Card	--
21	P18/PW11	Authorisation letter	18.06.2025
22	P19/PW15	Application form for re-verified mobile connection.	--
23	P19(a)/PW15	Certificate u/s.65B(4) of Indian Evidence Act	--
24	P20/PW16	Prepaid Customer Re-verification EKYC Application Form	19.09.2017
25	P20(a)/PW16	Certificate u/s.65B(4) of the Evidence Act	29.06.2022
26	P21/PW16	Call data records	29.06.2022
27	P22/PW16	Certificate u/s.65B(4) of the Evidence Act	29.06.2022
28	P23/PW18	Customer Relationship Application Form	21.12.20212
29	P24/PW18	Certificate u/s.65B(4) of the Evidence Act	11.06.2022
30	P25/PW19	FIR	08.03.2022
31	P26/PW19	Correction Report	06.04.2022
32	P27/PW19	Form No.15	10.03.2022
33	P28/PW19	List of property	06.04.2022
34	P29(a)/PW19	Certificate	--
35	P29(b)/PW19	Forwarding Note	--
36	P30/PW19	RFSL Report	`04.07.2024
37	P31/PW19	RFSL Report	02.12.2024
38	P31(a)/PW19	Pen drive with FSL Report	02.12.2024
39	P32/PW19	Form No.15	15.03.2022
40	P33/PW20	List of property	28.04.2022
41	P34/PW20	Advance search memorandum	23.05.2022
42	P35/PW20	Arrest Memo	23.05.2022
43	P35(a)/PW20	Inspection Memo	23.05.2022
44	P35(b)/PW20	Arrest Intimation	23.05.2022
45	P36/PW20	List of property	23.05.2022
46	P37/PW20	Forwarding Note	23.05.2022
47	P38/PW20	RFSL Report	29.07.2024

48	P39/PW20	Name and address of the accused	23.05.2022
49	P40/PW20	Correction report	23.05.2022

WITNESS FOR THE DEFENCE :- Nil

EXHIBITS FOR THE DEFENCE :- Nil

MATERIAL OBJECTS:-

Sl.No.	Material Objects	Description
1	MO1	CD (Call details and Tower location details)
2	MO2	CD (IPDR)
3	MO3	Mobile (Accused)
4	MO4	SIM Card (Accused)
5	MO5(a) to (f)	Printout of messages (5 pages)
6	MO6	Printout of morphed photos (5 photos in 2 pages)
7	MO7	Passport size photo
8	MO8	Mobile (Nokia)
9	MO9	Mobile (Realme)

(Sd/-)  
SPECIAL JUDGE,  
FAST TRACK SPECIAL COURT, MATTANNUR,  
(IN CHARGE OF SPECIAL JUDGE, TALIPARAMBA).