

**TABULAR FORM**

1.	Serial Number	:	Sessions Case No .705/2025
2.	Name of Police Station and Crime No. of the offence	:	Karikottakari Police Station Crime No. 608/2025

**DESCRIPTION OF THE ACCUSED**

3	4	5	6	7
Name	Father's Name	Occupation	Residence	Age
Anandh Balan	Balan		Uruppumkutty Unnathi, Angadikkadavu, Ayyankunnu amsom, Karikottakari PS limit, Kannur District, Kerala.	20/2025

**DATE OF**

8.	Occurrence	:	01-05-2025 to 17-10-2025
9.	Complaint	:	19-10-2025
10.	Apprehension of the accused	:	23-02-2026
11.	Release on bail	:	23-02-2026
12.	Commitment	:	--
13.	Commencement of trial	:	04-03-2026
13.A	Commencement of evidence	:	16-03-2026
14.	Close of trial	:	16-03-2026
15.	Sentence/Order	:	23-03-2026
16.	Service of copy of judgment or finding on accused	:	--
17.	Explanation for delay	:	No delay
18.	Period of detention undergone during investigation, enquiry or trial for the purpose of Sec. 468 of BNSS.	:	NIL

Fast Track Special Court, Mattannur

Dated: 23-03-2026

**Sd/-  
SPECIAL JUDGE**

**IN THE COURT OF SPECIAL JUDGE  
FAST TRACK SPECIAL COURT, MATTANNUR**

Present:- Smt. Anit Joseph, Special Judge, Fast Track Special Court,  
Mattannur.

Monday the 23<sup>rd</sup> day of March 2026/ 2<sup>nd</sup> Chaithra 1948

**SESSIONS CASE No. 705/2025**

( Crime No. 608/2025 of Karikottakari Police Station)

Complainant : State: S.H.O Karikottakari Police  
: Station (Prosecution conducted by  
: Smt. P.V. Sheena, Spl. Public Prosecutor,  
: Mattannur).

Accused : Anandh Balan,  
: S/o.Balan, Aged 20/2025,  
: Uruppumkutty Unnathi, Angadikkadavu,  
: Ayyankunnu amsom, Karikottakari PS  
: limit, Kannur District, Kerala.  
: (Defended by Adv. Manu M Thomas)

Charge : Under section 5(1) r/w Sec.6, 5(j)(ii) r/w  
: Sec.6 of POCSO Act and Sec.64(2)(m)  
: of BNS.

Plea of the accused : Not Guilty.

Finding of the Judge : Not Guilty.

Sentence / Order: : Accused is acquitted U/s. 255 of BNSS  
: of the offences U/s.5(1),(j)(ii) r/w Sec.  
: 6(1) of The POCSO Act 2012 and Sec.  
: 64(2)(m) of BNS, . The bail bond of the  
: accused person shall be in force for 6  
: months for the purpose of Section 481 of  
: BNSS.

## J U D G M E N T

1. This is a case instituted upon a final report filed by the Inspector of Police, Karikkottakari Police Station in Crime No. 608/2025 of that Police station. In the case, the accused person named above stands charged for the offenses punishable under sections 64(2)(m) of BNS and Sec. 4 r/w Sec. 3(a), Sec. 5(j)(ii(1) r/w Sec. 6(1) of the Protection of Children from Sexual Offences Act.

2. The Prosecution case can be summarized as follows; The accused fell in love with the survivor, a minor female child, who was residing with her sister and the sister's husband at Veerppad, Punjakara in Aralam amsom. Thereafter, during the period between 1<sup>st</sup> May, 2025 and 17th October 2025, the accused took her to CW5's house at Veerppad, Punjakkara Unnathi, and to CW12's house at Eenthumkari(No. 202/R) in Ward No.7 of Ayyankunnu Grama Panchayat. During the occasions, the accused repeatedly sexually assaulted the survivor in the aforementioned houses, and consequently made her pregnant.

3. The FIR in the case was registered by CW26, Asst. Sub Inspector of police Karikkottakari Police station. The investigation was conducted by CW28, Inspector of police Karikkottakari police station and after completing the investigation, he laid a final report before the court. 4. During the course of investigation, the investigating officers, apart from recording the statement of witnesses, had also made arrangements for recording the statement of the victim under section 183 of BNSS. The accused was arrested and remanded to judicial custody. After completion of the investigation, CW28 filed a final report under Section 193 of BNSS. Upon filing the final report 1<sup>st</sup> Additional District and Sessions Judge Thalassery took cognizance of the case as empowered under Sec.33 (1) of the POCSO Act.

4. The case was taken on the file of Honorable Court of Sessions Thalassery as SC 705/2025. Thereafter the case was made over to First Additional District and Sessions Court, Thalassery for disposal.

5. Later, the case was transferred to this court for disposal as per the order of Hon'ble Sessions Judge Thalassery dated 06-01-2026. The accused appeared before this court on 23-02-2026. Copies of prosecution

materials were duly served to him. He was enlarged on bail.

6. On the appearance of the accused, both prosecution and defense were heard about the grounds of the allegations leveled against the accused and the evidence proposed to be adduced by prosecution to prove the guilt of the accused. After hearing both sides, and after perusing the materials available before the court, I found that there is ground for presuming that the accused had committed the offences punishable under sections 64(2) (m) of BNS and Sec. 5(1), (j)(ii) r/w Sec. 6 of the Protection of Children from Sexual Offences Act 2012. Hence, charges under said sections were framed against the accused. Charges were read over to the accused in Malayalam, to which he pleaded not guilty and claimed to be tried. The accused was defended by a counsel appointed by him.

7. In order to prove the prosecution case, PW1 and PW2 were examined and Ext.P1 was marked. The victim and her elder sister testified as PW1 and PW2 respectively, and did not support the prosecution. In the circumstances, remaining witnesses were given up by the Learned Special Public Prosecutor.

8. Since there was no incriminating evidence against the accused, his examination under Sec. 351 of BNSS was dispensed with.

9. Then both sides were heard under Sec.255 of BNSS. After hearing both sides and perusing the evidence on record, I found that there is no scope to proceed further.

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

1. During the period between 1<sup>st</sup> May, 2025 and 17th October 2025, whether the accused repeatedly sexually assaulted PW1, who was a child, at the residence of CW5 and CW12, and thereby committed the offence punishable under Sec. 5(1) r/w Sec. 6(1) of the Protection of Children from Sexual Offences Act, in the alternative, the offence of rape punishable under Sec. 64(2)(m) of Bharatiya Nyaya Sanhitha?
2. Did the accused, during the above period, as a consequence of sexual assault make PW1 pregnant and thereby commit the offence punishable under Sec. 5(j)(ii) r/w Sec. 6(1) of

Protection of Children from Sexual Offences Act?

3. If the accused is found guilty of any of the offences, what shall be the sentence to be imposed?

11. **Points No.1 and 2:-** These points are interlinked and the evidence to be appreciated is also the same. Hence for the sake of convenience and brevity these points are discussed together. PW1 is the survivor, who is alleged to have been subjected to penetrative sexual assault by the accused. She had made Ext. P1 FIS statement and a statement U/s 183 of BNSS. Before the court PW1 did not deny sexual intercourse with the accused and consequent pregnancy. She claimed a customary marriage with the accused, performed with the consent of both the families which resulted in lawful pregnancy. In the circumstances, the only issue for consideration is whether PW1 had attained majority at the time of the sexual intercourse and consequent impregnation.

12. As per the prosecution records, at the time of the alleged sexual assault PW1 was only 15 years and 8 months old. According to PW1, her marriage with the accused was solemnized as per the custom prevailing in their community, and at the time of marriage she had completed 18 years.

However, she was unable to mention her date of birth. When PW1 provided such evidence, the prosecution lost the foundation for their case that the date of birth of PW1 is 11-01-2010 and at the time of marriage, she was only 15 years and 8 months old.

13. During the chief examination PW1 admitted that a few months after the wedding, when she consulted a doctor, he diagnosed her pregnancy. However, she denied that she had mentioned her age as 17 years to the doctor. Likewise, while admitting the Ext. P1 First Information Statement, PW1 claimed that she never stated to the police that her date of birth is 11-01-2010. However, she categorically stated that her marriage with the accused was a lawful customary marriage performed after attaining majority.

14. Under cross-examination by the special PP, PW1 admitted that the 1<sup>st</sup> school she attended was at Blathur. According to PW1, her deceased father enrolled her in the school, and she did not know what date of birth he had provided to the school authorities. She further stated that, as tutored by someone, she had wrongly stated to the magistrate that she was only 16 years old at the time of marriage. This evidence does not

prove the sole disputed element in the case, PW1's age on the date of the alleged penetrative sexual assault.

15. The witness examined as PW2 is the elder sister of PW1. She stated that the accused is the husband of PW1 and that their marriage was solemnized according to the custom prevailing in their community in the presence of both families. According to PW2, PW1 had completed 18 years of age at the time of marriage. However, PW2 was also unable to mention PW1's date of birth. As per the testimony of PW2, PW1 studied in the 1<sup>st</sup> standard at Blathur School, but she did not know who had enrolled her there. The evidence of PW2 also does not help the prosecution to prove the crucial issue: the age of PW1 on the date of the alleged penetrative sexual assault.

16. To recapitulate, the only issue to be determined in the case is the age of PW1 as on her marriage. 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 2<sup>nd</sup> place comes the date of birth certificate given by the Corporation or a Municipal Authority or a Panchayat.

17. In the instant case, the only document produced by the prosecution to prove the date of birth of PW1 is the true extract of the school admission register issued from Gandhivilasam A.L.P School Blathur, Kalliad. In the said document, PW1's date of birth is shown as 11-01-2010. The Head Teacher, who issued the school Admission Register Extract, has no personal knowledge of the date of birth of the victim(PW10). Another difficulty is that the person, who is said to have enrolled PW1 to the school, is no more. Apart from all that, there is no evidence to prove that he had special knowledge about the date of birth of PW1.

18. In **Brirad Mal Singhvi vs Anand Purohith 1988 KHC 693** it was held that the entry regarding the date of birth contained in the school register and the secondary school examination has no probative value if no person on whose information the date of birth of the candidate was entered in the school records, was examined.

19. In **Alex PV Vs state of Kerala 2021 KHC 405** it is held that *“the entry contained in the admission form of the school register must be shown to be made based on the information given by the parents or a person having special knowledge about the date of birth of the person concerned. The date of birth of the candidate as contained in the document must be proved by the admissible evidence i.e.: by the evidence of those persons who can vouchsafe the truth of the facts in issue. In the absence of any such evidence, the document has no probative value and the date of birth mentioned therein cannot be accepted”*.

20. In the above decision, the mother is considered as a competent witness to give evidence regarding the date of birth of a victim. In the instant case, the mother of the survivor is not alive to come and provide her date of birth. In the circumstances, merely believing the school admission register, which contains a date said to have been given by somebody having no special knowledge about the date of birth of PW1, cannot be relied on to believe that at the time of alleged sexual assault PW1 was only 15 years and 8 months.

21. What is alleged as an offence in the case is sexual intercourse between the accused and PW1 who are husband and wife. In every case the position of the accused, the nature of the investigation and the gravity of the offence must be judged in the light of the material facts and the surrounding circumstances. In the given case, the date reflecting from the highly opposed document, if not correct, a finding on the basis of the said document would evoke devastating results. It would ruin the family life of the prosecutrix as well as the baby born to her. Therefore, it is improper and unjust to arrive at a conclusion in favour of the prosecution on the basis of the hyper technical evidence made available before the court.

22. The upshot of the discussion is that the prosecution failed to prove that as on the date of sexual assault PW1 was a child. Therefore, without much hesitation it can be held that prosecution has not succeeded in proving required facts to form the foundation for their case. Points No. 1 and 2 are found against the prosecution.

23. **Point. No.3:-** In view of my finding on point No. 1 and 2 the accused is found not guilty of the offences charged against him. Hence this point does not arise for consideration.

24. In the result, the accused is acquitted of the offences under section 5(l),(j)(ii) r/w Sec. 6(1) of The Protection of Children from Sexual Offences Act 2012 and Sec. 64(2)(m) of Bharatiya Nyaya Sanhitha, under Section 255 of BNSS. The bail bond of the accused person shall be in force for 6 months for the purpose of Section 481 of BNSS.

Property received as per item No.483/2025, being the waste cloths shall be destroyed.

(Dictated to the Confidential Assistant, transcribed by him, corrected and pronounced by me in open court on the 23<sup>rd</sup> day of March, 2026).

**Sd/-**  
**ANIT JOSEPH, SPECIAL JUDGE**  
**FAST TRACK SPECIAL COURT, MATTANNUR**

**APPENDIX**

**WITNESSES FOR THE PROSECUTION:**

<b><u>Witness No</u></b>	<b><u>Name of Witness</u></b>	<b><u>Description</u></b>
PW1 CW1	Name with held	Victim
PW2 CW3	Name with held	Other witness

**EXHIBITS FOR THE PROSECUTION:**

<b><u>No</u></b>	<b><u>Date of document</u></b>	<b><u>Description of the Exhibit</u></b>	<b><u>Proved by</u></b>
P1	19-10-2025	FIS in Cr.608/2025 of Karikottakari PS	PW1

**WITNESSES FOR THE DEFENCE: NIL****EXHIBITS FOR THE DEFENCE: NIL****MATERIAL OBJECTS: NIL**

**Sd/-**  
**ANIT JOSEPH, SPECIAL JUDGE**  
**FAST TRACK SPECIAL COURT, MATTANNUR**

**//True Copy//**

**Fair/Copy of Judgment**

**IN THE COURT OF SPECIAL JUDGE  
FAST TRACK SPECIAL COURT,  
MATTANNUR.**

**SESSIONS CASE No. 705 OF 2025**

**J U D G M E N T**

23-03-2026

**To**

- 1 The Registrar,  
High Court of Kerala,  
Ernakulam, Kochi – 682 031.
- 2 The District Police Chief,  
Kannur Rural.
- 3 The Public Prosecutor, Mattannur.