

IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE OF
CHALAKUDY

Present: Smt.Savitha V.S, Judicial First Class Magistrate
Dated this the 13th day of April 2026/23d Chaithra 1948 SE

C.C. No. 124 OF 2019

Complainant : State of Kerala - rep. by Sub
Inspector of Police, Chalakudy Police
Station in Crime No.827/2018

*(By Sri.Sreekumar P, Assistant Public
Prosecutor, Senior Grade, Chalakudy)*

Accused : Jose, aged 52, S/o Mathai, Thekkan house
Kuttadanchira desom, Kodassery Village.

(By Adv.Sri.M.S.Vinayan)

Offence : u/Ss. 354(A) (1)(iii) ,354 A(1) (iv) and 294(b) of Indian
Penal Code.

Plea : Not guilty

Finding : Not guilty

Sentence or order : Accused is acquitted u/S.248(1) of Criminal Procedure
Code

DESCRIPTION OF ACCUSED

Sl. No.	Name of Police station and the Crime No. of the offence.	Name and Rank of accused	Father's Name	Occupation	Residence	Age					
1	Chalakudy Police Station in Crime No.827/2018	Jose	Mathai	Kuttadanchira	52					
DATE OF											Period of detention undergone during investigation, inquiry
Occurrence	Complainant	Apprehension/ Appearance	Release on bail	Commencement	Commencement of	Close of trial	Sentence or order	Commitment	Service of copy of	Explanation	

		Arrest	Date of arrest	Date of trial	Date of evidence	Date of judgment	Date of finding on accused	Date of judgment or finding on accused	Date of delay	Date of trial for the purpose of section 428 of Cr.P.C.
13.12.2018	17.12.2018	27.12.2018	27.12.2018	5.12.2019	4.7.2023	27.3.2026	13.4.2026	-	-	-

This case having been finally heard on 27.3.2026 and the court delivered the following:

JUDGMENT

This case is instituted on a final report filed by the Sub Inspector of Police, Chalakudy Police Station u/Ss. 354(A) (1)(iii) ,354 A(1) (iv) and 294(b) of Indian Penal Code.

2. The prosecution case, in brief, is that on 13.12.2018 at about 09:00 a.m, at Mechira, the accused, due to enmity arising from questioning the money borrowed by him from CW1, verbally abused CW1, made obscene gestures, and spoke with sexual intent. Thus, the accused had committed the aforesaid offences.

3. The Court took cognizance of the offences and issued process against the accused. Upon his appearance, he was released on bail. The copies of the final report and other connected documents were duly furnished to him in compliance with Section 207 of the Code of Criminal Procedure. Charge for offences punishable under Sections 354(A) (1)(iii) ,354 A(1) (iv) and 294(b) of Indian Penal Code was read over and explained to him in vernacular, to which he pleaded “not guilty” and claimed to be tried.

4. On behalf of the prosecution, PW1 to PW4 were examined, and Ext. P1 to

P6 were marked. After the conclusion of the prosecution's evidence, all incriminating circumstances were put to the accused in compliance with Section 313(1)(b) of the Code of Criminal Procedure. The accused denied all the allegations and pleaded innocence. He was then called upon to enter his defence. Ext. D1 to D3 were marked from the side of defence side.

5. Heard both sides. The following points arise for consideration:-

1. Whether the accused made obscene gestures against PW1 as alleged?
2. Whether the accused spoke with the sexual interest to PW1 as alleged?
3. Whether the accused uttered obscene words at PW1 in or near a public place as alleged ?
4. Sentence or Order?

6. Point Nos.1 to 3:-

PW1 deposed that on 13.12.2018 at about 9:00 a.m., the incident in question took place in front of the property of the accused. He stated that there was an agreement for sale of property between herself and the accused, but the accused failed to convey the entire extent as agreed. According to her, there was shortage of 6 cents in the property. When she demanded the same, the accused removed the boundary stones placed by the Village authorities. PW1 further stated that when she later demanded return of the advance money, the accused did not respond. She also deposed that she noticed construction of a foundation for a house in the property which was promised to her. On questioning the

accused regarding the same, the accused abused her in filthy language, questioned whether he had taken any money from PW1, and made derogatory remarks. The accused also stated that he was not afraid of the police or the army and challenged PW1 to bring anyone. PW1 further stated that the accused lifted his mundu (dress) in an indecent manner, and she was compelled to leave the place. She identified Ext. P1 as the statement given by her to the police.

7. PW2 deposed that he witnessed the incident. He stated that upon hearing loud noises from the property of Jose, he went there and saw PW1 crying and heard Jose using abusive language. He stated that the dispute appeared to be related to a land transaction or money. He further deposed that the place of occurrence is situated two houses away from his residence, and that the property had been purchased by one Francis from Jose.

PW3 deposed that he had affixed his signature in Ext. P2 scene mahazar.

8. PW4 deposed that at the relevant time, he was working as the Sub Inspector of Police at Chalakudy Police Station. Based on the statement given by PW1, he registered Ext. P3 FIR. He further deposed that he prepared the Ext P2 scene mahazar and submitted an application for recording the statement of PW1 under section 164 of Code of criminal procedure. He stated that Ext. P4 is the arrest memo prepared at the time of arrest of the accused, Ext. P5 is the bail bond executed at that time, and Ext. P6 is the report showing the full address of the accused. He further deposed that after completing the investigation, he filed the final report before the court.

9. To bring home an offence under Section 354A(1)(iii) IPC, the prosecution must prove

that the accused showed pornography against the will of a woman. Under Section 354A(1)(iv) IPC, it must be proved that the accused made sexually coloured remarks. For an offence under Section 294(b) IPC, it must be established that the accused uttered obscene words in or near a public place and that such act caused annoyance to others. Unless these essential ingredients are proved beyond reasonable doubt, the accused cannot be convicted.

10. PW1, the defacto complainant, deposed in line with the prosecution case. However, her evidence is not free from material contradictions and admissions which affect the credibility of the prosecution version. Admittedly, the FIR was registered on 17.12.2018, whereas the alleged incident occurred on 13.12.2018. No satisfactory explanation is forthcoming for this delay, which assumes significance in the light of the admitted prior enmity between the parties.

11. PW1 has admitted that she had attempted to settle the dispute through one Sahajan, a politician, prior to lodging the complaint. She has also admitted that the complaint was prepared with the assistance of an advocate. These circumstances indicate that the complaint was not a spontaneous one, but one made after deliberation.

12. It has further come out in evidence that the original sale agreement was executed between PW1 and the wife of the accused and not with the accused himself. Ext. D1, the copy of the sale agreement, has been admitted by PW1, and she has also stated that she had received the advance amount from the wife of the accused and that she had voluntarily breached the agreement. These facts clearly establish that there existed a civil

dispute between the parties arising out of a contractual transaction.

13. PW1 has also made material contradictions regarding the time of occurrence. While in her chief examination she stated that the incident occurred at about 9:00 a.m., she later stated that she reached the place of occurrence at about 2:00 p.m. This contradiction goes to the root of the prosecution case. Further, Ext. D2 contradiction shows that PW1 denied the existence of any excess 6 cents of land as per the measurement of the Village Officer, which is contrary to her earlier allegations.

14. PW2, who is projected as an eyewitness, does not fully support the prosecution case in material particulars. Ext. D3 contradiction reveals inconsistency regarding the place of occurrence. Though it was later clarified during re-examination that the property was purchased by one Francis from the accused and is situated near the residence of PW2, such inconsistency creates doubt regarding the exact place of occurrence. Pw1 also admitted that the incident was not witnessed by anyone.

15. The alleged place of occurrence is not established to be a public place. In the absence of reliable evidence to show that any member of the public was annoyed, the ingredients of Section 294(b) IPC are not attracted. Further, there is no clear and convincing evidence to prove that the accused showed any pornographic material or made sexually coloured remarks so as to attract Sections 354A(1)(iii) and 354A(1)(iv) IPC. The allegations appear to have arisen in the backdrop of the civil dispute and are not supported by independent or cogent evidence.

16. The learned Assistant Public Prosecutor contended that the testimony of PW1 is

sufficient to prove the case and that minor contradictions do not affect the substratum of the prosecution case. Per contra, the learned counsel for the accused argued that the case is false and motivated by prior enmity, that there is unexplained delay in lodging the FIR, and that the admissions of PW1 along with Ext. D1 to D3 demolish the prosecution case. It is further contended that the essential ingredients of the offences are not proved.

17. On a careful evaluation of the evidence on record and the rival submissions, this Court finds that the prosecution has failed to establish the guilt of the accused beyond reasonable doubt. The unexplained delay in lodging the FIR, the admitted civil dispute, the attempt to settle the matter through a third party, and the preparation of the complaint with legal assistance, all create serious doubt regarding the genuineness of the prosecution case. The contradictions in the evidence of PW1 and PW2 further weaken the prosecution case. The essential ingredients of the offences alleged have not been proved.

16. Point No.4:-

In the result, accused is found not guilty of the offence punishable under Sections 354(A) (1)(iii) ,354 A(1) (iv) and 294(b) of Indian Penal Code and is accordingly acquitted under Section 248 (1) of Criminal Procedure Code. His bail bond shall stands discharged and he is set at liberty.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court, this the 13th day of April, 2026

Sd/-
Judicial First Class Magistrate,
Chalaky.

APPENDIX

Prosecution witness

PW1/CW1	Shaji	Defacto complainant
PW2/CW3	Mallika	Eye witness
PW3/CW4	Neethu	Scene mahazar witness
PW4/CW6	Jayesh Balan	Sub Inspector of Police Chalaky

Defence witness :

Nil		
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Court witness :

Nil		
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Prosecution Exhibits:

1	Ext.P1/PW1	F.I.Statement 17.12.2018
2	Ext.P2/PW3	Scene mahazar 18.12.2018
3	Ext.P3/PW4	F.I.R 17.12.2018
4	Ext.P4/PW4	Arrest memo 27.12.2018
5	Ext.P5/PW4	Bail bond 27.12.2018
6	Ext.P6/PW4	Address adding report 27.12.2018

Exhibits for defence:-

1	D1	Photocopy of agreement
2	D2	Statement of PW1 (subject to proof)
3	D3	Relevant portion of statement of PW2

Material objects:-

Nil	
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Sd/-
Judicial First Class Magistrate,
Chalakydy.

//true copy// Judicial First Class Magistrate,
Chalakydy.