

**IN THE COURT OF SPECIAL JUDGE, FAST TRACK SPECIAL COURT,
KUNNAMKULAM (Sessions Division Thrissur)**

Present:

Smt. LISHA.S., Special Judge

Tuesday, the 31st day of March 2026/10th day of Chaithram 1948.

SESSIONS CASE No. 812/2025

Cr. No. 605/2025 of Kunnamkulam Police Station

Complainant : State of Kerala, represented
by Inspector of Police, Kunnamkulam Police Station.
By Special Public Prosecutor
Adv. Sri. K.S. Binoy

Accused : Nishad, aged 40 years, S/o. Kunjippa, Raruvalappil veedu,
Karikkad village, Akkikkavu desom, Kunnamkulam taluk,
Thrissur district.
By Adv. Anilkumar

Offence : Under Section 18 r/w 3 (a), 8 R/W 7 and 4 (2) R/W 3 (a) of
the POCSO Act.

Plea of the accused : Not guilty

Finding : Guilty

Sentence or Order

- 1 The accused is sentenced to undergo rigorous imprisonment for a period of 20 (Twenty) years and to pay a fine of Rs. 50,000/- (Rupees Fifty thousand only) under Section 4 (2) r/w 3 (a) of the POCSO Act. In default of payment of fine, he shall undergo rigorous imprisonment for a further period of 10 (Ten) months.
- 2 The accused is also sentenced to undergo rigorous imprisonment for a period of 10 (Ten) years and to pay a fine of Rs. 25,000/- (Rupees Twenty five thousand only) under Section 18 r/w 3 (a) of the POCSO Act. In default of payment of fine, he shall undergo rigorous imprisonment for a further period of 5 (five) months.
3. The accused is also sentenced to undergo rigorous imprisonment for a period of 3 (Three) years and to pay a

fine of Rs. 10,000/-(Rupees Ten thousand only) under Section 8 r/w 7 of the POCSO Act. In default of payment of fine, he shall undergo rigorous imprisonment for a further period of 2 (two) months

- 4 Substantial sentences of imprisonment shall run concurrently.
- 5 The accused is allowed to set off under Section 468 of the Bharatiya Nagarik Suraksha Sanhita, the period of detention already undergone in judicial custody from 20.05.2025 to 14.08.2025 (87 days)
- 6 On realization of the fine amount an amount of Rs.50,000/-(Rupees Fifty thousand only) shall be paid as compensation to PW1 under Section 395 (1)(b) of the Bharatiya Nagarik Suraksha Sanhita.

DESCRIPTION OF THE ACCUSED

Sl. No.	Name of the Police Station and Crime.No. of the offence	Name/s	Father's Name	Occupation	Age	Residence
1	Cr. No. 605/2025 of Kunnankulam Police Station	Nishad	Kunjippa	--	40	Raruvallappil veedu, Karikkad village, Akkikkavu desom, Kunnankulam taluk, Thrissur district.

DATE OF

Occurrence		Date of complaint		Apprehension		Release on Bail		Committal	
13.04.2025 and 4.05.2025		19.05.2025		20.05.2025		14.08.2025		--	
Commencement of Trial	Commencement of evidence	Close of trial	Sentence or Order	Service of copy of Judgment or finding on accused	Explanation for delay	Period of detention undergone during investigation, inquiry or trial for the purpose of section 468 of the B N Suraksha Sanhita			
21.10.2025	23.01.2026	28.03.2026	31.03.2026	31.03.2026	No delay	From 20.05.2025 to 14.08.2025 (87 days)			

The sessions case having been heard the Special Public Prosecutor and the counsel for accused on 28.03.2026 and stood over for consideration to this day, I do adjudge and deliver the following:-

JUDGMENT

This case was charge sheeted by the Inspector of Police, Kunnankulam Police Station in Cr. No.605/2025 against the accused alleging offences punishable under Section 4 (2) R/W 3 (a) and 8 R/W 7 of the POCSO Act.

2. Prosecution Case in brief is as follows:- The accused was the Mahout of an elephant named 'Akkaramel Bahul', owned by Najeeb. He used to tie up the elephant in the property owned by Valsala, which is near his house. The accused tempted the survivor, a boy aged 15 years stating that he will train the survivor to become a Mahout and asked the survivor to reach his house at Akkikkavu On 13.04.2025 the survivor reached the house of the accused. On that day at 12 midnight, while the survivor was sleeping in the room on the southern side of the western end of the varantha of the house of the accused, bearing No.16/455 of Kadavalloor Grama Panchayath, the accused with sexual intent attempted to insert his penis into the anus of the survivor. Thereafter, on 04.05.2024 at 2 am, in the property on the back side of the aforesaid house, in which the elephant was tied up, he inserted his penis into the mouth and anus of the survivor and also, with sexual intent bite on the lips of the survivor. The accused thereby committed the offences punishable under Section 4 (2) R/W 3 (a) and 8 R/W 7 of the POCSO Act.

3. The prosecution in this case was initiated on the basis of Ext.P1, FI statement given by PW1, the survivor to PW8, WCPO, Kunnankulam Police Station. On the basis of the same, Ext.P18 FIR was registered as Cr. No.605/2025 of Kunnankulam Police Station by PW14. PW18, the Inspector of police, Kunnankulam Police station conducted the investigation and final report was filed before the Hon'ble Ist Additional District & Sessions (Special) Court Thrissur. The case was taken on file as SC. 812/2025. Thereafter, it was made over to this Court for disposal.

4. The accused, who was in Judicial custody, was produced before the Court. On 14.08.2025, he was enlarged on bail. Copies of relevant prosecution records were furnished to the accused in compliance of section 230 of the Bharatiya Nagarik Suraksha Sanhita.

5. Thereafter the learned Special Public Prosecutor opened the prosecution case under Section 249 of the Bharatiya Nagarik Suraksha Sanhita.

6. Upon consideration of the records of the case and documents submitted therein, and after hearing the submissions of the learned Special Public Prosecutor and the counsel for the accused in this regard, charge was framed against the accused for the offences punishable under Section 18 r/w 3(a), 8 R/W 7 and 4 (2) R/W 3 (a) of the POCSO Act. The charge so framed was read over and explained to the accused to which he pleaded not guilty and claimed to be tried.

7. On the side of the prosecution, PW1 to PW18 were examined and Ext.P1 to P29 were marked. CW3, 7, 8, 11, 16, 18, 20 and 24 were given up.

8. On the closure of the prosecution evidence, the accused was examined under Section 351 (1) (b) of the Bharatiya Nagarik Suraksha Sanhita. He denied all the incriminating circumstances brought out against him during evidence. He contended that he has not committed any offence.

9. After the examination of the accused under Section 351 of the Bharatiya Nagarik Suraksha Sanhita, both sides were heard under Section 255 of the Bharatiya Nagarik Suraksha Sanhita. As there was no circumstances to acquit the accused under Section 255 of the Bharatiya Nagarik Suraksha Sanhita, he was called upon to enter on his defence. No defence evidence adduced.

10. Heard both sides under Section 257 the Bharatiya Nagarik Suraksha Sanhita

11. **The following points arise for consideration**

- 1 Whether PW1 was a child as defined under section 2(d) of the POCSO Act as on the date of alleged incident?
- 2 Whether on 13.04.2025 at 12.00 midnight, and on 04.05.2025 at 2.00 am, the accused attempted to insert in his penis into the anus of PW1?
3. Whether on 04.05.2025 at 2.00 am, the accused inserted his penis into the mouth of PW1?
- 4 Whether on 04.05.2025 at 2.00 am, the accused with sexual intent bite on the lips of PW1?
- 5 Sentence or Order?

12. **Point No.1:** According to the prosecution PW1, the survivor in this case was a child aged 15 years and five months, as on the date of the alleged incident and

his date of birth is on 22.12.2009. In order to prove his age, the prosecution relied upon the deposition of PW1, the survivor, PW11, the Registrar Birth and Death, Palakkad Municipality who issued Ext. P12 Birth Certificate and PW12 the Principal ASMM the Higher Secondary School, who issued Ext. P14 the Extract of the School Admission Register of PW1.

13. PW1 deposed that his date of birth is on 22.12.2009. It was not denied by the accused during cross examination. PW11 the Registrar Birth and Death, Palakkad Municipality issued Ext.P12 Birth Certificate of PW1 along with Ext. P13, Certificate under Section 63 Bharatiya Sakshya Adhinyam. He deposed that as per Ext. P12 the date of birth of PW1 is on 22.12.2009 and the birth was registered as per the intimation received from the District Hospital Palakkad. PW12 the Principal deposed that Ext. P14 is the extract of the School Admission Register of PW1 and the name and address of PW1 is recorded in Ext. P14. According to her, the date of birth of PW1 is on 22.12.2009 and the admission was given on the basis of the transfer certificate issued from the school in which he was previously admitted. During cross-examination she deposed that she has not verified the birth certificate of PW1 and the procedure for admission after change of school is to give admission on the basis of the Transfer Certificate issued from that school. It is to be noted that the date of birth of PW1 is not challenged by the accused. During cross-examination of PW1 there is no contention that PW1 was not a child as on the date of the alleged incident.

14. The alleged incident occurred on 13.04.2025 and 03.05.2025. The date of birth of PW1 is on 22.12.2009. So it can be seen that PW1 was aged 15 years, four months and 10 days as on 03.05.2025, the date of the last incident alleged. As per section 2 (d) of the POCSO Act, 'Child' means any person below the age of 18 years. The evidence adduced by the prosecution would prove that PW1 was a child at the time of alleged incident. This point is answered in favour of the prosecution.

15. **Point Nos. 2 to 4:** The accused is facing trial on the allegations that on 13.04.2025, at 12.00 midnight, in the room in his house at Akkikkavu, and on 03.05.2025 at 2.00 am, in the property near his house, he attempted to insert his penis into the anus of PW1. So also on 03.05.2025, at 2.00 am in the aforesaid property, he inserted his penis into the mouth of PW1 and with sexual intent bite on the lips of PW1. It is alleged that he committed the offences punishable under Section 18 R/W 3 (a), 4 (2) R/W 3 (a) and 8 R/W 7 of the POCSO Act.

16. In order to prove the allegations altogether 18 witnesses were examined from the side of the prosecution. Ext.P1 to P29 were also marked. PW1 is the survivor and PW2 is his mother. Their evidence can be considered later in detail.

17. PW3 is a neighbour of the accused. According to him, the accused was a Mahout and he used to tie up the elephant in the property near their house. According to PW3, subsequently he came to know that a POCSO case is registered against the accused. During cross-examination he deposed that he does not know the owner of the elephant. According to him, the property in which the elephant was kept is around

150 meters away from his house and the house of the accused is also around 150 meters away from his house. According to him, the house of the accused is on the northern side of said property.

18. PW4 is the WCPO Kunnampulam Police Station. According to her, she was present when the Inspector (PW18) arrested the accused. She signed Ext.P19 arrest memo as a witness. She also deposed that PW18 seized the dress and the mobile phone of the accused. She witnessed the same and signed Ext.P2 and P3 seizure mahazars as a witness. According to her, at the time of preparing the scene mahazars she was present and the mahazars were written by her as instructed by PW18 and she signed the same as the scribe. Ext.P4 and P5 scene mahazars were identified by her. According to PW4, Ext.P4 and P5 were prepared in the presence of PW1. She also deposed that when the blood samples of the accused were seized by PW18. She was present and she signed Ext.P6 mahazar as a witness. During cross-examination she deposed that her duty started on 20.05.2025 at 9.00 am and it was up to 7.30 pm. A suggestion was made that till then she was in the police station and she answered 'yes'. According to her, two items were seized as per Ext.P2 seizure mahazar. It was further suggested that on 20.05.2026, she has not left the police station for any duty and she answered that she went to Akkikkavu for preparing the scene mahazars. She specifically stated that two mahazars were prepared, one at the house of the accused and the other one at the property on the back side of the house. According to her, the house was facing towards north and the room in which the

incident occurred is on the south-western side. She added that she does not remember the exact direction. According to her, the other place of occurrence is on the southern side of said house at a distance of 100 meters. She also deposed that it was PW1, who showed the places of occurrence and she prepared the mahazar as instructed by the Inspector. She further stated that the mother of PW1, two neighbours, the family members and the police officers were present at the place of occurrence. She further deposed that they went to the place of occurrence at around 4.45 pm.

19. PW5 is the Casualty Medical Officer Taluk Hospital, Kunnamkulam. According to her, on 20.05.2025 she examined PW1 and PW1 gave the history that on 13th April, 2025, the survivor got the phone call from the person, Anapappan, around 5.00 pm and the survivor went to him and spent time with him till 9,00 pm, then both went to sleep. Around 12.00 am the survivor was touched by the Anapappan on his buttock, removed his trousers and lied on the survivors body. Tried to penetrate his penis into survivors anus. But the survivor shouted and scared him off. Survivor left the house. On May 3rd, survivor was sexually harassed by this person, forcefully tried for oral sex, did once, the survivor bite him and then he stopped. Survivors lips was bitten by the above person and tried for anal sex. On examination, there was no injury. According to PW5, her opinion is that according to the history given by the survivor, he may have been assaulted sexually, but on examination, findings were not suggestive. Ext.P7 is the Certificate issued by PW5.

20. PW5 also deposed that on the same day, she examined the accused and conducted the potency examination and issued Ext.P8 potency certificate. According to her, there was nothing to suggest that said person is incapable of performing the sexual act.

21. PW6 is the CPO and according to her, she produced PW1 for medical examination and also for recording the statement under section 183 of the Bharatiya Nagarik Suraksha Sanhita. During cross-examination she deposed that on that day, she was on emergency duty and from 8.00 am to 8.30 pm and she was present in the police station. As directed by the SHO she had taken PW1 to the hospital at around 3.00 pm and on the same day after 3.40 pm, PW1 was taken to the Magistrate.

22. PW7 is the CPO who had taken the accused for potency examination. According to him, he received the blood samples collected by the Doctor and handed over the same to the Investigating Officer. During cross-examination he deposed that on 20.05.2025, he was on emergency duty from 9.00 am, to 8.00 pm and in between he went to the hospital for medical examination of the accused. According to him, CPO Pareed was also present with him and medical examination of the accused was conducted in between 3.00 pm and 4.00 pm. According to him, did not see PW1 and his mother in the hospital at that time. He further stated the blood samples were collected after the potency examination.

23. PW8 is the WCPO who recorded Ext.P1 FI statement of PW1. She deposed during cross-examination that she was on emergency duty and from 9.00 am

to 6.30 pm she was present in the police station. According to her, PW1 stated that he is residing at Athipotta Palakkad. She also deposed that PW1 has not stated the reason for the delay in lodging the complaint. According to her, Ext.P1 is recorded in the presence of PW2, the mother of PW1. After recording the statement she handed over the same to PW14, the Sub Inspector. PW9 deposed that on 15.06.2025 at 1.30 pm the mother of PW1 produced the dress of PW1 and PW18 seized the same after preparing Ext.P9 seizure mahazar. He signed the same as an attester. During cross-examination he deposed that a full sleeve shirt, trouser and dhoti were the dress produced by PW2. According to him, PW3 Anjali and PW2 were present at that time.

24. PW10 was the Secretary in charge of Kadavallloor Grama Panchayath. According to him, he issued Ext.P10 Ownership certificate of building No. 455 in Ward 16 along with Ext.P11 Certificate under Section 65 B of the Evidence Act. He also deposed that it was taken from the K-Smart Software. During cross-examination he deposed that he has not inspected the building and he issued the certificate as per the records kept in the Office. According to him, said document is the authentic document to prove the ownership of the building.

25. PW11 and 12 were examined to prove the age of PW1. PW13 is the village officer who prepared Ext. P15 and P16 sketch of the place of occurrence. She also issued Ext. P17 Possession Certificate with respect to the second place of occurrence. During cross-examination she deposed that the first place of occurrence

is the room on the south-western side of the house and the second place of occurrence is on the south-western side of the house of the accused. She also deposed that she had given statement to the Police on 18.06.2015.

26. PW14 is the Sub Inspector of Police Kunnamkulam Police Station who registered Ext.P18 FIR on the basis of Ext.P1. According to him, he went to the house of the accused and had taken the accused into custody and kept him in the Police Station.

27. PW15 deposed that he is the Mahout of an elephant named 'Akkaramel Prasad' owned by PW16. According to him, PW16, is the owner of another elephant named 'Akkaramel Babulal' and the accused used to be in possession of said elephant. He further deposed that he got acquainted with PW1 at Vandithavalam when PW1 came there along with the elephant 'Akkaramel Babulal'. While returning from Vandithavalam the first Mahout of Akkaramel Prasad offered lift to PW1 in the vehicle in which Akkaramel Prasad was transported. PW1 was crying and PW15 asked him the reason. Then PW1 informed that the accused misbehaved towards him. PW15 asked PW1 to inform the police or the army. During cross-examination PW15 deposed that the accused is the person who deals with the food for the elephant. PW1 was assisting the accused to arrange food for the elephant. According to PW15, there occurred a dispute between PW1 and the accused, as the accused informed the owner of the elephant that PW1 is not arranging sufficient food for the elephant. According to him, he heard about the Child Line but he has not advised

PW1 to lodge complaint before the Child Line. It was suggested that PW1 cried as the accused not allowed him to continue his job. PW15 answered 'yes'. According to him, he has no direct knowledge about the dispute regarding the arrangements of the food for the elephant and he heard the same when other mahouts were discussing about it.

28. PW16 is the owner of two elephants named Akkaramel Babul and Akkaramel Prasad. According to him, the accused used to take the elephant for programs. Subsequently the police informed that there is a case against the accused. He further deposed that PW15 is the Mahout of one of his elephants. During cross-examination he deposed that the accused is an agent who takes bookings for the elephant and he is the person who deals with the food of the elephant. He further stated that he has no acquaintance with PW1 and does not know whether there was any dispute in connection with providing food for the elephant. He deposed that he has not given statement to the police that he saw PW1 along with the accused. PW17 is the husband of the sister of the mother of the accused. According to him, he came to know that a case is registered against the accused. He further stated that police came to the house of the accused and also to the property behind the house of the accused and prepared Ext. P4 and P5 scene mahazars. He further deposed that the accused is the person who deals with elephant and he used to keep the elephant in the property near his house and Ext.P5 was prepared in that property.

29. PW18 is the Inspector of Police, Kunnankulam Police Station. According to him, he inspected the place of occurrence and prepared Ext.P4 and P5 scene mahazars. He arrested the accused and seized the mobile phone and dress of the accused after preparing seizure mahazars. The seized articles were produced before the Court. He collected the medical examination report of PW1, potency certificate of the accused, Abstract of the School Admission Register, Birth certificate, Sketches of the places of occurrence, Ownership Certificate and Possession certificate and produced the same before the Court. He filed report regarding the address of the accused and also seized his blood samples. He filed report for correcting the name and address of PW1. He seized the dress of PW1 and produced the same before the Court. He completed the investigation and filed the final report.

30. In order to prove the occurrence the prosecution mainly relied upon the deposition of PW1 the survivor and PW2 his mother. PW1 deposed that his native place is in Palakkad and his father is from Palani. During the period of the alleged incident he was residing at Valanchery in Malappuram District. He was born on 22.12.2009 at the Govt. Hospital Palakkad. During 2025 he was residing at Valanchery in Malappuram District. He has been residing at Valanchery along with his mother and step father, Rafeeq. He further deposed that he likes elephants very much and got acquaintance with the accused who used to bring elephants for festivals. They exchanged mobile numbers. On 13.04.2025, the accused called him and informed that the elephant is in his house. He reached the house of the accused

on that day at 5.00 pm. The elephant was in Musth. At around 10 pm, he went to sleep in a room in the house of the accused in which the trappings for adorning the elephant were kept. At around 11.30, he felt somebody lying on him. It was the accused and the accused forcefully removed his trousers and attempted to insert his penis into his anus. When he started to cry, the accused left the room. On the next day, early morning he left the house of the accused without intimating anyone. Thereafter, the accused called him several times. On 03.05.2025 again the accused called him and due to his fascination towards the elephant he went to the house of the accused. On that day he slept in the property in which the elephant was kept. At around 3.00 am on 04.05.2025, the accused came there and forcefully inserted his penis into his mouth, holding forcefully on his cheeks. Then the accused removed the trousers of PW1 and inserted his penis into the anus of PW1. PW1 returned to his house at Valanchery without intimating any one. After 10 days the main mahout called him and requested him to help to arrange food for the elephant. On 13.05.2025, he reached Akkikkavu and went to Vandithavalam with the elephant for the festival. After the festival in the morning on 14th, he cut coconut leaves from three coconut trees and gave the same to the elephant and went to sleep. Then the main mahout and the accused scolded him for sleeping and created problems. Hence he returned from there in the vehicle of another elephant with PW15. PW15 asked him why he appears to be worried. Then he informed PW15 about the sexual assault committed by the accused. PW15 asked him to inform his parents. PW1 stated that

he is afraid of them and that they will not react. Then PW15 asked him to search and find the contact number of the Child line from the Google and to intimate. He contacted the Child Line and from the Child line it was intimated to the Alathoor Police. They asked him to report at the Kunnamkulam Police Station. Accordingly he along with his mother reached Kunnamkulam police station and had given Ext.P1 FI Statement. He was taken for Medical examination and he also gave statement to the Magistrate. So also he had shown the places of occurrence to the police. According to him, PW16 is the owner of the elephants named Akkaramel Prasad and Akkaramel Babulal. He also deposed that he identified the accused whose photograph was sent to the mobile phone of his mother.

31. During cross-examination he deposed that he went to the Child Line and they recorded his statement. Thereafter he had given statement to the Police. According to him, he heard about child line on 14.05.2025 from PW15 for the first time. He was asked to reach the Child line on that day itself, but he went there only on 17.05.2025 and his statement was recorded. On 19.05.2025 in the evening he went to Kunnamkulam Police Station. According to him, on 20.05.2024 the photo of the accused was sent to the mobile phone through whats app by the police and he identified the accused. It was at 8.00 am, and in between 10.00 am, and 12.00pm, he saw the accused at the police station. According to him, he has been residing at Valanchery for the last two years. According to him, he has not given statement to the police that after the incident his residence was shifted to Valanchery. He further

stated that he was asked by the CWC to give statement before the Alathoor Police. Subsequently, as the incident occurred at Kunnamkulam, he was directed to give statement before the Kunnamkulam Police. He further deposed that he gave the address at Athipotta while giving statement before the Child Line and the police. He further deposed that he gave statement to the police to the effect that his house is at Athipotta. During cross-examination he also deposed that the accused is not the main mahout of the elephant. The accused deals with the food of the elephant. PW1 also deposed that the accused is residing with his wife and children. According to him, he was reluctant to inform the incident to others and due to fear he has not lodged complaint till 20.05.2025. He further deposed that he was paid Rs.250/- per day for assisting the accused for arranging food for the elephant. According to him, he can lift 10-12 coconut leaves at a time. He also shown the places of occurrence to the police. It was suggested that he is in the habit of consuming alcohol, smoking and using narcotic drugs. He denied the same and deposed that he used drugs twice when the accused gave the same to him. It was suggested that he had dispute with the accused, the main mahout and also the owner of the elephant. PW1 answered that there was no quarrel with the owner, but there was a quarrel with the accused and the other mahout. He admitted that the dispute was that the accused and the other mahout informed the owner that sufficient food is not provided to the elephant. According to him, the accused contacted his mother and stated something to her and then PW1 called his mother and informed about the incident. His mother asked him to reach

home. He denied the suggestion that he has enmity towards the accused. It was suggested that he threatened to lodge false complaint against the accused. He denied and deposed that what he deposed is what actually happened with him. According to him, the accused threatened his mother over phone that PW1 will be killed. He also deposed that he produced a trouser, a dhoti and a shirt before the police. It was the dress which he wore on 13.04.2025. It was suggested that physically he is healthier than the accused and the accused is not capable to use force against him. PW1 denied the same. It was also suggested that due to the influence of the drugs, he had hallucinations and he lodged the complaint in tune with the same. PW1 denied said suggestion.

32. PW2 is the mother of PW1. According to her, PW1 is her youngest son born in her first wedlock. He discontinued the studies in 10th standard and he was very much fond of animals especially elephants. According to her, from the Child Line, it was directed to lodge complaint before the police at her native place. As she informed her inconvenience to go to her native place, she was asked to lodge complaint before the Kunnankulam Police. According to her, PW1, informed her that the accused committed sexual assault at his house and also in the property near to his house. Thereafter, the police sent the photograph of the accused to her mobile phone and PW1 identified him. According to her, she accompanied PW1 for medical examination, for giving statement to the Magistrate and also for showing the places of occurrence to the police.

33. During cross examination she deposed that PW1 informed the incident first to the child line and then to her second husband. Thereafter, she was contacted from the Child Line and on 19.05.2025, she went to the Child line and thereafter went to Kunnankulam Police Station. She further deposed that PW1 has not stated her that he is working with the accused. She does not know who is the owner or the mahout of the elephant. She also deposed that she does not know whether there was any dispute between PW1 and the mahout. It was suggested that due to the enmity that the accused informed the owner of the elephant that PW1 is not doing his work properly, a false case was fabricated. She denied said suggestion. It was also suggested that due to the fear that PW1 may lose his job, a false case was fabricated. PW2 denied.

34. Now, the question to be considered is whether the evidence adduced by the prosecution is sufficient to prove the guilt of the accused. The offences alleged against the accused are punishable under Section 18 r/w 3(a), 8 R/W 7 and 4 (2) R/W 3 (a) of the POCSO Act. It is true that in a criminal case the burden of proving everything essential to establish the charge against the accused lies upon the prosecution. As per section 29 of the POCSO Act where a person is prosecuted for committing or abetting or attempting to commit an offence under Section 3, 5, 7 and 9, the Special Court shall presume that such person has committed or abetted or attempted to commit the offence as the case may be, unless the contrary is proved. It is settled that the presumption under section 29 of the POCSO Act does not in any

way affect the obligation of the prosecution to produce admissible evidence which, if accepted, would constitute the offence and when the prosecution produces admissible evidence to prove the foundational facts, constituting the offence, accused must prove that he did not commit the offence, on the principle of preponderance of probability.

35. In this case, there is an allegation that the accused committed the offence under Section 3 and 7 of the POCSO Act. So the foundational facts to be proved by the prosecution are (1) that PW1 was a child as on the date of the alleged incident and (2) that the accused committed penetrative sexual assault or sexual assault on him. I had already found that PW1 was a child as on 03.05.2025, that is on the date of the last incident alleged. Now the question is whether the evidence adduced would prove the commission of sexual assault as alleged.

36. The only direct evidence available in this case to prove the incident is the evidence of PW1, the survivor. There is no doubt that a conviction for an offence of sexual assault can be based on the sole testimony of the prosecutrix if it is reliable, unimpeachable and if there is no infirmity. All that is required is that there must be additional evidence rendering it probable that the story of the complainant is true and that it is reasonable to act upon.

37. Before analyzing the evidence, I shall consider the facts admitted by the accused. The accused admitted that PW1 is known to him. It is also admitted that the accused was the person, who is managing the elephant, owned by PW16. It is also not denied that the elephant was used to tied up in the property near the house of the

accused. It is also admitted that PW1 worked with the accused and assisted him to provide food for the elephant. The only contention raised by the accused is that PW1 deposed that the accused is the mahout of the elephant named Babulal but PW16, the owner of the elephant deposed that the accused is not the mahout, but he is the person who was looking after the food of the elephant and also an agent through whom the programs are booked. Learned counsel for the accused argued that this would show that what is stated by PW1 is not correct and hence his evidence is not relevant. It is to be noted that as I had already stated, it is admitted that the accused was managing the elephant owned by PW16. It is also admitted that PW1 was assisting the accused to provide food for the elephant. It is a matter of common knowledge that generally the people are addressing the persons working with an elephant as mahouts, without considering whether he is the person providing food or the person assisting the mahout. So only for the reason that PW1 deposed that the accused was the mahout of the elephant, it cannot be found that his evidence is not reliable. It is also to be noted that whether the accused is a mahout or the person arranging the food for the elephant is not a relevant fact in this case, especially when it is admitted that PW1 was working with the accused for the elephant owned by PW16.

38. In this background, I shall analyze the evidence adduced by the prosecution. It is to be noted that PW1 specifically deposed that on 13.04.2025 at around 11.00 pm, while he was sleeping in the room in the house of the accused at Akkikkavu, the accused came to that room, forcefully removed his trousers and

attempted to insert the penis of the accused into his anus. He also deposed that on 03.05.2025, in the night at around 2.00 am, in the property in which the elephant was tied up, while he was sleeping, the accused, forcefully inserted his penis into the mouth of PW1 and also attempted to insert his penis into his anus. He also deposed that the accused bite on his lips. Penetration of the penis to any extent in to the vagina, mouth, urethra or anus of a child, amounts to penetrative sexual assault as per section 3(a) of the POCSO Act. So also, the touch on vagina, penis, anus or breast of the child or any act with sexual intent which involves physical contact amounts to sexual assault under Section 7 of the POCSO Act. PW1 specifically deposed about the penetrative sexual assault and sexual assault committed by the accused. The ingredients attracting the offence under Section 3 and 7 of the POCSO Act is revealed from his deposition. Hence I find that the presumption under Section 29 of the POCSO Act can be drawn against the accused.

39. No, doubt, the presumption is rebuttable and once the prosecution establishes the foundational facts constituting any of the offences under sections 3, 5, 7 and 9 of the POCSO Act, the burden shifts to the accused to disprove the same. As argued by the learned counsel for the accused now the question to be considered is whether the sole testimony of PW1 is reliable and trustworthy so as to rest conviction on the accused and whether the accused could rebut the presumption against him by raising a probable defence during cross examination of the prosecution witnesses or by adducing cogent evidence.

40. It was argued by the learned counsel for the accused that even the place of occurrence is not proved by the prosecution and the evidence of PW1 regarding the same is not believable and not in tune with the documents produced by the prosecution. He argued that in the FIR in Column No.12 it is stated that the place of occurrence of the incident occurred on 13.04.2025 is the bedroom of the accused and the place of occurrence of the incident allegedly occurred on 03.05.2025 is the Pambu (land) on the back side of the house of the accused. He pointed out that before the Court PW1 deposed that the first incident occurred in the room in the house of the accused in which the trappings for adorning the elephant were kept. So, according to the learned counsel of the accused, the first place of occurrence is not proved by the prosecution. So also he argued that the second place of occurrence is the property allegedly owned by CW11 Valsala, but she was not examined by the prosecution. Also, in the FIR and in the FI statement it is noted that the second place of occurrence is the land on the back side of the house of the accused. He also argued that Ext.P5 scene mahazar would show that the property is not on the back side of the house of the accused. According to him, Ext.P16 sketch would also show that the place of occurrence is not on the back side of the house of the accused.

41. It is to be noted that there are two places of occurrence in this case. One is the room in the house of the accused and the other one is the property adjacent to the house of the accused. It is also to be noted that PW1 in Ext.P1 FI Statement specifically stated that the first place of occurrence is 'a room' in the house of the

accused. It is not stated that it was a bedroom. But in Ext.P18 FIR in Column No.12 it is noted that the first place of occurrence is that the 'bed' room' in the house of the accused. Admittedly, at the time of registering the case the Investigating Officer has not inspected the place of occurrence. Even though it is stated as a 'room' by PW1, in Ext.P1, in Ext.P18 it is written as 'bedroom' and it is not in tune with the statement of PW1. So, it can be seen that only for the reason that in Ext.P18 it is written by the Sub Inspector as bedroom, it cannot be found that the first place of occurrence is changed, especially when PW1 deposed before the Court that it was a room in which the trappings for adorning the elephant were kept.

42. PW1 specifically stated during cross examination that the room is on the right side of the house, when entering into the house. He specifically stated that he has not stated that it was a bedroom. Ext.P4 is the first scene mahazar prepared on 20.05.2025 by PW18 and according to PW18 it was shown by PW1. Ext.P4 would show that the place of occurrence is the room on the southern side of the western end of the varantha in front of the house bearing No. XVI/455, which is facing towards north. PW4, the CPO who written Ext.P4 scene mahazar also deposed that said room is on the south western side and according to her, it is on the left side of the house, if viewed standing facing towards the front side of the house. Ext. P15, the sketch prepared by PW13 Village Officer would also show that the first place of occurrence is on the southern side of the western end of the varantha of the house and the house is facing towards north. It is true that the owner of the said house is not examined by

the prosecution. Ext.P10 ownership certificate would prove that it belongs to Pathumma, Raru Valappil, (CW8), the mother of the accused. It is significant to note that the accused has not challenged the fact that he is residing in the said house. PW17 is a close relative of the accused. According to PW17, the accused is the son of the eldest sister of his wife and he is residing near the house of the accused. He also deposed that the police came to the house of the accused and prepared Ext.P4 scene mahazar. So it can be seen that the prosecution has succeeded in proving the first place of occurrence.

43. The other place of occurrence is a property in which the elephant was tied up and according to the prosecution it is a vacant land owned by CW11. Learned counsel for the accused argued that in Ext.P1, PW1 stated that the place of occurrence is the paramba (land) on the back side of the house of the accused. But as per Ext.P5 it is a property not on the back side of the house, but it is property around 150 metres away from the house of the accused. Ext.P5 the second scene mahazar would show that the second place of occurrence is 150 meters away from the house of the accused. It is noted that the house of the accused is around 150 meters north-east from the second place of occurrence. According to PW1, the elephant was tied up in the property near the house of the accused and on 03.05.2025 in the night he was sleeping in that property and in that night the second incident occurred. During cross-examination he deposed that from the house of the accused there is about 100 meters distance to the property in which the elephant was tied up. According to him,

he was sleeping in that property and there was a Tarpaulin sheet as roof, in the place where he was sleeping. His evidence is corroborated by Ext.P5 scene mahazar. PW4 in whose handwriting, Ext.P5 was prepared, also deposed that the second place of occurrence is around 100 meters away from the back side of the house of the accused. PW18 also deposed in tune with the evidence of Pw4. PW17, the relative of the accused also deposed that the elephant was tied up in the property which is on the back side of the house of the accused and said property is a vacant land. According to him, the police prepared mahazar in that property and he signed as a witness. PW13 who prepared Ext.P16 sketch also deposed that the second place of occurrence is on the south-western side of the house of the accused. In Ext.P16 sketch also it is noted that the house of the accused is on the North-eastern side of the second place of occurrence and there is some distance between the two. It is true that the owner of the second place of occurrence is also not examined by the prosecution. It is to be noted that the ownership of the house or the property is not a fact in issue to be considered in this case. The accused not denied the fact that he is residing in that house and also not denied the fact that the elephant was tied up in the vacant land near his house. The existence of the places of occurrence stands proved by the prosecution. PW3 the neighbour and PW17 a relative of the accused had given evidence regarding the places of occurrence. Therefore, I find that the proof regarding the ownership of the places of occurrence is not relevant for the adjudication of the case. The above

discussion would that the case of the accused that the places of occurrence is not proved, is not sustainable.

44. The other argument of the learned counsel for the accused is that PW1 deposed that he informed the incident to the Child Welfare Committee, it was informed to the Alathoor Police and subsequently the FI statement was lodged at the Kunnamkulam Police Station. But no witness is cited by the prosecution from the Child Welfare Committee to substantiate the same. So also he argued that PW1 deposed that he informed about the incident first to PW15, another mahout and PW15 directed him to inform the Child Line and to search the contact number in Google. But PW15 deposed that he does not know anything about Child Line and he instructed PW1 to inform the police or the Army. So according to the learned counsel for the accused, the evidence of PW1 is not reliable. It is significant to note that in Ext.P18 FIR it is specifically noted that a report was sent by the Child Welfare Officer, Palakkad District to the Station House Officer, Alathoor as DCPU- CHL -PKD/C/632/24 and it was forwarded to the Kunnamkulam Police Station through email and on the basis of the same the mother of the child was contacted, she appeared before the police station along with the child, the statement of the child was recorded and the case was registered. This would show that the case of PW1 that he informed the Child Line is correct. It is to be noted that the case was registered on the basis of the statement given by PW1. The records would show that the intimation was received from the Child line and the same is noted in Ext.P18 with number.

Therefore, I find that the non examination of the witness from the Child Line is not material in this case.

45. So also it is to be noted that PW16 specifically stated that he met PW1 when they reached Vandithavalam along with the elephant for the festival and after the festival PW1 was offered a lift in the lorry in which the elephant was brought there. According to him, PW1 was found disturbed and worried and hence he asked the reason. PW1 informed that the accused sexually assaulted him. PW15 instructed PW1 to lodge complaint before the police or to the Army. It is true that PW15 deposed that he does not know anything about the Child Line and he has not directed PW1 to inform the Child Line. But according to PW1 it was PW15 who advised him to search the contact number of the Child Line in Google. It is significant to note that except said statement all other evidence of PW15 is in tune with the evidence of PW1. PW15 admitted that he instructed PW1 to lodge complaint. Therefore, I find that only for the reason that PW15 denied the statement of PW1 that he instructed PW1 to inform the Child Line, I find that the evidence of PW1 and PW15 cannot be discarded, as it does not affect the evidence regarding the commission of offence.

46. The other contention raised by the learned counsel for the accused is that in Ext.P1, PW1 stated that his house is at Alathoor. But before the court he deposed that during the period of the incident he was residing at Valanchery. According to the learned counsel for the accused, the incident was reported to the Child Line in Palakkad District. He argued that PW1 was residing at Valanchery in Malappuram

district and the fact that it was not informed to the CWC, Malappuram casts some doubt in the case of PW1. It is to be noted that PW1 deposed that his residence is at Athipotta, Alathoor, Palakkad District. According to him, at the time of the incident he was residing in a rented house at Valanchery along with his mother and step father. He specifically deposed that he informed the incident to PW15, while he was in Vandithavalam, Palakkad District and then he searched the number of the Child Line and informed. Then he was contacted from the Child Line palakkad. It is to be noted that PW1 is a child aged 15 years who discontinued his studies in 10th standard. Admittedly, he was residing with his mother and step father. PW2 the mother of PW1 deposed, during cross-examination that it was not the step father of PW1 but only a person with whom she entrusted PW1 while she was away from home for her work. It is also admitted that at that age of 15 years PW1 was working and assisting the accused for arranging food for the elephant. He specifically deposed that there was no one for him to reveal the incident in his house and as he knows that his mother and stepfather will not react, he has not informed them about the incident. Considering the family background, social economic and the educational background of PW1, I find that there is nothing to disbelieve his version that he himself searched the number of the Child Line and informed the incident and he was contacted from the Child Line Palakkad. Admittedly, at the time of intimating the Child Line, he was in Vandithavalam, a place in Palakkad District and his permanent address is also in

Palakkad District. Therefore I find that there is nothing doubtful as argued by the learned counsel for the accused.

47. Another argument of the learned counsel for the accused is that there is delay in lodging the FI Statement and it is not properly explained. It is to be noted that the first incident occurred on 13.04.2025. According to PW1, after that incident he left the house of the accused and thereafter, even though the accused contacted him, he refused to go back. According to him, he has not informed anyone about the incident due to fear. Subsequently on 03.05.2025 the accused again asked him to reach the house of the accused. According to PW1, as he likes elephant very much, he again went to the house of the accused. On that day, in the night the accused repeated the sexual assault. PW1 deposed that after that incident he returned to his house at Valanchery. After one week the main mahout of the elephant contacted him and informed him that there is no one to collect food for the elephant and asked him to reach there. He reached there and they went to Vandithavalam with the elephant for the festival. According to him, it was on 12th May. On 13th May there was feast and on 14th morning after giving food to the elephant, he went to sleep. Then the accused and the main mahout quarreled with him for sleeping and then he returned from there in the vehicle of another elephant and informed PW15 about the incident and thereafter, informed the Child Line. Learned counsel for the accused argued that it is not believable that after the incident on 13.04.2025, PW1 again went to the house of the accused on 03.05.2025 and on 12.05.2025. He also argued that PW1 admitted

that there was a quarrel between the accused and himself regarding the wages and the accused asked him to quit the job. According to the learned counsel for the accused, thereafter, the case was registered and this would show that the case is fabricated.

48. It is significant to note that PW1 specifically stated that after the first incident he went back to his house and due to fear not informed anyone. Thereafter, the second incident occurred on 03.05.2025. According to him, he likes elephant very much and hence he again went to the house of the accused to see the elephant. During cross-examination he deposed that he was reluctant to inform about the sexual assault to others. As I had already stated the social, economic and educational background of PW1 is to be considered in this case. It is to be noted that his father is not with him. His mother is residing with another man and he refers said person as his step father. But his mother stated that said person is not her husband. The sister of PW1 is married and his brother is not residing with him. He discontinued his studies in 10th standard. His evidence would show that he was working at the age of 15. His social background is very poor and we cannot expect a prompt and immediate response from a child who has no one to take care of. What prompted him to reveal the incident is the quarrel with the accused and his denial of work. PW1 is a child aged only 15 years. As revealed from his evidence and the evidence of his mother, he is very much fond of animals, especially elephants. According to him that is the reason why he again went to the house of the accused even after the first incident.

There is nothing suspicious about it and I find that his evidence is believable. It is to be noted that no material contradictions were brought in evidence during cross-examination regarding the two incidents and the overt acts committed by the accused. Hence I find that the delay is properly explained and it is not fatal to the Prosecution.

49. Learned counsel for the accused argued that PW1 admitted that the accused is residing with his family in that house and it is not believable that none of the family members came to know about the incident as it allegedly occurred inside the house. So also it is not believable that eventhough there are neighbours adjacent to the property in which the alleged incident occurred, PW1 has not raised his voice. It is to be noted that PW1 specifically deposed that when the accused attempted to commit penetration on 13.04.2025, he resisted and when he started to cry, the accused left the room. Hence nobody came to know about the incident. So also he deposed that the second incident occurred at 2.00 am, in a vacant land in which the elephant was tied up. The evidence adduced through PW1, PW3, PW4, PW17 and PW18 together with Ext.P4, P5 scene mahazars and Ext.P16 sketch would show that the houses near the second place of incident is around 100-150 metres away from that place. PW1 specifically stated that it was 2.00 am and there was no purpose in raising the voice at that time as nobody will hear. Therefore, I find that only for the reason that no other independent witnesses were examined, it cannot be found that the evidence of PW1 which withstood thorough cross-examination, is not reliable. It was also argued that the step father to whom, the incidents was allegedly informed,

was not examined by the prosecution. It is significant to note that PW1 has no case that he informed the incident to his step father. It was PW2 who stated that PW1 informed the incident to his step father. It is to be noted that there is no case that the step father witnessed the incident and that he has any direct knowledge about the incident. Therefore, I find that the argument of the learned counsel for the accused, is not sustainable.

50. The other argument of the learned counsel for the accused is that there is no medical evidence to support the case of PW1 and PW5, the Doctor specifically deposed that there was no injury and the physical examination is not suggestive of sexual assault. It is to be noted that the last incident occurred on 03.05.2025 and PW1 was examined by PW5 on 20.05.2025, that is after 17 days of the alleged incident. It is also to be noted that PW1 has no case that he sustained any injury at the time of the incident. According to the learned counsel for the accused PW1 deposed that the accused bite on his lips and the fact that there was not even a scar would show that the case of PW1 is false. As I had already stated PW1 has no case that he sustained any injury on his lips. No question was asked during cross-examination whether he sustained any injury. It is to be noted that the history stated by PW1 to the doctor and noted in Ext.P7 medical examination report is corroborating the evidence of PW1. I find that only for the reason that no injuries were found in the medical examination conducted after 19 days of the alleged incident, it cannot be found that the evidence of PW1 is not reliable.

51. It was also argued that though the dress of PW1, the dress of the accused and the mobile phone of the accused were seized and produced before the court, it was not brought in evidence by the prosecution. It is to be noted that the mobile phone was seized as it was found in the possession of the accused at the time of his arrest. The prosecution has no case it was involved in the commission of the offence. Hence I find that it is not a material evidence in this case. So also, the dress of PW1 was produced by his mother and according to PW1, it was the dress which he was wearing on 13.04.2025. It was produced before the police on 15.06.2025, that is after two months of the incident. So also the dress of the accused was seized on 20.05.2025 and as per Ext.P2 seizure mahazar, it was the dress which the accused was wearing at the time of his arrest. Therefore, I find that the failure to bring in evidence, the dress of PW1 and the dress of the accused and the mobile phone, is not fatal to the prosecution as it is not relevant in the above circumstance.

52. Another argument advanced by the learned counsel for the accused is that even-though PW1 is aged only 15 years, he is healthier than the accused, even in appearance and hence it cannot be believed that the accused forcefully committed sexual assault as narrated by PW1. I had already stated that PW1 is a child aged only 15 years. Both the incidents occurred in the night while PW1 was sleeping and it occurred in the house of the accused and in the property near the house of the accused. PW1 specifically stated that on 13.04.2025, he used force and tried to set apart the accused and raised his voice and then the accused left him. On 03.05.2025

the accused forcefully pressed on his cheeks and committed the offence. As argued by the learned Special Public Prosecutor physical appearance cannot be considered as a criteria to evaluate the strength of a person and also we cannot expect that all persons will react in a particular way when an unexpected incident, that too a sexual assault is occurred. I find force in the argument of the Learned Special Public Prosecutor. It is found that only for the reason that there was no physical resistance by PW1 on 03.05.2024 and that there was no injury on the body of the accused, it cannot be found that no incident occurred.

53. The defence put forward by the accused during cross-examination of PW1 is that, there was enmity between the accused and PW1 and due to that enmity a false case was fabricated. It is admitted by PW1 that there was a quarrel between himself and the accused and the main mahout of the elephant in connection with providing food to the elephant. According to him, he has no enmity towards the accused, but he was sad that the accused asked him to quit the work. Then he revealed the incident to PW15. It is to be noted that the accused has no case that PW15 is having any enmity towards him. PW15 specifically stated that PW1 informed him that the accused stated him not to work with the accused and also stated that the accused sexually abused him. Only for the reason that the incident was revealed after a quarrel with the accused, it cannot be found that the case was fabricated due to the enmity. During cross-examination of PW1 it was suggested that PW1 informed a person that he will lodge complaint before the Child Line raising false allegations. He denied the same.

It is to be noted that no such person was examined from the side of the accused to substantiate the same. Therefore, I find that the defence put-forward by the accused is not at all reliable or probable and it is not sufficient to rebut the presumption under Section 29 the POCSO Act., I find that only for the reason that there was no independent witness, it cannot be found that the evidence of PW1 is not reliable.

54. Apart from that during cross-examination of PW1, it was contented that he is in the habit of using Narcotic drugs and under the influence of the same he had some hallucinations and due to the said hallucinations, he gave statement to the police in his imagination. It is true that during cross-examination PW1 stated that twice he used drugs and according to him, it was given by the accused. He denied the suggestion that the allegations are his hallucinations. It is to be noted that if the said contention is taken into consideration, it is totally and mutually contradictory with the contention of the accused that due to the enmity, PW1 fabricated a false case against the accused. I find that the mutually contradictory defense raised by the accused itself, is a circumstance which probalizes the case of the accused.

55. As I had already stated, the evidence of PW1 is corroborated by the evidence of PW2, and Ext.P1 FI statement and Ext.P7 medical examination report. The evidence of PW1 together with the evidence of other witnesses is sufficient to prove the guilt of the accused beyond reasonable doubt. There is no patent absurdities or inherent infirmities or improbabilities in the prosecution versions. The accused could not create any serious doubt on the veracity of the prosecution case. The facts

and reasons discussed above would prove that the accused failed to rebut the presumption under section 29 of the POCSO Act by adducing any cogent evidence or by raising a probable defence. On the other hand the prosecution has established that the accused committed, sexual assault on PW1, a child aged below 18 years.

56. Now the question is what are the offences proved against the accused. It is alleged that the accused committed the offence punishable under Section 18 R/W 3(a), 4(2) R/W 3(a) and 8 r/w 7 of the POCSO Act. Penetration of the penis to any extent in to the vagina, mouth, urethra or anus of a child, amounts to penetrative sexual assault as per section 3(a) of the POCSO Act. PW1 specifically stated that the accused on 13.04.2025, attempted to penetrate the penis into his anus after removing his trousers. So it can be seen that there was an attempt to commit penetrative sexual assault. Therefore, I find that the accused committed an offence punishable under Section 18 R/W 3 (a) of the POCSO Act. PW1 also stated that on 03.05.2025 in the night at 2.00 am, that is on 04.05.2025 early morning, the accused forcefully inserted his penis into the mouth of PW1 and also attempted to insert into his anus. Hence I find that the accused committed the offence under Section 3 (a) of the POCSO Act and as PW1 is aged below 16 years, he is liable to be punished under Section 4 (2) of the POCSO Act. If a person does any act with sexual intent which involves physical contact without penetration, he is said to commit sexual assault, under section 7 of the POCSO Act. The evidence of PW1 would show that the accused with sexual

intent, bite on his lips. Hence I find that the prosecution has proved that the accused committed the offence punishable under Section 8 r/w 7 of POCSO Act.

57. On analyzing the entire evidence, I find that the prosecution has succeeded to prove beyond reasonable doubt that the accused committed the offences punishable under Section 18 R/W 3(a), 4(2) R/W 3(a) and 8 r/w 7 of the POCSO Act. Point Nos. 2 to 4 are found in favour of the prosecution.

58. Point No.5:

In view of my findings on point Nos. 1 to 4, I find that the accused is guilty of the offences punishable under Section 18 R/W 3(a), 4(2) R/W 3(a) and 8 r/w 7 of the POCSO Act and he is convicted for the said offences under Section 258 of the Bharatiya Nagarik Suraksha Sanhita.

1. PI- 252/2024: Item Nos.1 and 2: Dress of the accused shall be destroyed.
2. PI-250/2025: Mobile phone of the accused: Shall be returned to the accused.
3. PI- 290/2025: Item Nos. 1 to 3: Dress of PW1: Shall be destroyed.
4. PI- 251/2025: Item No.1: Blood sample already forwarded to the RFSL. Hence closed.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in open court on this the 31st day of March 2026.

Sd/-

**LISHA.S.
SPECIAL JUDGE,
FAST TRACK SPECIAL COURT, KUNNAMKULAM.**

59. As this is not a fit case to invoke the benevolent provisions of Probation of Offender's Act, the accused was heard on the question of sentence under Section 258(2) of the Bharatiya Nagarik Suraksha Sanhita. He submitted that he is innocent. According to him, he is the sole breadwinner of his family consisting of his wife and two minor children. He pleaded for mercy.

60. Heard the learned Special Public Prosecutor and the learned counsel for the accused. The Special Public Prosecutor argued that the accused deserves maximum sentence provided for the offence. According to him, the accused committed the grave offence of penetrative sexual assault against a child below 16 years and hence he does not deserve any leniency. The defense counsel argued for leniency.

61. Considering the facts and circumstance, I find that rigorous imprisonment for a period of 20 (Twenty) years and a fine of Rs. 50,000/-(Rupees Fifty thousand only) under Section 4 (2) r/w 3 (a) of the POCSO Act, rigorous imprisonment for a period of 10 (Ten) years and a fine of Rs. 25,000/-(Rupees Twenty five thousand only) under Section 18 r/w 3 (a) of the POCSO Act and rigorous imprisonment for a

period of 3 (three) years and a fine of Rs. 10,000/-(Rupees Ten thousand only) for the offence under Section 8 r/w 7 of the POCSO Act will be sufficient to meet the ends of justice.

In the result,

- 1 The accused is sentenced to undergo rigorous imprisonment for a period of 20 (Twenty) years and to pay a fine of Rs. 50,000/-(Rupees Fifty thousand only) under Section 4 (2) r/w 3 (a) of the POCSO Act. In default of payment of fine, he shall undergo rigorous imprisonment for a further period of 10 (Ten) months.
- 2 The accused is also sentenced to undergo rigorous imprisonment for a period of 10 (Ten) years and to pay a fine of Rs. 25,000/-(Rupees Twenty five thousand only) under Section 18 r/w 3 (a) of the POCSO Act. In default of payment of fine, he shall undergo rigorous imprisonment for a further period of 5 (five) months.
3. The accused is also sentenced to undergo rigorous imprisonment for a period of 3 (Three) years and to pay a fine of Rs. 10,000/-(Rupees Ten thousand only) under Section 8 r/w 7 of the POCSO Act. In default of payment of fine, he shall undergo rigorous imprisonment for a further period of 2 (two) months
- 4 Substantial sentences of imprisonment shall run concurrently.
- 5 The accused is allowed to set off under Section 468 of the Bharatiya Nagarik Suraksha Sanhita, the period of detention already undergone in judicial custody from 20.05.2025 to 14.08.2025 (87 days)

- 6 On realization of the fine amount an amount of Rs.50,000/- (Rupees Fifty thousand only) shall be paid as compensation to PW1 under Section 395 (1)(b) of the Bharatiya Nagarik Suraksha Sanhita.

Dictated to the Confdl. Assistant, transcribed and typed by her, corrected by me and pronounced in open court on this the 31st day of March 2026.

Sd/-
LISHA.S.
SPECIAL JUDGE,
FAST TRACK SPECIAL COURT, KUNNAMKULAM.

APPENDIX

Prosecution Witness:

Rank	Name	Whether Eye witness, Police witness, Expert witness, Medical witness, Other witness	Date
PW1	Survivor	Eye witness	23.01.2026
PW2	Mother of PW1	Other witness	02.02.2026
PW3	Soniya	Other witness	18.02.2026
PW4	Anjali	Police witness	18.02.2026
PW5	Dr. Divya.C. Varghese	Medical witness	19.02.2026

PW6	Aswin	Police witness	19.02.2026
PW7	Rahul	Police witness	19.02.2026
PW8	Jincy	Police witness	20.02.2026
PW9	Jayaraj	Police witness	20.02.2026
PW10	Shaniba	Other witness	20.02.2026
PW11	Riasul Rehman.I	Other witness	21.02.2026
PW12	Sheeja.P.S.	Other witness	21.02.2026
PW13	Sandhya.M.L.	Other witness	21.02.2026
PW14	Vaisakh.D.	Police witness	27.02.2026
PW15	Athul Krishna	Other witness	27.02.2026
PW16	Najeeb	Other witness	12.03.2026
PW17	Kasim	Other witness	12.03.2026
PW18	Shajahan	Police witness	13.03.2026

Defence Witness:

Rank	Name	Whether Eye witness, Police witness, Expert witness, Medical witness, Other witness	Date
		Nil	

Court Witness

Rank	Name	Whether Eye witness, Police witness, Expert witness, Medical witness, Other witness	Date
	Nil		

Prosecution Exhibits

Sl.No.	Exhibit number	Description	Date
1	Exhibit P1/PW1	FIS	19.05.2025
2	Exhibit P2/PW4	Seizure Mahazar	20.05.2025
3	Exhibit P3/PW4	Seizure Mahazar	20.05.2025
4	Exhibit P4/PW4	Scene Mahazar	20.05.2025
5	Exhibit P5/PW4	Scene Mahazar	20.05.2025
6	Exhibit P6/PW4	Seizure Mahazar	20.05.2025
7	Exhibit P7/PW5	Medical certificate	20.05.2025

8	Exhibit P8/PW5	Potency certificate	20.05.2025
9	Exhibit P9/PW9	Seizure Mahazar of dress of PW1	15.06.2025
10	Exhibit P10/PW10	Ownership certificate	
11	Exhibit P11/PW10	63 BSA Certificate	16.06.2025
12	Exhibit P12/PW11	Birth certificate	02.06.2025
13	Exhibit P13/PW11	63 BSA Certificate	02.06.2025
14	Exhibit P14/PW12	Extract of School Admission Register	02.06.2025
15	Exhibit P15/PW13	Sketch	18.06.2025
16	Exhibit P16/PW13	Sketch	17.06.2025
17	ExhibitP17/PW13	Possession certificate	25.06.2025
18	Exhibit P18/PW14	FIR	20.05.2025
19.	Exhibit P19/PW18	Arrest memo	20.05.2025
20	Exhibit P20/PW18	Inspection memo	20.05.2025
21	Exhibit P21/PW18	Arrest notice	20.05.2025
22	Exhibit P22/PW18	47 BNSS Notice	20.05.2025
23	Exhibit P23/PW18	Property list	20.05.2025
24	Exhibit P24/PW18	Property list	20.05.2025
25	Exhibit P25/PW18	Property list	20.05.2025
26	Exhibit P26/PW18	Address report	20.05.2025
27	Exhibit P27/PW18	Correction report	20.05.2025
28	Exhibit P28/PW18	Property list	15.06.2025
29	Exhibit P29/PW18	Forwarding note	23.06.2025

Defence Exhibits

Sl.No.	Exhibit number	Description	Date
		Nil	

Court Exhibits:

Sl.No.	Exhibit number	Description	Date
	Nil		

Material Objects:

Sl.No.	Exhibit number	Description	
1		Nil	

Sd/-
LISHA.S.

**Special Judge,
Fast Track Special Court, Kunnamkulam.**

/True Copy/

**LISHA.S.
Special Judge,
Fast Track Special Court, Kunnamkulam.**

Judgment in SC.812/2025

Date:31.03.2026