

**IN THE COURT OF SPECIAL JUDGE, FAST TRACK SPECIAL
COURT-I, THRISSUR (SESSIONS DIVISION THRISSUR)**

**Present : Smt. Remya Menon, Special Judge
Wednesday, the 18th day of March, 2026/27th Phalguna, 1947**

**Sessions Case No. 644/2024
(Crime No.44/2024 of Viyyur Police Station)**

Complainant : State of Kerala,
Rep. by Inspector of Police, Viyyur.

Rep. by Adv. Suraj. K
(Special Public Prosecutor).

Accused : Abhijith, aged 22 years,
S/o. Manikandan, Kothanathpadi House,
Thrikkanaya Desom, Elanad Village,
now residing at C/o. Maju,
Naduvilpurakkal Veedu, Pambur Desom,
Kuttur Village.

Rep.by Adv. Saji Joseph.

Offence : Under section 354(c) 447 of IPC, 66E
of IT Act & Sec 12 r/w 11(iv) of PoCSO
Act.

Plea of accused : Not guilty.

Findings the: Not Guilty.

Sentence or Order : The accused is found not guilty of offence punishable under section 354(c) 447 of IPC , 66E of IT Act & Sec 12 r/w 11(iv) of PoCSO Act and he is acquitted for the said offence u/s 258 of BNSS.

This Sessions case having been finally heard on 16.03.2026 and stood over for consideration to this day, the court delivered the following:-

JUDGMENT

The accused stand trial for offence punishable under section 354 C, 447 of IPC, 66E and 67 B(b) of IT Act & Sec 13(a) and (c) r/w 14, 12 r/w 11(iv) of PoCSO Act.

2) Prosecution case in a nutshell is as follows: In furtherance of his intention to capture the naked videos of survivor, on 13.01.2024 at 07.30 p.m , a minor girl aged 17 years he criminally trespassed into the backside of the bathroom where the survivor was bathing and took her videos by putting his hand through the exhaust hole on the bathroom wall. Thereby the accused is alleged to have committed offence punishable under section 354C, 447 of IPC, 66E and 67B(b) of IT Act & Sec 13(a) and (c) r/w 14, 12 r/w 11(iv) of PoCSO Act.

3) The criminal law in this case was set in motion as per the statement of the Survivor to CW19. On the basis of the

statement CW20, then Sub Inspector of Viyyur Police station, registered Crime 44/2024 of Viyyur Police Station. CW21 investigated the offence and laid the final report before before the Additional Sessions Court I (Special Judge), Thrissur.

4) Cognizance of the aforesaid offence were taken by the Court in the above case number. On appearance of the accused before that Court, copies of all relevant documents which the prosecution relied upon were furnished to him and he was released on bail. Accused was defended by a counsel appointed by him. Thereafter the case was made over to this court for disposal.

5) On appearance of the accused before this court, the learned Special Public Prosecutor opened the case and records were perused. After hearing the learned Special Public Prosecutor and learned counsel for accused charge was framed Section 354(c) 447 of IPC, 66E of IT Act & Sec 12 r/w 11(iv) of PoCSO Act and read over and explained to the accused. He pleaded not guilty and claimed to be tried.

6) The evidence on the side of prosecution consists of the testimonies of PW1 to PW16 and Exts.P1 to P22 were marked. CW3 CW6 to CW8 and CW18 were given up by learned Special Public Prosecution and she is justified in doing so. On the basis of the prosecution evidence the accused was examined under S 313 (1)(b) Cr.P.C. He denied all incriminating circumstances and

maintained innocence. The accused submitted that he did not own a mobile phone and the mobile phone was not seized from his custody. There is a delay in producing the mobile phone before the court and it has caused prejudice to him. Moreover the grounds of arrest were not mentioned to him which has caused prejudice to him. Exhibit P18 and P19 customer application forms were not signed or filed by him. The mobile numbers written in them are not his. Call details were produced were not of his mobile. The written complaint given by the survivor has not been produced before the court. The survivor and her friends had traveled in the auto rickshaw of his father. There was a dispute with regard to the auto charge. So they had lodged false complaints against him.

7) Thereafter the prosecution and defence were heard u/s.232 Cr.PC. As there were no grounds to invoke the power u/s.232 Cr.PC and order an acquittal, the accused were directed to enter upon their defence. No defence evidence was adduced.

8) Heard the Special Public Prosecutor and learned Counsel for the accused.

9) The points that arise for consideration are as follows:-

- 1) Whether the accused criminally trespassed into the backside of the bathroom attached to the female only room on 13.01.2024 and thereby committed offence punishable u/s

447 of IPC?

- 2) Whether the accused committed voyeurism by capturing nude images of survivor in mobile phone through the exhaust hole on the wall in which exhaust fan is not installed while she was bathing at the above mentioned bathroom and thereby committed offence punishable u/s 354D of IPC?
- 3) Whether the accused with sexual intent, captured nude images of survivor in mobile phone, while she was bathing and thus used her for pornographic purposes through mobile phone for representation of the sexual organs of survivor and for indecent or obscene representation of survivor and thereby committed offence punishable u/s 13(a) & (c) r/w 14 of PoCSO Act?
- 4) Whether the accused committed the above mentioned acts and used criminal force with the intent to outrage the modesty of survivor, a female child and thereby committed an offence punishable u/s 354 of IPC ?
- 5) Whether the accused violated the privacy of survivor, a female child by intentionally knowingly captured the image of her private area without her consent and thereby committed an offence punishable u/s 66E of the Information Technology Act ?
- 6) Whether the accused collected in mobile phone, pornographic material concerning survivor, a female child depicting her in indecent or obscene or sexually explicit manner as state above and thereby

committed and offence punishable u/s 67B(b) of the Information Technology Act?

- 7) Whether the accused committed sexual harassment on survivor a female child by constantly watching or following her directly with sexual intent and same is an offence punishable u/s 11(iv) r/w 12 of the PoCSO Act?
- 8) If found guilty, what is the proper order as to sentence?

10) **Point No 1 to 7** :- The prosecution here seeks to prove that in furtherance of his intention to capture the naked videos of survivor, on 13.01.2024 at 07.30 p.m, a minor girl aged 17 years he criminally trespassed into the backside of the bathroom where the survivor was bathing and took her videos by putting his hand through the exhaust hole on the bathroom wall.

11) The only direct evidence available before this court is the deposition of PW2. A look into her testimony is quite inevitable to understand the nature of evidence available before the court.

12) PW2, the victim in this case deposed that she was living as a paying guest in Maju uncle's house. Her date of birth is 06.03.2006. She was studying German language in Spojenstadt Language Academy. While she was living in the said house, on

13.01.2023 at 07.30 p.m. she went out to take out the dress from the cloth line. At that time she saw Abhijith sitting on the staircase. She went to take a bath. When she was bathing she looked up to take shower gel. She was naked at that time. The exhaust was closed. There she saw a hand holding phone and recording her video. As soon as she looked up, the man pulled out his hand. She dressed up and came out. Her three friends were standing there. She narrated the incident to her friends. They started looking all over the place to find the intruder. But Abjith was sitting there all the while. Indifferent to the entire incident, he remained sitting there. And they felt that he was behaving in a suspicious manner. They all stood there staring at him. But he did not look back or ask anything. After the incident she approached the police who recorded her statement which is marked as Ext P1. Her statement was recorded by PW12 Sreedevi, ASI Viyoor Police Station in the presence of PW1. The mother of one of the friend's of the survivor was examined as PW1. She was told of the incident by her daughter and the survivor. She accompanied PW2 to the police staton to record her statement and before the magistrate.

13) She was also taken to the Magistrate where her statement was recorded. She also showed the place and properties to the police and her additional statement was recorded. Meenankshi, Shivadasan, Elvin, Marin and Jareena were all living with her in the house. The phone she saw was black in colour with a blue round spot on it. According to her, she

identified the accused as the person who recorded the video before the court.

14) PW2 is the mother of one of the friends of PW1 who had assisted her to the police and had accompanied her to the Magistrate. She has only hearsay knowledge of the incident.

15) PW9 is the survivor's father. He deposed that his daughter was living in the house of a man named Maju as paying guest. On 15.01.2024 his daughter informed him of this incident. On 16.01.2024 when the Police came to the place of occurrence, he was also present. He attested Exhibit P10 scene mahazar.

16) PW10 is the person who runs this paying guest facility. He deposed that he was an autodriver is a driver, who had two houses bearing number 251, 249A of Thrissur Municipal Corporation. The houses were owned by his father. In house number 249A, PW2, the survivor was living as a paying guest. The Police came and his son was at the house. He was told that on 13.01.2024 somebody took the video of the survivor while she was bathing. When the girls who lived there informed him, he went to the place of occurrence and he saw Abhijith sitting and watching video. Abhijith was the son of the tenant in the lower storey. When the Police came on 16.01.2024, he accompanied the Police to Abhijith's house. But Abhijith was not there.

17) The sketch of the scene of occurrence, Ext.P2 was prepared and Ext.P3 possession certificate was issued by PW3 showing that the house in which the place of occurrence was situated belonged to Kalyanikutty wife of Shivaraman. Ext.P7, ownership certificate was issued by PW6 Valsakumar.

18) Ext.P8 FIR was registered on the basis of Ext.P1 FIS of PW2 by PW7 Anil kumar, then SI of police, Vayoor. The survivor was examined by Dr. Renuka, PW11 who issues Ext.P11 medical certificate and Ext.P21 potency certificate was issued by PW16, Dr. Lekshmi.

19) The investigation was carried out by PW13, Vipin Das. MO1 mobile phone was seized by him after describing it in Ext.P9 mahazar as attested by PW 8, Manek. He forwarded it to the court by enlisting it in Ext.P15 property list. The mobile was forwarded to the RFSL by Ext.P17 forwarding note and received Ext.P22 RFSL report. He arrested accused after preparing Ext.P12 to P14, arrest memo, inspection memo and arrest intimation notice. The address report, Ext P16, was forwarded to the court. Ext.P19, application form for phone number 9633564170 and Ext.P18, application form for phone number 7994915489 and produced Ext. P20 call detail reports were filed by PW15 K Vasudevan.

20) A look into the evidence would show that the survivor has not seen the accused capturing her video, while she was bathing. Ext P1 was lodged on the basis of high suspicion of the survivor, that the intruder might be the accused based on his indifference after the incident. She has never seen the accused from her bathroom, but just a hand holding the mobile, which she assumed to be that of the accused. The direct nexus herein could have been drawn from the RFSL report which has would give details of retrieved data. But Ext P22, RFSL report clarifies that no nude picture files / video files of any girl was retrieved from the accused's MO1 mobile phone.

21) In Sheila Sebastian V. R. Jawaharaj 2018 (5) Supreme 239, it was held that "Law is well settled with regard to the fact that howsoever strong the suspicion may be, it cannot take the place of proof. Strong suspicion, coincidence, grave doubt cannot take the place of proof. Always a duty is cast upon the Courts to ensure that suspicion does not take place of the legal proof. " The standard of proof in a criminal trial is proof beyond reasonable doubt because the right to personal liberty of a citizen can never be taken away by the standard of preponderance of probability. Conviction cannot be sustained on a mere suspicion of the survivor that the accused remained on the staircase, indifferent the chaos caused by the incident soon after the incident, when no incriminating evidence have been recovered from his mobile.

22) In *Ravishankar Tandon V. State of Chhattisgarh* (2024 in SC 299) the Hon'ble apex court observed that "It can thus clearly be seen that it is necessary for the prosecution that the circumstances from which the conclusion of the guilt is to be drawn should be fully established. The Court held that it is a primary principle that the accused 'must be' and not merely 'may be' proved guilty before a court can convict the accused. It has been held that there is not only a grammatical but a legal distinction between 'may be proved' and 'must be or should be proved'. It has been held that the facts so established should be consistent only with the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty. It has further been held that the circumstances should be such that they exclude every possible hypothesis except the one to be proved. It has been held that there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probabilities the act must have been done by the accused."

23) It is settled law that suspicion, however strong it may be, cannot take the place of proof beyond reasonable doubt. An accused cannot be convicted on the ground of suspicion, no matter how strong it is. An accused is presumed to be innocent unless proved guilty beyond a reasonable doubt. In the light of these guiding principles, there is nothing before the court to prove that the accused guilty of any offence alleged against him.

Hence, these points are found against the prosecution.

24) **Point no. 8** :- In view of my finding on point no 1 to 7, this point does not arise for consideration.

In the result, the accused is found not guilty of offence punishable under section 354(c) 447 of IPC, 66E of IT Act & Sec 12 r/w 11(iv) of PoCSO Act and he is acquitted for the said offence u/s 258 of BNSS. The bail bond executed by him stands cancelled and he is set at liberty forthwith. MO1 mobile phone shall be returned to the accused after the period of appeal and if appeal is preferred as per the orders of the Appellate Court.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in open Court on this the 16th day of March 2026).

Sd/-

**Remya Menon,
Special Judge,
Fast Track Special Court-I, Thrissur.
(In-charge)**

APPENDIX**List of Prosecution/Defence/ Court Witnesses :-****A. Prosecution witnesses :-**

Rank	Name	Whether eye witness, Expert witness, Other witness, Police witness, Medical witness.	Date
PW1	Not disclosed	Mother of survivor's friend	14.01.2025
PW2	Not disclosed	Survivor	22.08.2025
PW3	James P P (VO)	Other witness	23.08.2025
PW4	Kiran S (Registrar)	Other witness	23.08.2025
PW5	Namitha (HM)	Other witness	23.08.2025
PW6	Valsakumar(Secretary)	Other witness	23.08.2025
PW7	Anilkumar V K (S.I)	Police witness	29.08.2025
PW8	Manek (CPO)	Police witness	29.08.2025
PW9	Jolly	Other witness	29.08.2025
PW10	Maju	Other witness	29.08.2025
PW11	Dr. Renuka	Medical witness	20.09.2025
PW12	Sreedevi(ASI)	Police witness	20.09.2025
PW13	Vibindas (Inspector Police)	Police witness	20.09.2025
PW14	Midhun K P (Inspector)	Police witness	30.10.2025
PW15	Vasudevan.K (Addl.witness) (Notal Officer airtel)	Other witness	17.01.2026
PW16	Dr. Lakshmi	Medical witness	27.02.2026

B. Defence Witness :- Nil**C. Court Witness :- Nil****List of Prosecution/Defence/ Court Exhibits :-****A. Prosecution Exhibits :-**

Sl.No.	Exhibit No	Description	Date
1	Ext.P1/PW2	FIS	15.01.2024
2	Ext.P2/PW3	Sketch	21.02.2024
3	Ext.P3/PW3	Possession Certificate	07.03.2024
4	Ext.P4/PW4	Birth certificate	08.02.2024
5	Ext.P5/PW4	65(B) certificate	08.02.2024
6	Ext.P6/PW5	Attested copy of admission register	--
7	Ext.P7/PW6	Ownership certificate	21.02.2024
8	Ext.P8/PW7	FIR	13.01.2024
9	Ext.P9/PW8	Seizure mahasar	16.01.2024
10	Ext.P10/PW9	Scene mahazar	16.01.2024
11	Ext.P11/PW11	Medico-legal examination of victim	16.01.2024
12	Ext.P12/PW13	Arrest memo	16.01.2024
13	Ext.P13/PW4	Inspection memo	16.01.2024
14	Ext.P14/PW13	Arrest Intimation Notice	16.01.2024
15	Ext.P15/PW13	Property list	16.01.2024
16	Ext.P16/PW13	Full address report	16.01.2024
17	Ext.P17/PW14	Forwarding note	07.03.2024
18	Ext.P18/PW15	M.phone Application form (7994915489)	--
19	Ext.P19/PW15	M.phone Application form 99633564100)	--

20	Ext.P20/PW15	Call details(7994915489)	--
21	Ext.P20(a)/ PW15	Part A certificate	16.01.2024
22	Ext.P21/PW16	Potency Certificate	16.01.2024
23	Ext.P22/PW16	RFSL Report	06.03.2026

B. Defence Exhibits :- Nil

C. Court Exhibits :- Nil

D. Material Objects :-

1	MO1	Vivo phone dt 06.03.26	PI .No.67/24
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FOOT NOTE

Crime No & Name of: Police Station	44/2024 of Viyyur Police Station.
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DESCRIPTION OF THE ACCUSED

Sl. No.	Name of accused	Father's name	Occupation	Residence	Age
1	Abhijith	Manikandan	---	Kothanathpadi Veedu, Thrikkanya Desom, Elanad Village, now residing at C/o.Maju, Naduvilpurakkal Veedu Pambur, Kuttur Village.	22

DATE OF

Occurrence	:	13.01.2024
Complaint	:	13.01.2024
Arrest	:	16.01.2024
Release on bail	:	27.02.2024
Commencement of trial	:	22.08.2025
Commencement of evidence	:	22.08.2025
Close of Trial	:	06.03.2025
Sentence or Order	:	18.03.2026
Service of copy of judgment or finding on accused	:	18.03.2026
Explanation for delay.	:	Nil

Sd/-

**Remya Menon,
Special Judge,
Fast Track Special Court-I, Thrissur.
(In-charge)**

/ true copy /

Special Judge.

**Copy of Judgment in
SC. 644/2024
Dated: 18/03/2026**