

accused. On examination, she specifically stated that 02.02.20 was a Sunday and there are usually no L.S.S class on Sundays. She dictates that on Sundays, herself and PW17 have to attend their Madrasa and if anyone wants to leave earlier, the parent should intimate the same by making an entry in the diary. According to PW1, her mother had written it down in her diary and had picked her up from the Madrasa early and taken her to school. Her evidence further shows that from the Madrasa, PW17 had enquired her about the lack of information in the Watts-App group regarding the L.S.S class arranged on 02.02.20. Regarding the first incident, PW1/victim did not give any exact or approximate date. According to her it was on a day prior to 15.01.20 so, it may be any day between 01.01.20 and 15.01.20. During the course of investigation, PW11 had given a statement to the Investigating Officer that on 15.01.20 she was on casual leave and she remember two or three days before that, the victim and three students have come to the staff room during the first period and told that the victim had menstruation and the victim wants to change the pad then, she gave one napkin pad to the victim. Learned defence counsel argued that from the evidence of PW11 it would see that, the first incident was allegedly occurred two or three days prior to 15.01.20 but on the suspected dates, the accused was on casual leave so, there was no such incident as narrated by PW1/victim. Regarding the second incident, learned defence counsel

would taken a contention that on 15.01.20 PW11 who allegedly gave napkin pad to PW1 was on casual leave so, the second incident was also a fabricated story of PW1/victim. As far as the third incident is concerned, PW1/victim had a class that the day before 02.02.20, her class teacher namely Sarath Sir contacted her mother over mobile phone with a direction to send her to the next day to attend the L.S.S class arranged by the accused accordingly, her mother had taken her from Madrassa to the school for her to L.S.S. class before the end of the Madrassa class. Evidence of PW37 shows that during the course of the investigation, he had verified the call data records of PW1's mother, the accused and aforesaid Sarath Sir and had convinced that on 07.02.20 there were contact between Sarath Sir and PS1's mother so, he arrived the conclusion that, the third incident was on 08.02.20 as there was no L.S.S class on 02.02.20 as claimed by PW1/victim. To substantiate the same, the original attendance register for the L.S.S class was produced and marked on the side of the prosecution as Ext.X8 and as per the document, no L.S.S class was held on 02.02.20. Moreover, from Ext.X8 it can be seen that the L.S.S class first started at the school was on 03.02.20.

81. As stated, Ext.X1 is the extract of the teachers attendance register and the entries shows that from 06.01.20 to 14.01.20 the accused was on casual leave the corresponding entry is seen in Ext.X7 casual leave

register also. Ext.X2 is the extract of the attendance register of 1Vth A division in which PW1's roll number is shown as '13' and the document shows that in the month of January, except 18.01.20 all dates she has attended the school and Ext.X3 the extract of the students attendance register during the month of February shows that except 04.02.20, 17.02.20 and 20.02.20, PW1 has attended the school. Evidence of PW1/victim shows that after the first incident, she was on leave for a few days and come back to school on 15.01.20 then, the accused asked about her absence also. But Ext.X2 does not show such absence. Another reason the Investigating Officer concluded the third incident date as 08.02.20 is that 02.02.20 was a Sunday and L.S.S classes were not held on Sundays.

82. Another reason which projected by learned defence counsel regarding the impossibility to commit the offence is PW1's inconsistent statements to the investigating officers and testimony before Court regarding the incidents and the scene of occurrences. According to the prosecution, the teachers bathroom situated at the southern side of PW1's class is the place of incident. The girl students bathroom and the five compartment bathrooms situated in a single row are situated at the opposite side of teachers bathroom. Ext.D128 is the scene mahazar prepared by the first Investigating Officer and as per the document, the bathroom used by the students without lock situated at the opposite side of

teacher's bathroom is the place of incident. Ext.P21 is another scene mahazar prepared by PW39 who completed the investigation and charge sheeted the accused. As per the document, the bathroom used by the teachers is the place of incident. Regarding the inconsistent testimony, in the First Information Statement PW1/victim had a case that from the bathroom, the accused inserted his Dhoti to her mouth so she could not make any noise and after the incident the accused had forwarded her nude photograph to her mother's mobile. In the cross-examination she explained when her mother's sister asked whether she should have made a noise, she was telling that she could not as the accused was covering her mouth with his Dhoti. Regarding the nude photos, the report of the scientific expert shows that on analysis, he could not recover such photographs from the mobile phone of the accused.

83. The main defence put forward by the learned defence counsel regarding the non credibility of PW1's testimony was regarding the sexual assault committed by an unknown person from a house situated at a place called Poyiloor, Thalassery. Evidently, the preliminary investigation was undertaken by PW34 and Ext.D128 is the scene mahazar prepared by him. As per Ext.D128, the scene of occurrence is the compartment bathrooms situated at the backside of the stage classroom. and Ext.P5 and P6 are the photographs of said toilets. As per the version of PW1/victim, the second

incident was at 11.30 am when she went to the toilet for changing her napkin pad. According to PW34, he had verified the call details records of the accused, PW1's mother and PW1's class teacher one Mr.Sarath and found that on 15.01.20 at 11.32 am, 1136 am, 1.44 pm, 1.45 pm, 1.56 pm, 2.08 pm, 2.14 pm, 2.25 pm, 2.34 pm, 2.42 pm there were frequent outgoing calls from the mobile phone of the accused. His evidence shows that at 11.32 am, the frequency of the incoming and out going calls were extending up to 65 seconds and at 11.36 am up to 80 seconds. According to him on verification of the C.D.R of the accused, it was also found that on 02.02.20 from 7.52 am to 12.10 the tower location of the accused was at 'Ummalathur; a place situated four or five kilometres from the school thereafter from 4.00 pm to 7.46 it was at a place called 'Kambanimuku', Vatakara, a far away place. His evidence further shows that on 12.01.20, 13.01.20 and 14.01.20 the tower location was within the jurisdiction of Medical college, Kozhikode as the accused was taking care of her sister who underwent a surgery. Evidence of PW34 shows that prior to the alleged incident in this case, the accused had circulated a face book post supporting the Citizenship Amendment Bill and there were protests from the parents of the students who belongs to Muslim community.

84. When PW34 was subjected to re-examination by learned Prosecutor regarding the discrepancies noticed in the CDR, he would say on

verification of PW1's class teachers call details it had found that on 27.01.2019 and 09.01.20 two times each, on 17.01.20 three times there were outgoing calls from the class teacher's phone to PW1's mother's phone and on 04.12.2019, 19.12.19, 17.01.20, 19.01.20, 22.01.20, 24.01.20, 31.01.20 one call each and on 03.02.20 and 07.02.20 two calls each and on 14.02.20 and 18.02.20 two calls each outgoing calls from the mobile phone of PW1's mother to the mobile phone of PW1's class teacher. Evidence of PW34 shows that, the relevant C.D.R have not been produced before this court and he was deposing before this court by verifying his C.D.

85. PW35 is the successor of PW35 and he is the officer who recorded the arrest of the accused on 15.04.2020 thereafter, he handed over the investigation to the Crime Branch. Evidently, the major part of the investigation was conducted by PW38 then Dy.S.P/Detective Inspector of Crime branch, Kasaragou. From 24.04.20 to 27.10.20 he was the Investigating Officer and in the matter on 14.07.20, he filed a report before the Special Court for incorporating the offences punishable U/sec. 323, 324 Indian Penal Code and sec.75 and 82 of the Juvenile Justice (Care and Protection of Children) Act in the charge and on the same day filed interim final report filed for the aforesaid offences along with Ext.P66 petition intimating that the further investigation in this matter is still going on and the reason for proceeding with the further investigation was that due to

Covid.19 -Pandemic, he could not sent the material objects collected in this case for chemical examination and the forensic report is yet to be received so, a detailed investigation is warranted for the offences punishable under the Indian Penal Code and the The Protection of Children from Sexual Offences Act. Since the charge sheet does not contain any allegations for offences punishable under The Protection of Children from Sexual Offences Act, on 16.07.20 The Special Judge (for the trial of offences under the PoCSO Act Thalassery) was granting bail to the accused. After filing the interim charge sheet, learned Public Prosecutor filed a petition before the Special Court U/sec.173(8) of Cr.PC alleging that, the investigation in the matter has not been going on in proper manner and there are so many latches on the part of the investigation. It is also alleged that, the statement of the victim was not recorded by electronic means, absence of experienced lady officer in the investigating team to record the statement and the suppression of medical report by the investigating agency. On the basis of the petition filed by the Prosecutor, the further investigation was entrusted to a special team under the direct supervision of PW34. Evidently, the investigation of PW38 was headed by PW34 and was under the supervision of Crime Branch S.P Sri.Santhosh and monitored by then Dy.S.P Crime Branch Wayanadu, Clinical psychologist, DW2, the counsellor working under the Child Welfare Project, Panoor, another Counsellor.

Evidence shows that on the basis of the statements given by PW1/victim on 27.07.20 and consecutive dates to PW37 and Clinical Psychologist and counsellors, PW1/victim was taken to Poyiloor and nearby places narrated in her statement but, she could not pointed out the suspect and the place of incident house to PW37. Evidence of PW37 shows that after becoming part of the investigation, she had questioned PW1/victim on 27.07.20, 28.07.20, 29.07.20 and 05.08.20 in the presence of counsellors and other team members and on interrogation, PW1 had a new case of sexual exploitation by a second person from a house at Poyiloor. Evidently, the counsellors also continuously interacted and prepared a report analysing her mental status. Ext.71 is the report which contains total 68 pages. As per the report their assessment was that:-

- a) *a detailed doctor's opinion is needed to determine whether the bleeding the child is due to menstruation, piles or sexual abuse,*
- b) *The child says things that come to mind quickly, will evade questions by giving unrelated questions and when they enquired with her family and friends about many of the things the child was saying they could realize that they were lies,*
- c) *They analysed that the child is having the habit of telling lies, fluctuating mood, fantasizing behavior ect.*

86. PW19 is then Psychiatrist working in General Hospital Thalassery and Ext.P29 is the report dated 22.08.20 issued by him after assessing the mental status of PW1/victim on the basis of written letter dated.11.08.20 of then investigating officer. Evidence of PW19 shows that on 13.08.20 and 16.08.20 himself and Dr.Sajeev Kumar had examined the victim on the request of D.M.O in the presence of the investigating officer (PW37), clinical psychologist Smt.Jasna, Smt.Rajasree then Co-ordinator and Counselor of 'Bhoomika' scheme and Psychological counsellor Smt.Swetha.J. Oral evidence of PW19 coupled with Ext.P29 medical report shows that *'the child has no evidence of depressive or psychotic symptoms at present and she has an average level of intelligence'*.

87. During the course of the investigation undertaken by PW37, PW1/victim was also taken to 'Institute of Mental Health and Neuro Science' (IMHANS), Kozhikodu for assisting her mental health and Ext.P68 is the copy of the certificate issued by Dr.Aneesh, Assistant Professor, Psychiatry I.M.H.A.N.S, Kozhikodu and *on examination the findings was that, she is having normal intelligence able to comprehend questions clearly and answers were coherent and relevant. Her mood was euthymic at the time of examination. No delusions or hallucinations could be elicited. No features of anxiety disorder or depression. At present no definite psychological*

disorder could be diagnosed except for adjustment issued to the current stress.

88. Evidence shows that during the course of investigation of PW37 and PW38, on the basis of a complaint filed by the mother of PW1/victim before the Superintendent of Police Crime Branch Central Unit 111. Kannur on 02.05.20 regarding the sexual assault committed by another person who had acquaintance with the present accused, a preliminary enquiry has been conducted by Sri.Abdul Rahim. M.A then Deputy Superintendent of Police-1 Crime Branch Kannur. He was examined as DW3 on the side of the accused and the report submitted by him was marked through him as Ext.D155. During the course of enquiry, he recorded the statement of PW1/victim, her mother, near relatives the present accused and the earlier investigating officers also, the Counsellors who interrogated the victim. Further, on the basis of the statements given by the victim to PW37, he recorded the statements police officers, local people also, the employees of the hotel where the present accused took the victim also some local peoples. During the course of investigation, DW3 identified the suspect as one Mr.Manoj the close friend of the present accused also recorded his statement.

89. Evidence of PW1/victim shows that on the date of third incident, the accused herein was taking her to a place called Poyiloor also, to an old tiled house and from the said house someone who is familiar with the

accused also sexually assaulted her. According DW3, during the course of enquiry he had verified the Call Data Records of the mobile phone used by the accused and the victim but nothing was found to substantiate the case that during the relevant period, the accused took her to a house at Poyiloor in his motor bike and from the house, the suspect who had acquaintance with the accused after sexually molesting her, attempted to kill by drowning her head in a large bowl filled with water. According to DW3, he was unable to trace out the aforesaid house. Ext.D155 report shows that after a detailed comprehensive enquiry, DW3 come to a conclusion that '*the allegations attributed against the persons are baseless and false. Hence, no further action is recommended*'.

90. Evidently, three witnesses were examined, Exts.D1 to D4, D128 and D155 documents and Ext.D5 to D127, D129 to D154 being the contradictions in the statements of PW1/victim and other witnesses including the counsellors who interacted PW1 were marked on the side of the defence. Ext.D1 to D4 are the photographs of the toilets of the school and Ext.D128 is the scene mahazar dated 18.03.20 prepared by PW34 and Ext.D155 the preliminary report submitted by DW3. Exts.D1 and D2 are related to PW1's class room and Ext.D3 and D4 related to the toilets mentioned in Ext.D18 mahazar. According to the learned counsel for the accused, there are discrepancies in the statements and testimony of

PW1/victim regarding the place of incident and she has no consistent case regarding that. His another contention was that in the Ext.P2 statement of PW1/victim recorded by the judicial First Class Magistrate, the date of second incident narrated was 26.01.20 and by showing Ext.D1 photograph of a class room, there was an attempt on his side to substantiate that, the photograph was her L.S.S class held on 26.01.20. But in response to the question, she stated that she was not sure whether it was L.S.S class or not but she identified some of the U.S.S students also in it. According to her, she did not remember whether on 26.01.20 she had gone to the school or not. According to the defence, Ext.D2 is the photograph of the flag hoisting ceremony held at PW1's school on 26.01.20. Though she has not identified her image in the photographs, the same has been marking through as Ext.D1 and D2. Anyway, the defence has not proved the authenticity of those photographs. Ext.D3 and D4 the photographs claimed to be the that of the school toilets and stage class room were also marked through her without any further proof. Evidence shows that when interrogated by PW37, PW1/victim stated that all the incidents were occurred from the bathroom used by 10 or 15 students but on examination before court, she has been denying her statements. Then, the relevant contradictory portion in her 161 statement was marked through her as Ext.D5. Ext.D6 to D38,

D106 are the contradictory statements of PW1/victim alleged to have been given to the counsellors.

91. Here I am highlighting certain guild lines in the act for recording the statements of the victim by the authorities concerned. It manadates that :-

- (a) *the statement should be recorded at the child' home or any other place he/she finds comfortable, police officers should read out loud the recorded statement to the child, take frequent breaks while the child narrates the incident.*
- (b) *Don't rush the child while recording the statement and the child's parent must get a copy of the statement.*

92. In the case on hand, PW1/victim categorically deposed that the police officer's and the counsellor's did not read her statements recorded by them. The Hon'ble Delhi High Court in its verdict by discouraging the practice of making the counsellors report be the part of charge sheet observed that, *counselling report/notes of the counsellors (as well as any person or experts recognised under the POCSO Act and Rules of 2012 and JJ Act) are confidential in nature and the same cannot be made a part of the charge sheet.*" Hon'ble High Court further held that, *the only thing which is permitted is the presence of an N.G.O representative or a counsellor is to facilitate the recording of the victim statement. Any notes prepared by the*

counsellor are completely confidential and cannot be made part of the charge sheet or the record of the trial court under Section 173 of the Code of Criminal Procedure 1973 in a case under the PoCSO Act. In view of the above observation made by the Hon'ble Apex court I have no hesitation to say that, Ext.D6 to D38 and D106 contradictions are not material and will not affect the prosecution case.

93. Ext.D39 to D98 are the contradictory portions of the statements given by PW1/victim to PW37 on various dates and Ext.D99 to 103 are the contradiction portions in her Ext.P1 statement ,Ext.D104 the contradictory portion in her statement recorded by the Magistrate, Ext.105, 107 to 127, Ext.D129 to 154 are also contradictions in her statements given to various investigating officers. Among them some of them re minor contradictions and no relevancy at all so no need to discuss here. Regarding the other contradictions, during cross examination PW1/victim was denying her statements to PW37 that when the accused came to the bathroom two students were dumberg wast there and on the date of second incident, the Lailabi teacher was on leave and when Sarath master was taking class, she went to the bathroom and the accused sexually assaulted her and the assault continued for the time of two periods. She was denying her previous statement that after the incident while sitting in the class room, her uniform was blood stained and she was suffering from the illness of Piles and used

to wear Pampers from 3rd standard onwards. She further denied that, the second incident was on 15.01.20 morning and the accused had told her that he would be on leave for few days and the accused used to contact her over mobile phone on every day so she did not feel and discomfort. She denied her statement given to PW37 that, on the next day of the first incident the accused had forwarded his nude photos to her then she forwarded the same to PW12 her class mate and relative and when she tried to sent the photo, PW12 also sent the same to her mobile phone. Ext.D58 to D70 are the contradictory portions in the statement of PW1/victim which she had given to PW37 in respect of the incident and sexual assault occurred from a house at Poyiloor by the friend of the accused .In the cross examination, PW1/victim was denying the aforesaid statements by saying that she has not given such statement also not remember whether she had given such a statements to the police or not.

94. PW1/victim was also denying the major portion of her statement given to PW37 on 29.07.20. She denied the statement that, the accused used to beat the students and on a day her niece Muhammed was beaten by the accused. It was also denied that, she had formed a Watts-App group for the subject Arabic and she was the admin of said group. She further denied her previous statement given to PW37 on 29.0720 that, the accused used to make calls to her in the night and he had given a finger ring made

of coconut shell and the accused had made a request her to elope with him to which, he will make a call at 3.'O'clock early morning . Further, she was denying the statement that one of her neighbour used to exhibit her nude photos to her. Ext.D78 to D83 are also the contradictory portions in her statements which she denied in her cross examination. She further denied her statement that, after the incident from the bathroom the accused had copied her nude photos using his mobile phone and had forwarded the same to her mother's mobile phone and she had forwarded the same to Pw12 also. Ext.D115 to D120 are the contradictory portions in her statement recorded by Pw26 on 18.03.20 and 21.03.20 . According to Pw1/victim, she did not give statement to Pw26 that it was in the interval time, the accused assaulted and from the bathroom, the accused had lifted the top worn by her and copied her nude photo in his mobile phone thereafter in the evening when she reached at home she saw those photos in her mother's phone then she immediately deleted it as she dared that her mother would view it. Further, she denied her statement that the photos were sent through the mobile phone of Sarah sir along with the audio clip of the accused. Evidence shows that in the cross examination, Pw1/victim was denying her statement dated 18.03.20 given to Pw26 that the bathroom used by the students has no lock then, the accused requested her to go to the next bathroom then she entered in to the

bathroom used by all and the accused also accompanied her to the bathroom and locked the door from inside. It was also denied that after the incident she untie the knot in her hand and mouth and went out from the bathroom. She further denied her statement that on 15.01.20 she had first menstruation and on that day at 11.30 am, she went to the same bathroom for wearing napkin pad. It would see that on examination, PW1/victim was denying her statement in Ext.P1 that, when she entered in to the bathroom the accused also accompanied her and locked the door from the bathroom then, the contradictory portion was marked through her as Ext.D99. According to her, she did not give statement to the effect that' on the first date of incident from the bathroom she untied the knot in her hand and mouth and went to the class room after wearing the inner wears thereafter on 15.01.20, she had her first menstruation and on that day at 11.30 am, she went to the bathroom then someone knocked at the door.

95. Then again coming to the discrepancy in the date of incident and the investigation done in the matter, it would see that as per Ext.P1 the first incident was on a day prior to 15.01.20, the second incident on 15.01.20 and the third incident was on 02.02.20. In the Ext.P2 statement of PW1/victim recorded by the Magistrate and the history narrated to the doctor, there is a variation regarding the date of the second incident which according to her was on 26.01.22 but when examined before court, she was

sticking on the date 15.01.20. To prove the date and the incidents, PW11 the teacher, PW14 the attender and PW15 then Head Master of the school were examined on the side of the prosecution. Evidence of PW11 shows that on 15.01.20, she was on casual leave and she remembers that two or three days prior to her leave she had given napkin pad to PW1/victim as told by PW1 that she became menstruation. Her evidence further shows that on that day she had given three more pad to PW1/victim and when the child again approached her for pad, she informed the matter to her mother and the mother came and took the child with her. Her evidence shows that on another day she had noticed PW1 laying at the staff room by placing head on the table and that day also she informed the mother and the mother took the child to her home. PW14 is only an attester to the seizure mahazar prepared by the investigating officer for seizing the teachers attendance register, students admission register time table register also ,an attester to the scene mahazar. PW15 was examined to prove the relevant registers of the school. Ext.X1 is the extract of the attendance register which has been marked after comparing with the original register. PW15 would say as per the entries in Ext.X1, on 06.01.20 to 10.01.20 and on 14.01.20, 29.01.20 , 03.02.20 and 10.02.20 the accused was on casual leave . Ext.P2 is the extract of the student's attendance register for the period January 2020 and February 2020 which has been marked after comparing with the original.

Ext.X5 is the extract of the student's admission register compared with the original and X6 is the compared copy of the time table register. Ext.X7 is the teacher's casual leave register and Ext.X8 the original attendance register of the students. PW15 also deposed that on a day when PW1/victim was feeling stomach ache, PW16 had given napkin pad to her. As stated earlier, PW1/victim has not stated any specific date regarding the first incident and on the basis of the statement of PW11 and on verification of Ext.X1 and X7 registers he was jumping in to a conclusion that there was no possibility to occur the incident on 15.01.20 and was assessing the date as two or three days before that. Further regarding the second incident also, the investigating officer verified Ext.X1 and X7 and found that on 15.01.20 PW11 was on casual leave and came to a conclusion that, the second incident date narrated was also not correct. Regarding the third incident during the course of the investigation the investigating officer found that on 02.02.20 there was no L.S.S class and on verification of call data records of Pw1's mother ,accused and Sarath master he found that the L.S.S class was conducted on 08.02.20 then assessed the possible date as 08.02.20. When PW15 then Headmaster of the school was examined, this Court has observed some corrections and several overwriting in entries after applying whitener. Learned prosecutor had taken a contention that, for the purpose of the case, the school authorities were subsequently

manipulating the Ext.X1 and X8 documents as the accused is the teacher of said school. On close scrutiny of the documents, this Court has noticed some discrepancies, corrections, insertions over the portion erased by whitener. Ext.X1 shows that on 06.01.20 to 14.01.20, the accused was on Casual leave. As per Ext.X1 entries, the total casual leave availed by the accused is '8' but in the relevant column it is shown as '7'. The name of Bijoy master is shown in serial number '3' and the relevant column dated 10.01.20 is seen incomplete and the same does not show whether the Bijoy master was present or absent at after lunch session. In the chief examination, PW15 admitted that in Ext.X1 several columns were seen written after filling with whitener and PW15 deposed that he could not say what was written inside the whitener. When Ext.X3, the student's attendance register was shown to PW15 he admitted that in several columns 'tick' marks are put on the entries where whiteners are applied. According to him, he could not say anything about those entries and only the class teacher could say. In the cross examination PW15 were denying his statement given to PW39 on 27.11.20 that, 'if any of the children do not present their attendance is some times marked as they attended the class and this is a practice that has been continued in the past. So, looking at the attendance register he cannot really tell whether a child came to school on a particular day. Further, he did not remember whether he had given

statement to the I.O that 'as he said earlier, the attendance register of children in school cannot be considered with complete confidence and for availing the benefit of getting rice for lunch and other items, the children's attendance would show as full'. Then, the relevant contradictory portion is marked on the side of the prosecution as Ext.P26. Ext.X7 the teacher's casual leave register of also contains so many corrections, insertions and over writings in it, which have not been initialled also .In the register, name of the accused is shown in the 14th page and the entries of other teachers were also contains correction, insertions and overwriting after applying whiteners. In response to the suggestion made by learned counsel for the accused, PW15 deposed that there is no corrections and insertions in the casual leave entry of the accused. On a care full scrutiny of the relevant entries in Ext.X7 it would see that except the casual leave entry of the accused, the casual leave of all the remaining teachers has been continuously recorded on the next page of the register but, after the continuation of page 14, the accused's casual leave was seen entered on the 23rd page of the register. How this discrepancy occurred? More that, all entries in the register are seen written in same time using same ink so, all these go to show that, the said register has been not properly maintained and subsequently manipulated for the purpose of supporting the contentions of the accused. During examination, PW15 was very cunning to

deny his earlier versions which given to the investigating officer that, by looking at the student's attendance register it is not possible to tell whether a child is on leave on any particular date as even though the children are leave they will enter their attendance for availing the benefit of lunch. Entries in Ext.X6 time table register also cannot relied because, the evidence of PW15 shows that if any teacher is on leave for a period, the classes will not be held as per the prescribed time table. Ext.X8 the L.S.S attendance register also cannot be relied as the same does not contain the signature and counter signature of any teachers . Moreover, it is only a note book and does not reveal who is the custodian of the same.

96. During examination PW15 was very cunning to say that on 18.03.20 when the C.I of Panoor police station came for inspecting the bathroom, himself and PW1/victim were present then PW1was pointing out the bathroom used by the girl students. In the next stretch, he stated the he did not remember whether he was present on 27.11.20 when Pw49 inspected the bathroom. It is very interesting to note that he remembers things happened from months ago and does not remember the latest things. Further, in the cross examination he mad an attempt to support the accused stating that if someone like the accused stood in the bathroom which PW1shown to DySP Rathnakumar, his head would be visible to a person standing out side the bathroom. This has been clarified by my

learned predecessor-in-office by way of asking Court Question then, the accused stated that since the bathroom has roof whether or not one can see the person standing inside the bathroom depends on the light available inside. I finds no merit in the testimony of Pw15 that, if some one goes to the girls bathroom they can see the teachers in the open stage class room because, his evidence shows that the bathroom is situated backside of the black board installed at the stage class room and the teachers do not always have to pay attention to who goes to the bathroom during class hours.

97. In Ext.P1 and P2 statements PW1/victim had a case that the third incident was occurred on 02.02.20 but, as stated earlier, during the course of investigation on verifying the call data's of the accused and Sarath sir Pw38 was coming in to a conclusion that there was no L.S.S class on 02.02.20 and the first class was commenced only on 03.02.20 so, the incident may be on 08.08.20 . It is pertinent to note that the Pw1/victim had a definite case that on 01.02.20 one of her teacher contacted her mother and for informing about the L.S.S class to be held on 02.02.20 and that day ,her mother had taken her to school early from the Madarasa to attend L.S.S class. Her evidence further shows that when she went to the school altogether four students and the accused alone were present in the class and she realized that there is no L.S.S class and she has been cheated.

According to her, she never had a case that the third incident was occurred from the regular L.S.S class. Evidence of P38 shows that during the course of investigation he had verified the C.D.R of mobile phones used by PW1's mother and Sarath Sir for the dates 01.02.20, 07.02.20 and 08.02.20 and found that 07.02.20 there were contact between Pw1's mother and Sarath sir then, he was assessing the date of third incident as 08.02.20. To prove the same, the only documents produced by the I.O is the photocopies of the call details of PW1's mother, accused and Sarath sir attached along with Ext.D155 report. It would see that, the C.D.R shows that on 07.02.20 PW1's mother had contacted the accused and Sarath sir and nothing to show that on that date afore said Sarath Sir had contacted PW1's mother . Moreover, the original data's were not produced and marked in this case.

98. Regarding the date of incident the view is settled that, *'the date is crucial to prove the age of the victim at the time of the incident and in PoCSO Act, the specific ,exact date of the incident is not considered a crucial or fatal element if other foundational facts, such as the victim's age and the occurrence of the abuse, are proven'*. In the case on hand, it has been proved by the prosecution that at the time of the incident, PW1/victim was aged 10 years 6 months and she had clearly stated the month and year of each incident so there is no suspicion regarding the fact that at the time of the incident she was a minor. More over, it is already found that at

the time of the incidents she was aged below 18 years. so, the failure to mention the exact date will not effect the case of the prosecution.

99. Regarding the sexual assault also, the testimony of PW1/victim is cogent and satisfactory and corroborated by medical evidence. Though PW11 has not stated the exact date of providing napkin pad to PW1/victim, she admitted that on the first time, she had given one pad and the second time more than three pads to PW1. Evidence of PW25 then Scientific Officer attached to Crime Branch, Kannur shows that on 30.11.20 he had inspected the teacher's toilet at Palathai .U.P school and on 'Benzidine test' noticed blood stains in the gaps of the bathroom tiles later with his assistance, the I.O had collected blood stained broke tiles from the scene. Evidence of PW39 shows that during the course of investigation he had produced the M.O's before the Court along with forwarding note for the subjecting the same for chemical examination. Ext.P46 is the report of theAnalyst .On examination blood was detected on tiles which have been subjected for chemical examination. Though it was reported that the blood noted was insufficient for determining the origin group and DNA profiling, the findings are consistent with the case of Pw1/victim .Though the incident was in the Month of January 2020, It is a scientific fact the blood stains can last indefinitely on tiles if let properly cleaned. If so, Ext.P46 report also further credence to the case projected by the prosecution. At the same time, there

was an attempt on her side to say that the Pw1's bleeding was due to menstruation and the illness of piles. According to the learned prosecutor, after the first incident itself there was irregular bleeding to PW1/victim and after the second incident the bleeding was severe and she was very tired and was taken to her home by her mother. There are statements of PW1 also that on 15.01.20, she had and had received pad from PW11. On going through the availing evidence especially, medical evidence it would see that there is nothing to shows that the bleeding was either due to menstruation or piles. Evidence of Pw9 coupled with Ext.P16 prescription issued by her shows that on 18.01.20 while she was working as Gynecologist at Medical Centre Chokli, at 5.04 hours she had examined the victim with history of fatigue and exhaustion then she prescribed a tonic for having blood count. According to her child had told that she had Menstruation 15 days before and now she is bleeding for three days. In the re-examination Pw9 deposed that she has not subjected the child for any medical examination.

100. Regarding the sexual assault, the evidence of PW8 doctor very is crucial. Her evidence shows that on 18.03.20 on the request of Panoor police she had examined PW1/victim and Ext.P15 is the medical certificate issued by her. Before the her, the date of incident narrated by PW1/ victim is 15.01.20, 26.01.20 and 02.02.20 and had a history of every time she had

bleeding and irregular bleeding from 15.01.20 to 12.02.20. On examination, PW8 had noticed fungal infection in the perineal region and hymen torn in '3' clock position. After medical examination, PW9 found that there is history of sexual assault and evidence of vaginal penetration. She categorically deposed that, on her examination it is found that the child did not attain menarche but the child gave history of bleeding from vagina and it can only be due to trauma inside vagina. In the cross examination, PW8 deposed that as per the medical certificate 3'0' clock position is partial. In response to the question put forward by learned defence counsel, Pw8 stated that, the tearing of hymen is possible due to cycling, climbing insertion of tampon or due to masturbation. According to her, the injuries noted by her is possible by insertion of fingers and other substances. During examination she categorically deposed that in brutal rape cases severe hymen scars such as deep notches of 50% may or may not be remain permanently because in elastic hymen you may not get any injuries. The learned defence had made a suggestion that, if a girl aged 10 or 11 years is confined in a small cabin having an area in the circumstances of 1 meter length and width and having intercourse after lifting the legs of the victim in a standing position their is possibility of more injuries that what is stated in Ext.P15? The answer was that, all depends on force. Regarding the statement of PW1/victim that she had first menarche on 15.01.20 it is to be

held that now a days the girls are learning about menarche through school and other sources like social media ect, and they are very anxious and conciuous about getting menarche. A ten year old child who does not know what sex and sexual abuse are will have no way of knowing whether the bleeding is due to menarche or sexual assault. In this regard ,the evidence of Pw8 is very clear that at the time of her examination the child did not attain menarche. In response to the question put forwarded by learned defence counsel, Pw8 deposed that whether the bleeding was due to menarche or not can finally assessed by way of undergoing a scanning. In this case, the fact that PW1/victim has not subjected for scanning is not at all relevant because, the evidence of PW8 coupled with Ext.P5 shows that on examination there were evidence of penetrative sexual assault and partial tearing of hymen in 3'0' clock position and in response to the suggestion put forward by learned counsel for the accused, Pw8 deposed that the tearing of hymen can be due to cycling, sports and masturbation. It is pertinent to note that, the defence has no case that PW1/victim was participated in sports or other items in her school and used to ride bicycle. More than it is only a possibility also. The testimony of Pw8 that on examination, the hymen appeared elastic, fresh and the hymen cam remain intact even if there is penetration especially when hymen is fleshy and elastic will brushed away the above contention is a further credence to the

case of the prosecution that the victim was subjected to penetrative sexual assault. During examination PW8 categorically stated that the tearing of hymen can be due to the insertion of fingers and or other substances. On going through Ext.P1 statement and evidence of PW1/victim it would see that the same are consistent with medical evidence and there are ample evidence to show that PW1/victim was subjected to penetrative sexual assault during the relevant period. Then, the point to be discussed is the discrepancy occurred in her allegedly given during the second face of the investigation.

101. As per the order of Hon'ble High Court of Kerala in W.P(C).No.21648 PW37 then A.C.P of Narcotic Cell Kannur and other police officers were incorporated in the investigation team and for recording the statement of Pw1/victim the assistance of clinical psychologist, counsellor, psycho-social counsellor were also sought by PW37. Evidence of PW37 shows that on 27.07.20 , 28.07.20, 29.07.20 and 05.08.20 she had recorded the statement of PW1/victim from her house in the presence of afore said lady officers and it was in those statements a new incident at Poyiloor come out. When examined before court, PW1was denying the incident allegedly occurred from a place called Poyiloor and the allegation of sexual assault by an unknown person. In response to the questions put for ward by learned counsel for the accused, her answer was that 'she do not remember', she

did not give such statements' and they did not read any of the statements to her'. She further says''അവർ എന്തൊക്കെയോ കുത്തിക്കുത്തി ചോദിച്ചു''. On going through her statements and testimony before court, it would see that the story of Poyiloor incident is just something that came from the imagination of the investigating officers that too is just a ploy to distract the child from the real story of the case. Evidently, a 10 year old child was subjected to interrogation for hours without break for days. While the counsellor's reports in PoCSO cases are always confidential and do not release the report in any case, in this case the counsellors have submitted a very precious report having 69 pages including the questions which they put to the victim and the answers given by her. On going through each questions put forward by the counsellors, it would see that they were working as another investigation agency. The questions asked by them were mostly about the merits of the case. Moreover, the questions were obscene ,vulgar and offensive to the child and they forget about their duty also. On going through the questions asked by the counsellors, one will understand that their attempt was to support the defence contentions and to substantiate the case of sexual assault by an unknown person at Poyiloor. I am pointing out here the defence taken by the accused also, some of the questions asked by the counsellors to PW1/victim . Regarding the second day incident PW1 had a case that the accused demanded her to

go to the bathroom. Let us see the questions asked by the counsellor to that effect,

Q. പപ്പൻ മാഷ് ബാത്റൂമിൽ പോയ്ക്കോ എന്ന് എപ്പോഴാണ് പറഞ്ഞത് ?

PW1/victim had a case that while Smitha teacher was taking class, she sought permission to go to the bathroom. Then the question asked by the counsellor was, Q അത് ഇന്റർവെൽ ടൈം അല്ലായിരുന്നോ ?

102. The main defence put forward by the accused was that, he had posted a face book post supporting the 'Citizenship Amendment Bill' and the parents of some students who belongs to a particular community were inimical towards him and the above case was fabricated by them. In this regard, the counsellor had asked,

Q. പൗരത്വബില്ലിനെക്കുറിച്ച് എങ്ങിനെയാ അറിയുന്നത് .

Q. ക്ലാസ്സിലാണോ മാഷ് പൗരത്വ ബില്ലിനെ പറ്റി പറഞ്ഞത്.

103. It would see that in the case on hand, PW1/victim had a case that on 15.01.20 at the time of the second incident at about 11.30 am , while her class was going on she sought permission from the Sarath sir to go to the bathroom and after the incident she got severe bleeding and had obtained two or three napkin pad from PW11. The defence had taken a contention that on that day, PW11 teacher was on casual leave so, the incident narrated by PW1 is not at all believable. Evidence of PW11 shows

that two or three days prior to her absence, PW1 had obtained napkin pad from her stating that she had bleeding. Evidence of PW38 shows that during the course of the investigation it was found that from 06.01.20 to 14.01.20, the accused was on casual leave and his call records also shows that at the disputed time he was at some other places. In this regard also the counsellor had asked,

Q. ശരത് മാഷ് ബാത്റൂമിൽ പോയിക്കോ എന്ന എപ്പോഴൊക്കെയാണ് പറയാറുള്ളത്?

Q. ബാത്റൂമിൽ നിന്ന് മാഷ് എന്തെങ്കിലും പറഞ്ഞിരുന്നോ ?

104. Going by the questions suggested by the counsellors, it would see that they were trying to substantiate the incident that allegedly occurred from a place called Poyiloor, and the defence of publishing face book post on 'Citizenship Amendment bill also, the dates of incidents in accordance with the contentions raised by the defence Further more, it can be understood that their further attempt was to get a positive answer regarding the statements of Pw1/victim allegedly given to PW37 in three different dates. I am pointing out some of the questions suggested from their to Pw1/victim .Q,മോളെത്തിനാണ് ഇത്രയും ഉപദ്രവിച്ചശേഷം അയാളുടെ കൂടെ പോയത് ?

Q.ആദ്യമായി പിരീഡ്സ് ആയതു എപ്പോഴാണ്?

Q.പൊയിലൂരിൽ എപ്പോഴാണ് കൊണ്ടുപോയത് ?

Q.പൊയിലൂർ ഉണ്ടായ മറ്റേ ആൾ മാഷിന്റെ പ്രായം ഒക്കെ ഉള്ള ആളാണോ?

Q.അറിയുന്ന ആളാണോ ഉപദ്രവിച്ചത് ?

Q.മോളു് പപ്പൻ മാഷിന് ചൊറിഞ്ഞു കൊടുക്കാറുണ്ടായിരുന്നോ ?

105. It would see that PW1/victim was denying her previous statement allegedly given to PW37 that after the incident, the accused had copied her nude photos using his mobile phone. According to her she did not remember whether she had given such a statement to the police or not. In this regard the counsellor had asked,

Q.ഡ്രസ്സ് ഇടാത്ത ഫോട്ടോ ആണോ മാഷ് അയച്ചു തന്നത് ?

Q.മാഷ് ഒരു ഫോട്ടോ അയച്ചു തന്നു എന്ന് പറയുന്നില്ലേ അത് ആർക്കാണ് അയച്ചു കൊടുത്തത്?

Q.ഡ്രസ്സ് ഒന്നും ഇല്ലാത്ത ഫോട്ടോ ആണോ മോളെ അത്?

Q. ആ ഫോട്ടോ മോളുടെ ആണെന്ന് എങ്ങിനെ മനസ്സിലായി ?

Q.മോളു് ആ ഫോട്ടോ ഡിലീറ്റ് ആക്കിയ കാര്യം പോലീസിനോട് പറഞ്ഞിരുന്നോ?

Q.ഏതു സമയത്താണ് മോളെ മാഷ് ചെയ്തത്?

Q.ജനുവരി 25 വരെ മോൾ ആബ്സെന്റ് ആവാതെ സ്കൂളിൽ പോയിട്ടുണ്ടോ?

Nowhere, PW1/victim has no such case that on 15.01.20 and 16.01.20 , the accused had sexually assaulted her still the counsellor had asked a question, Q. ജനുവരി 15 നും 16 നും അടുപ്പിച്ചു മാഷ് മോളെ ഉപദ്രവിച്ചിട്ടുണ്ടോ ?

Q.മാഷ് ചെയ്യുന്നതിന് മുൻപ് ബ്ലീഡിങ് ഉണ്ടായിരുന്നോ?

Q.അതിൽ നിന്ന് മോൾക്ക് ബ്ലഡ് വരാറുണ്ടോ ?

Q.ജനുവരി 15 നു ബ്ലീഡിങ് വന്നപ്പോൾ മോള് എന്താണ് ചെയ്തത് ?

Q.ജനുവരി 15 നു ആണോ മോളും റിഷയും കൂടി ബാത്റൂമിൽ പോയത്?

106. When interrogated by the police, PW15 the headmaser had given a statement that if any of the teachers are absent on any day, the classes will not be possible in accordance with the time table but in the cross examination, he was denying the above statement. Regarding that also the counsellor had asked a question ,

Q.ടെം ടേബിൾ അനുസരിച്ചാണോ ഇപ്പോഴും ടീച്ചേർസ് ക്ലാസ് എടുക്കാറുള്ളത് ?

107. According to PW1/victim, she has no case of bleeding due to 'Piles' but, there was an attempt on the side of learned defence counsel to show that the bleeding occurred to PW1/victim was on account of the illness of piles. In this regard she was asked, Q.മുൻപ് അർശസിന്റെ ബ്ലഡ് വരാറുണ്ടോ ?

108. It has already discussed that, the learned counsel for the accused was disputing the place of occurrence by contending that, the

prosecution has no consistent case regarding that. He disputed Ext.P14 scene mahazar prepared by PW39 contenting that, the same was prepared without inspecting the scene of occurrence and he is relying Ext.P127 mahazar prepared by PW38 regarding the five compartment bathrooms used by all children. Regarding the place of incident, PW1 had a consistent version that the all the incidents were happened from the bathroom used by the teachers. In this case also, there was an attempt on the side of the counsellor to substantiate the defence contention by asking,

Q.മുന്ന് ദിവസവും മോളു് ഒരേ ബാത്റുമിൽ ആണോ കയറിയത് ?

Q.ഏതു ബാത്റുമിലാ മോളെ കയറ്റിയത് ?

109. Again, when examined before Court PW1/victim was denying the incident of sexual assault by an unknown person from a house at Poyiloor. According to her, she did not give such a statement to the police as well as counsellors. In her statements allegedly recorded by PW37, it is stated that, when they reached in front of a place there had a board with writings, (പാദരക്ഷകൾ പുറത്തു വയ്ക്കുക) so, she identified it is a temple. In order to prove that she had given such a statement, the counsellor had asked,

Q.മോളു് ആ അമ്പലത്തിന്റെ പുറത്തു എന്തെങ്കിലും എഴുതി വച്ചതു കണ്ടിരുന്നോ ?

110. It would see that in Ext.P71, report the counsellors, they had assessed the mental status of PW1/victim that, she had the habit of telling

lies, fluctuating mood and fabricating stories. Regarding that also, the counsellor had put a question,

Q.മോശ്സ്വാമിയെ മാഷ് നല്ല പരിചയം ഉള്ളത് പോലെ തോന്നിയോ ?

Q.ബുള്ളറ്റിൽ വന്ന ആൾ എങ്ങിനെയാ കാണാൻ ?

Again I would like to highlight few more questions suggested by the counsellor to Pw1/victim they are,

Q. ഇങ്ങനെ ചെയ്യുന്നതിന്റെ ഇടയ്ക്കു ഒക്കെ പപ്പൻ മാഷ് നല്ല ഇഷ്ടത്തോടെയാണോ മോളോട് പെരുമാറാൻ, അല്ലെങ്കിൽ ഉപദ്രവിക്കുന്നത് പോലെയാണോ?

Q.ബാത്റൂമിൽ നിന്ന് മാഷ് വർത്തമാനമൊക്കെ പറയാറുണ്ടോ ?

Q.മാഷ് മോളെ കല്യാണം കഴിച്ചാലോ എന്ന് പറയാറുണ്ടോ ?

111. From the above, I can understand the quality of the counsellors and how much they have been influenced and degraded. It is very shameful act that a 10 years old child was questioned by asking sexually abusive, vulgar questions in front of a senior police officer and the officer did not take any action to stop it. One thing is clear from the counsellor's questions that, they were intended to substantiate the arguments of the defence side.

112. It is very interesting to note that in the case, the defence had contended that, the bleeding occurred on PW1/victim on 15.01.20 was due to her menstruation and the ill-ness of piles. Despite medical evidence showing that, the child had not menstruated at the time of the incident and

that the child did not have illness called 'piles', the counsellors have written down that, the child's first menstrual period was on 15.01.20 and that the child has been suffering from the illness of 'piles' from her 3rd standard onwards. It would see that ,even the adults do not know about the 'Citizenship Amendment bill' then, it is hard to digest that a ten-year old child was officially told about the said fact to the counsellors. Asking the child about things that she never heard or said, and finally finding out that the child has a tendency to lie is nothing but just to make that everything the child says is false and devoid of truth. The findings of the counsellor that, the child had fantasizing behaviour and the habit of telling lies, fluctuating mood, build relationship easily remembering those who seems to be attractive beauty and evaluating them on the basis of that is only an attempt on the side of them to insult and degrade the child. How can a counsellor describe the beauty that a 10 year old girl feels? How can they misrepresent the beauty in the mind of a 10 year old child. "മാഷ് മോളെ കല്യാണം കഴിച്ചോളാം എന്ന് പറഞ്ഞിട്ടുണ്ടോ? The above question that put forward to a 10 year old child who does not even know anything about a marriage indicates the low quality of counsellor and their lack of knowledge about their duties. Evidence shows that, the child has been subjected to counselling for a continuous period of two months. When examined before Court, PW18 the near relative of the victim had deposed that during the

counselling session, the victim had suffered great mental harassment from the counsellors. She pointed out an example that during counselling time, one of the counsellor made the victim nervous by showing her a sanitizer bottle and asking the size of the penis of the accused. It would see that, the investigation in this case was progressing during the Covid-Pandemic period and it was a time when people were compelling to use sanitizer to resist the virus and if it was the imagination of the child, she would not have remembered a sanitizer. Evidence of PW16 her Uncle shows that when PW1/victim was taken to 'IMHANAS' for mental examination, she was taken to the up-stair room of the institution and somebody had applied something in to her vagina. Needless to say, if going through the questions suggested by the counsellors, it is clear that those counsellors do not deserve to continue in this job. It is learnt from the allegations raised in WP(C).21648/20 before Hon'ble High Court that, on 21.09.20, PW1's mother (petitioner in above writ petition) had filed a petition before the Hon'ble Minister for Women and Child Welfare seeking appropriate action against the counsellors for their unethical and rude behaviour towards the victim. The petition is still pending and, I hope that there would be appropriate action in the matter.

113. Again I would likely to say that ,the second incident which allegedly narrated to PW37 was a subsequent story fabricated by the

investigating officers. It would see that at the beginning itself there were so many suspicious circumstances and latches on the side of investigating teams regarding the method adopted by them in conducting the investigation. This is a normal penetrative sexual assault case registered by the police. In such cases, if one investigating officer transferred or got any inconvenience another investigating officer takes over the investigation but in the case on hand, without any of the above circumstances the investigating officers were being replaced one by one. To be precise, the investigation of this case was entrusted to officials from five districts who have proven their competence in many cases. As stated earlier, a minor child was subjected to continuous interrogation by officials from various authorities and of course, that would have caused her to have a lot of mental trauma. In this case instead of conducting a smooth and impartial investigation, the investigating agencies were aimed at gathering evidence to prove the contentions of the accused. Further, through the investigation, they took the child to various places unnecessarily many times, and treated the child as if she committed a serious crime. On going through the statements of the witnesses, documents and other materials produced in this case, it would see that the defence did not need to go through much trouble because all the contentions that the accused needs to raise in the case are there in the statements of the witnesses, documents and other

evidence. In order to prove the contention of the accused that he was not at the scene of occurrence on the days the incidents have taken place and he has been falsely implicating in the case ,there was no need for him to bring any such evidence because the investigating officers collected everything he needs for proving his defence .

114. It is needless to say that, the investigating officer has to prepare the scene of occurrence on the basis of the statement given by the victim also, pointed out by her/him. In the case on hand, evidence of PW1/victim shows that firstly she had pointed out the toilet used by the girls to the investigating officer thereafter the toilet used by the teachers. In Ext.P1, she had a definite case that, the toilet used by the girls has no lock so, two of them always go to the bathroom and on the date of incident when herself and her friend went to the bathroom, the accused demanded her to use the teacher's toilet and she do so. There is no doubt that a 10 year old child did not know what is a scene mahazar and how it prepared then, it is for the investigating officer to prepare the document in consensus with her statement still, the earlier investigating officer has been preparing the scene of mahazar of the compartment bathroom used by all students and that document has been marking on the side of the defence as Ext.D128. Evidence shows that, the accused was taken in to police custody for only one day but the child was taken before various places and authorities for

continuous interrogation by the police officials for several days. The child had to give statements also, to appear to various authorities for several days. Though the allegation of sexual assault was against the accused, the investigation proceeded in a manner that PW1/victim in this case as a criminal. Though there is a guideline insisting plain cloths not uniform for the police officers while interrogating with the victim the evidence shows that in most of the time the police officials were in their official uniform.

115. Evidence of PW16 the Uncle of PW1/victim shows that as per the direction of the investigating officer when he took the child to Kozhikodu in his vehicle for psycho assessment examination, the police officials were also accompanying them to Kozhikodu. Evidence of PW16 and PW18 shows that PW1 felt dizziness, unconscious during the counselling session and when she was taken to the school for identifying the bathroom, the police officials were in their official uniform then she was scared also, felt dizziness in the evening then, he had taken the child in to a medical clinic run by Dr.Hissaque and the doctor examined her. Evidently, the above said incident was occurred soon after the registration of the case and her medico legal examination in this case. It is pertinent to note ,the medical report of aforesaid Dr.Hissaqu has been tactfully suppressing from the side of the investigating officer. There was no attempt on the side of the investigating agency to cite and examine the doctor in the matter also, to

produce the medical records. Instead of that, Ext.D155 report shows that during the course of preliminary enquiry, DW3 had questioned the above said doctor and his statement was recorded also. Along with the report, a photocopy of his statement was produced. The statement shows that he is the Chief Medical Officer of Community Health Center Pallor and had run a clinic at 'Kadavathur Town' and the same was closed during the lock down period thereafter did not open. His statement shows that on a day in the month of March 2020 evening prior to the lock down period, PW16 whom he had previous acquaintance had brought the victim to his clinic in an unconcious condition .According to him, this could have happened if the child was mentally ill and had a lot of thoughts in her mind. His statement shows that ,he could not treat the child because, the clinic was too crowded and the treatment was not possible then, PW16 left the clinic with the child. His statement further shows that Pw16 and family are his patients. Pw16 had a definite case that due to the continuous interrogation of the police officials and counsellors, the child felt dizziness and weakness and had treated by Dr.Hissaue. It would see that PW16 has no need to lie against the doctor and doctor also had no case that PW16 has any enmity with him. The statement of the doctor that, he could not treat the child due to rush in the clinic is very strange because how can a doctor send back a small child who is brought before him in an unconcious state without examining her.

Moreover, no matter how busy a clinic is, a doctor cannot ignore a small child brought in an unconscious condition especially in a private clinic run by the doctor. If that be the case, the doctor's action denying treatment to the child is definitely against the medical ethics. According to him when the child was brought, the clinic was crowded if that be so, how can he remember exactly the month and time when the child was brought. If the case of PW16 that due to the continuous interrogation, PW1 was tired and felt unconscious and had underwent treatment of Dr.Hissak is approved, the prosecution has to produce the same in this case but instead of producing the same he was fabricating a false statement of the doctor and purposefully suppressing the document from the case. It would see that in the writ petition filed by PW1's mother, some serious allegations were raised against PW34 and as per the order of Hon'ble High Court, he was expelled from the investigating team also.

116. Evidently, there is nothing to show that, the child has ever had a mental illness still, there was an attempt on the side of the investigation team to make it appear that the child had a mental illness. Ext.P28 is the medical report dated 22.08.20 issued by the Superintendent of General Hospital Thalasseri after evaluating the mental status of PW1/victim on the request of S.H.O-Panoor police station. The report bears the signatures of two doctors and one of them was examined in this case as Pw19. Evidence

of PW19 coupled with Ext.P28 report shows the assessment that '*PW1/victim has no evidence of depression or psychiatric symptoms at present. She has an average intelligence*' The report shows that '*when she was asked about the alleged crime, she replied*' *truth must come out*'. Evidence shows that later on 27.03.20, the child was again taken to 'IMHANS' Kozhikodu, Medical College by the investigation team for the same purpose and Ext.P68 is the psychological assessment report. Ext.P68 also shows that, *the victim has no delusion or hallucination could be elicited. No features of anxiety, disorder or depression. At present no definite psychological disorder could be diagnose except for adjusting issues relating current stress*'. As per Ex.P92 report submitted by the counsellors, the child was interrogated lastly on 04.07.20 thereafter, the final report was prepared. The fact that Ext.P28 and Ext.P68 assessment reports are prepared very earlier to Ext.P68 report and in Ext.P28 and P68, there are nothing to show that, the child has past or present psychological issues then what authority do counsellors have to bypass the assessment in the medical reports and to submit a report according to their will. So, it is to be held that Ext.P68 report is filed only to assist the contentions raised by the accused in this case.

117. Another aspect was regarding Ext.D155 preliminary enquiry report submitted by then Inspector of Police of Panoor Police station who

become part of earlier investigation. He was examined as DW3 on the side of the accused and the report was marked through him as Ext.D155. The enquiry was in respect of the second incident allegedly occurred from a place called Poyiloor. Ext.D155 report was also in favour of the accused and the same was nothing but prepared in accordance with the statements of PW1/victim recorded by PW37 and counsellors. Evidence of PW34 shows that, he had verified the CDR of accused's mobile phone and found that the accused was not at the scene when the first incident occurred and was talking to many people in his mobile phone. Further, the CDR would reveal that the accused was at far away places when the second incident occurred. It is very interesting to note that, PW34 was deposing in accordance with the documents kept in his case dairy but, the same were not produced before this Court. Then, why he suppressed the same ?. It is nothing more than that if the CDR is produced, it will see that it does not match the entries in Ext.X1 and Ext.X7 registers seized and produced in this case. On going through the arguments advanced by the learned counsel for the accused, it would see that he was satisfied with the investigation of all investigating officers except PW39 who conducted the final investigation and charge sheeted the accused. He was also satisfied with Ext.P68 report and the statements of PW1/victim allegedly given to the counsellors also, Ext.D155 preliminary report in respect of the incident allegedly occurred at

Poyiloor that is why the counsellors and the investigating officer who filed Ext.D155 report were examined as DW1 to 3 on the side of the defence and in the cross examination of PW1/victim, most of the contradictory statements asked were relating to her statements allegedly given to PW37 and DW1 to DW3. It is very interesting to note that, the defence did not ask a single question to DW3 the official who submitted Ext.D155 report and 'no cross was recorded on their side'.

118. On going through Ext.D155 report, it would be understood that the same is just a farce. During the course of arguments, both the prosecutor and the defence counsel submitted the political and communal involvements in this case. According to the learned prosecutor, the accused was the local leader of B.J.P and highly influenced identity and, there was a concerted effort from various political parties to save him. Per contra ,the argument advanced by the learned defence counsel was that the accused has been falsely implicating due to political rivalry existing between his political arty and S.D.P.1 as the accused was supporting the 'Citizenship Amendment Bill'. It has come out in the evidence of Pw1/victim that during the course of investigation, a women political leader of a leading political party had visited at her house and some of the local political leaders were also interrogated in this case by the police. To that effect, I am herby quoting the last paragraph of Ext.D155 enquiry report which says,

“Interestingly, it is noted that either the relatives of the victim or the political parties do not stick on this second allegation since the interim charge sheet is filed. An interim charge sheet was submitted under section 75 & 82 of JJ Act. Even the sexual allegations in the master case couldn’t be proved well as yet’.

119. How can an enquiry officer make such comments about a case in which the investigation is still going on. Further, it would see that after submitting interim final report, the mother of Pw1/victim take up the matter before Hon’ble High Court of Kerala also if so, how can the enquiry officer say that either the relatives of the victim or political parties do not stick on the second allegation since the interim charge sheet was filed. Why an enquiry officer asking to the political parties ? whether they are going ahead with the allegations in this case or not? All these throws some light towards the fact that there were political interference in this case.

120. It is already found that either in Ext.P1 or P2 statements, PW1/victim had the case of sexual assault from a place called Poyiloor by an unknown person. It it was in the statements recorded by PW37 on 27.07.20 ie, after four months of recording Ext.P1 statement, the second incident came. Evidently, PW37 was recording the statements with the assistance of DW1, DW2 and another counsellor. It is already found that the way in which the counsellors and the investigating officer interrogated the

child was very not in a proper manner and was also to mould statements in accordance with the defence case. Moreover, it is already found that the statement of PW1/victim allegedly given to the counsellors cannot be used for contradiction so, their testimonies are also not reliable.

121. It is already found that regarding the offence of penetrative sexual assault against the accused, the Ext.P1, P2 statements and medical evidence are consistent and corroborative. Regarding the date in Ext.P1, she has clearly stated the dates of three incidents as a day prior to 15.01.20, 15.01.20 and 02.02.20 but in Ext.P2 statement, the date of the second statement was narrated as 26.02.20 instead of 26.01.20. Regarding the dates, the view is settled hat, while an exact date is ideal, it is not essential to prove PoCSO case as long as the victim's minority at the time of the offence is established. The core of PoCSO case is the victim's age not the specific date. It would see that in this case, a small child who lost her father was subjected to penetrative sexual assault by her own teacher and during the investigation also, she was mentally as well as physically harassed by several officials so, it is difficult for such a child to remember all these dates.

122. *The legal principal in our country is that, a child victim in cases under the Protection of Children from Sexual Offences Act shall not be called repeatedly to testify in court, and continuous examination is not*

permitted. The focus is on a child friendly process that protects the victim's dignity and minimizes trauma. In the case on hand, the child was in the dock from morning to evening for 4 days for the purpose of cross examination and her deposition is over 250 pages long so, there is no doubt that the continuous interrogation by the police personnels, counsellors and her examination before court would really damaged her mental health. If so, the contradictions occurred in her testimony is natural and the same will not affect the core of the prosecution case.

123. Moreover, it is already found that there are manipulations in Ext.X1 to X3, X6 series ,X7 and X8 registers hence, the same cannot be relied to disprove the incidents of sexual assault projected by PW1/victim. Regarding the incident also, PW1/victims testimony is clear and satisfactory and consistent with the medial evidence. When examined before this Court, she had given a vivid picture of each incidents and the evidence of PW12, PW16, PW17 and PW18 are corroborated the same also. Evidence of PW1, PW16, 18 and PW8 doctor coupled with Ext.P8 medical certificate are conclusive proof that PW1 was subjected to penetrative sexual assault. Further, medical evidence shows that at the time of the incident, Pw1/victim did not attain menarche and there is nothing to support the contention of learned defence counsel that, the bleeding occurred to PW1/victim during the relevant period was due to menstruation and piles.

124. Regarding the incident, at the initial stage PW1/victim has no case of second assault by another person and it was in the subsequent stage of investigation new story emerged. In the cross examination, PW1/victim was denying the second incident and according to her she has not given such a statement to the police and her evidence shows that, the police officials were continuously interrogating her . Most of the questions asked by the learned counsel were answered by her stating that 'അറിയില്ല', 'പറഞ്ഞിട്ടില്ല', 'ഇല്ല എന്നാണ് ഞാൻ പറഞ്ഞത്, അവർ കുത്തി കുത്തി ചോദിച്ചപ്പോൾ ഞാൻ പറഞ്ഞുപോയതാണ്, 'അവർ നാലാൾ എന്നോട് ചോദിക്കും ഉത്തരം എന്താണ് പറയേണ്ടത് എന്ന് എനിക്ക് തിരിയല്ല, അവർ എഴുതിയത് എന്താണെന്നറിയാത്തതല്ല, അവർ എനിക്ക് വായിച്ചു തന്നിട്ടില്ല, When a statement recorded by the counsellor was read over to Pw1, she stated that' ഇപ്പോൾ ആദ്യമായിട്ടാണ് കേൾക്കുന്നത്, എനിക്ക് ഉള്ള അനുഭവങ്ങളാണ് ഞാൻ പറഞ്ഞത്. In the cross examination, she was categorically denying the incident allegedly occurred from a place called poyiloor. When asked about the statements recorded by the counsellors, PW1clearly stated that she did not give any such statements and that she did not know what they recorded. It is already found that most of the contradictions marked on the side of the defence were from the statements allegedly given to the counsellors regarding the incidents allegedly occurred at a place called poyiloor.

125. Then coming to the place of occurrence also, PW1/victim's testimony is consistent with Ext.P1, P2 statements. She would have a definite case that the toilet used by the girls has no lock so, girls do not go too the bathroom alone. According to PW1/victim, at the time of the first incident she went to the bathroom along with PW12 then the accused came and directed PW12 to go to the class and when PW12 gone directed her to occupy the bathroom used by the teachers. Regarding the second incident, on that day when she met the accused, he directed her to come to the bathroom during interval then, she went alone to the bathroom used by the teachers. The third incident was also occurred from the same place. Her evidence before the court also shows that the first she showed the bathroom used by the students then, the bathroom used by the teachers to the investigating officer then, it is for the investigating officer to prepare the scene mahazar according to her testimony still, he was preparing a wrong mahazar in this case. Ext.P14 is the scene mahazar prepared by Pw39 related to the bathroom used by the teachers of the school. **In State of Panjab Vs Gurmit Sinh(1996)2 SCC 384 Hon'ble Apex Court held that,** *physical sexual assault not only leaves the most worst memories but also ruins the entire life of the victim and while the murder shatters the body of a person, the rape is destructive of the personal liberty of a helpless/noble creature.* **In State of Himachal Pradesh Vs Manga**

Sing(2019) Hon'ble Apex Court had taken a view that, *corroboration is not an essential requirement for conviction in the case of rape.* In the case on hand, evidence shows that the investigating officer had conducted a mock class and video-graphed the same using camera to see whether there was direct vision from the mock class to the place of incident bathroom and the police officials and few students were also participated in it. In PoCSO case the view is settled that, *the court can convict the accused on the basis of the sole testimony of the victim* then, what was the need for the investigating officer to conduct a mock class and recording the statement of other persons for identifying the scene of occurrence. Ext.P13 scene mahazer is consistent with PW1's statements and testimony before court . Further, regarding the testimony of the victim in PoCSO case, **In Sainudheen Vs State of Kerala(2023/Kerala/37627)** Hon'ble High Court held as follows;-'' *There is one another aspect that needs to kept in mind, while analysing or appreciating the testimony of a child witness. The child is speaking of something that generally happens in privacy. I f viewed through the child development lens, younger children physiologically, cognitively, and emotionally are not ready for sexual activity in that they also has little knowledge and awareness about sex and sexuality. It is therefore absurd to say that children are ''making stories'' about sexual abuse-how can a child concoct stories about an issue he /she knows*

nothing about? Not for this reason, when young children are observed to be engaging in behaviour that appear sexual, it is likely that they have witnessed sexual behaviour or that someone has performed this behaviour with them- someone doing them to another person-which is when it is suspected that a child has been sexually abused. Furthermore, children who report sexual abuse, cannot be said to be lying and accused, for having a vedetta, as there is no motive, and there is no motive because there is no awareness of the consequences of abuse too the perpetrator, let alone knowing what PoCSO says or that it even exists''.

126. Regarding each incidents the statements and testimony of PW1/victim are inspire confidence and reliable. According to her, on the two occasions after catching hold and kissing on her breasts, the accused inserted finger forcibly in to her vagina and anus and when the accused withdraw the finger from the anus, it was blood stained as a result, she felt severe pain also. Evidence shows that, PW1 had irregular bleeding after each incidents. There is unchallengeable medical evidence to corroborate the testimony of PW1/victim and the prosecution can able to prove the scene of occurrence also. I do admit that there are some discrepancies in the statements and testimony of PW1/victim. In Ext.P1 she had a case that from the bathroom while assaulting her the accused was tiding her hands using her churidar shawl and she could not make noise as he inserted his

dhoti to her mouth but in the cross examination, she deposed that she just said that and there was no such incident. Another statement was regarding the nude photos_and videos forwarded by the accused to the mobile phone used by PW1/victim and one of her friend. During the course of the investigation PW35 had seized the mobile phone of the accused and was produced before the Court thereafter, forwarded for Cyber Forensic Analysis. Ext.P73 is the report of the Analyst. As per the report, the scientific officer 'no obscene files of girls found in the mobile phone of the accused'. According to PW35, he undertook the further investigation on 25.03.20 and during the course of investigation seized the mobile phone of the accused. His evidence further shows that, though he had seized the mobile phone no steps taken to forward the same for scientific examination and was keeping it for further investigation. As per Ext.P60 property list, the mobile phone was produced before the court on 30.04.20 and Ext.P73 report was dated 03.08.20. There is inordinate delay in producing the mobile phone before the court to which there was no proper explanation on the side of PW35 .If so, there would be every chance for tampering and destroying the evidence hence, the case of PW1/victim that, the accused had copied her nude photos in his mobile phone and had forwarded to the mobile phone used by her mother cannot be brushed away. In **Mukesh and Others V State NCT of Delhi and Others AIR 2017 SC 2161** ,the

Hon'ble Apex Court held that'' Courts should not attach undue importance to discrepancies, where the contradictions sought to be brought up from the evidence of the prosecutrix are immaterial and of no consequence. Minor variations in the testimony of the witnesses are often the hallmark of truth of the testimony. Trivial discrepancies ought to obliterate an otherwise acceptable evidence. Due to efflux of time, there are bound to be minor contradictions/discrepancies in the statement of the prosecutrix but such minor discrepancies and inconsistencies are only natural since when truth is sought to be projected through human, there are bound to be certain inherent contradictions''.

127. It is already found that most of the contradictions marked on the side of the defence was with respect to the statements allegedly given by PW1/victim to the counsellors and the incident allegedly occurred at a place called Poyiloor. On going through the answers given by PW1/victim in her cross examination, it could understand that the questions asked to the child are which she does not know and she is hearing many of the statements for the first time in the court. Evidence shows that, the child has been subjected to continuous interaction by the investigating officers and the counsellors regarding the undisclosed incident only for making discrepancies in her statements. Not only that, the child had to spend four days in the court dock for 4 consecutive days for facing trial and her

deposition run to more than 250 pages . So, considering the evidence of PW1 and supportive medical evidence and the corroborative testimonies of PW8, PW12, PW16 to PW18, I have no hesitation to held that, the prosecution proves foundational facts to presume the guilt U/sec.29 of the PoCSO Act by proving PW1/victim's age and the alleged offences U/sec.3,5 of the Act. Then the reverse burden is on the accused to prove his innocence on a 'preponderance of probability'.

128. As stated earlier, the sole defence projected by the accused was that of false implication due to political as well as communal rivalry. In this regard, learned counsel contended that, the accused is the 'Trippangotoor' Panchayath Committee president and the District Committee member of B.J.P National Teachers Union(N.T.U) A pro-B.J.P organization and in the month of December 2019 and January 2020, he had posted some posts supporting 'Citizenship Amendment Bill' through his face book account and in the incident, there were strong protest among the parents of students belongs to Muslim Community and there were demanding to take action against the accused. Learned defence counsel contended that after the protest and agitation of parents, the accused has been withdrawing the face book posts still, the same was a subject for discussion by the local people and Madrassa. Learned counsel also argued that when some of the teachers went to the house of Pw16 for the next

year admission, PW16 had made a request to expel the accused from the school and several parents have contacted PW11 and told that they will not let their children study in her school.

129. Coming to the defence, it would see that except some interested testimonies, there is nothing to show that the accused had published face book posts supporting the execution of Citizenship Amendment Bill and there were agitations and complaints by parents of Muslim Community students. It is not disputed that ,the accused is the teacher at PW1's school and PW7, PW11 and PW15 are his colleagues and well wishers so, they can only depose in favour of the accused. It is very interesting to note that, the accused has not produced any documents and has not examined any witnesses to prove his contentions and in the statement filed during his examination U/sec.313 (b) Cr.PC he was highlighting the evidence of PW7,PW11 and PW15 given in favour of him. According to PW11, when herself and other teachers went to the houses of PW16, the Uncle of PW1/victim for next admission canvassing, he was requesting them to expel the accused from the school. There is absolutely no merit in the contention because, there is nothing to show that PW16 had opposed the execution of Citizenship Amendment Bill also, nothing to show that he is a sympathizer of any political party. The accused could not pointed out any iota of evidence to show that PW1/victim ,her family and relatives are the

supporters and workers of any political party. On the other hand, evidence shows that the father of PW1 expired when she was in her mothers womb and the accidental death of her father shacked the mental status of her mother. Evidence further shows that after the demise of her father, herself and her mother were under the care and protection of PW16 and 18 who are her mother's brother and sister. It would see that after the incident, they were PW1 to various places and authorities including police stations and hospital for the purpose of the case . It would see that PW17 the daughter of PW18 and PW1 are studying in same class and PW1 used to stay with her during holidays. Evidence of PW18 shows that when her daughter and PW1 were talking casually from her house, she felt something happen to them then, she was asking them in detail. Her evidence further shows that on knowing the incident, she had contacted the their teacher also. All these go to show that PW16 was taking care of PW1/victim as she were her own daughter. `

130. In the statement filed during the stage of his examination U/se.313 Cr.PC, the accused was quoting and high lighting the deposition given by PW11 Lailabi teacher and PW15 the Headmaster regarding the 'Citizenship Bill supporting his contentions. Further, he was highlighting the contradictions and omissions in the testimony of PW1/victim regarding the date of incident and date of her menstruation. He is also stating about

Ext.P73 the forensic analysis report of his mobile phone as well as the mobile phone of he Sarath master regarding the non recovery of nude photos of PW1/victim from the phones. The accused also mentions the evidence of PW37 investigating officer and DW1 and DW2 Counsellor's regarding the statement of PW1 in the incident at Poyiloor. In the statement the accused was also highlighting the testimony given by PW1/victim that "ചൊക്ളിയിൽ ഡോക്ടറുടെ അടുത്ത് പോയത് ഞാനും ഉമ്മയും ആണ്. മാഷ് ലൈംഗികമായി ഉപദ്രവിച്ച കാര്യം ഡോക്ടറോട് പറഞ്ഞിട്ടില്ല". It is pertinent to see that, the accused did not forget to discuss the doctor's findings in his statement. According to him, the findings in Ext.P15 medical certificate was that ഫക്കൽ ഇൻഫെക്ഷൻ മൂലം ചൊറിഞ്ഞാലും അത്തരം പോറലുകൾ ഉണ്ടാകാം. He is next highlighting the Ext.P170 preliminary report saying that, the child had bleeding due to 'Piles'. He is also discussing about the mock class conducted by PW39 the investigating officer who submitted final report of the case. According to the accused, the investigation conducted by PW39 is not proper and impartial .He stated that, the earlier investigating officers had found that the allegations against them are false and fabricated still the investigation has been handing over to PW39 by the influence and pressure of political parties and communal organizations for submitting a charge sheet by raising false allegations against him.

131. Regarding the evidence highlighted in the 313 statement, it is already discussed by this Court and found that there is nothing to show that PW1, and her relatives were against the accused in connection with the face book post allegedly posed by him. The contention of the accused and the testimony of PW11 Lailabi teacher that, there was a request from the side of PW16 to evict the accused from his school will disprove the evidence of PW16 that he had entrusted the copy of the birth certificate of his child to the teacher of PW1's school for getting admission. If he has any enmity towards the accused, he would not make such an attempt to get admission for his child in the school. Moreover, even adults do not know what Citizenship Amendment Bill is and in such a situation, it is hard to believe that, the accused and other teachers were discussing about that in front of children who are only studying in 10th standard. Again, the execution of the Bill is not the concern of an individual so, it cannot be held that a false case has foisted using a minor child who did not know anything about the disputed Bill.

132. Regarding the defective investigation **Hon'ble Supreme Court of India while considering an appeal in a convicted case registered under Sec.302 IPC as Criminal Appeal No.118/23(Edakkandi Dineshan @ P.Dineshan & Others Vs State of Kerala**, observed,"..*The principle of law is crystal clear that on account of*

defective investigation the benefit will not inure to the accused person on that ground alone. It is well within the domain of the courts to consider the rest of the evidence which the prosecution has gathered such as statement of the eye witnesses, medical report etc. It has been a consistent stand of this court that the accused cannot be claim acquittal on the ground of faulty investigation done by the prosecuting agency. If so, in the case of reliable, credible testimony of PW1/victim, the defects in the investigation mentioned above will not affect the core of the prosecution case and that benefit would not go to the accused also.

133. The offences alleged against the accused are U/sec.376(2)(f) , 376AB and section 354 of Indian penal Code and sec.5(f),5(l),5(m) r/w 6 of Protection of Children from Sexual Offences Act. Section 376(2)(f) is the offence of rape committed by the relative, guardian or teacher of a woman or a person in a position of trust or authority. In the case on hand it has proved that on two occasions the accused had inserted fingers forcibly in to the vagina of PW1/victim as a result she sustained injuries to her hymen and irregular bleeding from her vagina. Her evidence shows that after the second incident she had heavy bleeding and the same is corroborated by the testimony of PW11 teacher that she had given more than two sanitary pad to PW1/victim from the school. In Indian Law, the insertion of a finger in

to the private part of a person constitutes the offence of rape under the definition provided in section 375 of Indian Penal Code.

134. In **Ramesh V State of Kerala, 2020 (3) KHC 560**, Hon'ble High Court of Kerala held that," *Penetration of the male genital organ within the labia or the vulva or without any emission of semen or even an attempt at penetration in to the private part of the victim completely, partially or slightly would make out the offence of penetrative sexual assault under the Protection of Children from Sexual Offences Act 2012 as well*". Further Hon'ble High Court in **Chentharama Vs State of Kerala ,2008(4) KLT 290** held that, "*Penile-vaginal entry namely actual passing of penis into the vagina, is not essential to constitute rape and even penile access towards vagina, without there being any entry of penis in to vaginam would constitute rape, if penis gets physical contact in that process of access with any of the external portions of the female genital organ ,such as vulva, labia majora etc*".

135. In the case on hand the evidence of PW1 clearly shows that from the bathroom, the accused had attempted to insert penis in to her vagina forcibly but failed at that time, a sticky substance was oozing from his penis. Medical evidence shows the symptoms of hymen torn in 3 '0' clock position so, there is ample evidence to attract the offence punishable U/section 376 of I.P.C. There is no dispute that at the time of the incident

PW1/victim was studying in Palathayi U.P School and the accused was studying Malayalam subject for her .If so, it can be held that the accused had committed the offence punishable U/sec.376(2(f) of I.P.C.

136. The second offence charged is U/sec.376AB punishment for rape on a women under twelve years of age. It has already discussed and found that at the time of the incident PW1/victim was a 4th standard student aged 10 years 6 months . In fact the defence also has no dispute regarding her age so, the said offence will lie against the accused.

137. The accused was also charge sheeted for the offence punishable U/sec.354B of I.P.C . The offence of assaulting or using criminal force on a women with the intent to disrobe her. In this regard also the evidence of PW1/victim is clear that from the bathroom the accused forcibly kissed her, pressed on her breast and disrobed her so, the accused has committed the said offence.

138. Regarding the offences charged under the PoCSO Act, section 5(l) r/w 6 deals with the aggravated penetrative sexual assault committed by a relative of the child or a person in a position of trust or authority towards the child. The above category of persons include teachers also. Section 5(f) is the offence of aggravated penetrative sexual assault by management or staff of an educational or religious institution and section 5(m) is the offence of aggravated penetrative sexual assault towards a child

aged below 12 years. Therefore, in the totality of the facts and circumstances of the present case, this court is of the considered view that the prosecution has succeeded in proving its case beyond reasonable doubt. The testimony of PW1/victim, which is credible, finds, corroboration with from the deposition of her friends, relatives, her statement recorded u/s 164 of CrPC as well as the Medical evidence and the FSL report. All these pieces of evidence, when read together, form a cogent and compelling chain pointing towards the guilt of the accused. Points answered accordingly.

139. **Point No.7:-** From point Nos.1 to 7, it is found that the accused had committed the offences punishable U/sec.376(2)(f), 376AB and 354 B of Indian Penal Code and sections 5(l) r/w 6, 5(f) r/w 6 and 5(m) r/w 6 of the Protection of Children from Sexual Offences Act and he is convicted thereunder.

140. Having regard to the facts and the circumstances of the case, I am of the opinion that this is not a fit case to invoke the benevolent provisions of Probation of Offenders Act.

Accused is send back to jail. For hearing on question of sentence he shall be produced before this Court on 15.11.25.

Typed by me in my official Lap Top, corrected by me this the 14th day of November 2025.

Sd/-

Jalaja Rani.M.T
Judge, PoCSO Court-Kannur.
(Full additional charge. PoCSO Court-Thalassery).

15-11-2025

Accused and counsel were heard on question of sentence also, the learned public prosecutor.

141. *Accused submitted that he is innocent and he is having wife, two kids an age old mother and unmarried sister and he is the person looking after them. It is also submitted that one of the child is having some neurological problem and prayed for maximum leniency. When asked accused submitted that he has no serious health issues at all.*

142. *Learned counsel for the accused also submitted that the accused is the sole bread winner of the family and he has to look after his wife, children, age old mother and unmarried sister. It is also submitted that his child is suffering some neurological problem.*

143. *Learned Special Public Prosecutor submitted that the offence committed by the accused towards his own student a minor 10 year old child is very cruel and heinous. According to learned prosecutor the child who lost her father before her birth imagined and loved the accused as her father and the accused also loved her later, taking advantage of her love*

sexually assaulting her and thereafter trying to tamper the evidence in this case. Learned prosecutor submitted that due to the act of the accused, the child has been undergoing trauma and she lost her education for a period of two years also. She was praying for maximum punishment to the accused.

144. In **State of Punjab V Ramdev Sing**, the Hon'ble Supreme Court held that, Sexual Violence apart from being a dehumanizing act is an unlawful intrusion on the right of privacy and sanctity of a female. It is a serious blow to her supreme honour and offends her self-esteem and dignity it degrades and humiliates the victim and where the victim is a helpless innocent child or a minor, it leaves behind a traumatic experience. A rapist not only causes physical injuries but more indeed leaves a scar on the most cherished possession of a women i.e her dignity, honour, reputation and not the least her chastity. Rape is not only a crime against the person of a women, it is a crime against the entire society'. In **State of Madhya Pradesh Vs Babulal(2008)1 SCC**, the Hon'ble Supreme Court relying its earlier decision in **Dinesh Vs State of Rajasthan(2006)3 SCC** held that, 'Once a person is convicted for an offence of rape. He should be treated with a heavy hand. An undeserved indulgence or liberal attitude in not awarding adequate sentence in such cases would amount to allowing or even to encouraging the 'potential criminals'. The society can no longer

endure under such serious threats. Courts must hear the loud cry for justice by society in cases of heinous crime of rape and impose adequate sentence. Public abhorrence of the crime needs reflection through imposition of appropriate sentence by the Court''.

145. *Having considered the facts and circumstances of this case in the light of the above said decisions rendered by Hon'ble Supreme Court it is to be held that, the convict who is found to have committed repeated aggravated penetrative sexual assault and rape on a minor girl who is his student taking advantage of her love and affection towards him. Being a teacher, it is the responsibility and duty of the accused to teach his student's the valuable words'(മാതാ പിതാ ഗുരു ദൈവം)'. When a teacher, who is expected to be a guardian of virtue, trust and uses their position to sexually exploit a child, it is a sacrilege against the very concept of Guru. Such acts desecrate the sanctity of the class room and the faith society places in its educators. Let every educator remember that teaching is not merely a profession but a solemn trust. To violate that trust is to turn divinity in to depravity. The true spirit of Guru lies not in authority, but in purity-a purity of mind, purpose and conduct. By forgetting all above, the accused was sexually molesting his student who saw him as her lost father and God so, the accused did not deserve any leniency and he has to be dealt with adequate sentence.*

146. Section 42 of the PoCSO Act states that, where an act or omission constitute an offence punishable under the PoCSO Act also U/sections 166A, 354A, 354B, 354C, 354D, 370, 370A, 375, 376, 376A, 376C, 376D, 376E or section 509 of I.P.C or Section 67B of Information Technology Act, 2000, then notwithstanding anything contained in any law for the time being in force, the offender found guilty of such offence shall be liable to punishment under this Act or under the I.P.C as provided for punishment which is greater in degree. The ingredients for the offence 376(2)(f) of I.P.C and section 5(f) of the PoCSO Act and the degree of punishment is same for both offence. The offence of 376AB I.P.C and section 5(m) of the PoCSO Act are one and same and the punishment are also same so, conviction can be imposed in any one of each offences.

In the result,

- a) The convict is sentenced to undergo Imprisonment for life that means the remainder of the convict's life and to pay fine of Rs. 1,00,000/-(One lakh only) for the offence punishable U/sec.376AB of Indian Penal Code. In default of payment of fine, he shall undergo rigorous imprisonment for 1 (one) year for the said offence,***

- b) The convict is also sentenced to under go Rigorous Imprisonment for 20 (twenty) years each and to pay fine of Rs.50,000/-(fifty thousand only) each for the offences punishable U/s 5(f),5(l) of The Protection of Children from Sexual Offences Act. In default of payment of fine he shall under go Rigorous Imprisonment for a further period for 6 (six) months R.I each for the said offences,**
- c) No separate sentence for the offence punishable U/sec.376(2)(f) of Indian Penal Code and sec.5(m) r/w 6(1) of the Protection of Children from Sexual Offences Act in view of sec.42 of The PoCSO Act.**
- d) The substantive sentence of imprisonment shall run concurrently. However, the convict shall first under go the term sentence before the commencement of life sentence in view of the decision of the Hon'ble Apex Court in Muthulingam Vs State represented by Inspector of Police(AIR 2016 SC 3340).**
- e) Accused was in judicial custody from 15-04-2020 till 16-07-2020. Set off is allowed for the substantive sentence.**

- f) MO.1 to 15 are being valueless shall be destroyed after the period of appeal. If appeal is preferred, after the disposal of appeal.**
- g) Fine amount if realised, shall be given to PW1/victim u/s 357(1) of the CrPC as compensation.**

It is mandatory for the Special Courts to award compensation for the victim for cover the expenses for medical treatment, potential loss of educational opportunities and other related costs. The PW1/Victim in this case is a child who lost her father before her birth and hailing from a financially weak family and evidently, due to the trauma suffered by the unexpected incident she lost her education for a period of two years so, I recommend for compensation payable to PW1/victim under the Victims Compensation Scheme invoking power U/sec.33(8) of the PoCSO Act. Therefore, recommendation is made to District Legal Services Authority ,Thalassery to conduct enquiry for that purpose.

Office of this Court is directed to forward a copy of this judgment to D.L.S.A -Thalassery.

**Typed by me in my Official Lap Top, corrected by me and
Pronounced on Open Court on this the 15th day of November, 2025.**

Sd/-

JALAJA RANI.M.T.
Judge, PoCSO Court-Kannur.
(Full additional charge PoCSO Court-Thalassery).

WITNESSES FOR THE PROSECUTION:

Rank	Name	Whether eye witness, Police witness, Expert witness, Medical witness, other witness
PW1	Survivor	Eye witness
PW2	Dr.Ramshad	Medical witness
PW3	Sri.Rajeevan.C., Village Officer	Other witness
PW4	Sri.K.G.Ravindran, Secretary, Panoor Municipality	Other witness
PW5	Sri.Sibin.E., Child Line Team Member	Other witness
PW6	Sri.Rajeesh Kumar.C.P.,Teacher	Other witness
PW7	Sri.Bijoy.P., Headmaster	Other witness
PW8	Dr.Poornima Prabhu, Gynecologist	Medical witness
PW9	Dr.Vasumathi.T.V., Gynecologist	Medical witness
PW10	Sri.Vijesh.V.K., SCPO	Police witness
PW11	Smt.Lailabi K.C., Teacher	Other witness
PW12	Kum.Risha Fathima	Other witness
PW13	Smt.Beena.K., Child Line Team Member	Other witness

PW14	Pramod.,M.K., Office Attender	Other witness
PW15	Sri.Dineshan.K.K., Headmaster (Rtd.)	Other witness
PW16	Sri.Abdulla.T.	Other witness
PW17	Kum.Fathimathul Minha	Other witness
PW18	Smt.Sameera.T.	Other witness
PW19	Dr.Muneer.K, Jr.Consultant	Medical witness
PW20	Jayachandran.V.R, Clean City Manager	Other witness
PW21	Smt.Sreeja.K.V. Asst. Professor of Physics	Other witness
PW22	Sri.Gireesh.N.K. Sub Inspector	Police witness
PW23	Sri.Sreejith.M., ASI	Police witness
PW24	Sri.Sreeroop Sreedharan, CPO	Police witness
PW25	Sri.Lijith.P.S. Scientific Officer	Other witness
PW26	Smt.Sweety.K.,CPO	Smt.Sweety.
PW27	Smt.Rejitha.M., CPO	Police witness
PW28	Sri.Latheesh.K.V.,SCPO	Police witness
PW29	Smt.Sreelatha.C., ASI	Police witness
PW30	Sri.Sajeev.P.K., Alternative Nodal Officer, BSNL	Other witness
PW31	Sri.Bins Jose.K.T., Police Photographer	Other witness
PW32	Smt.Lathika.P.V.O., Gr.ASI	Police witness
PW33	Sri.Ajeesh Thekkatavan, Assistant Director (Biology)RFSL	Other witness
PW34	Sri.Sreejith.T.P.,	Police witness

	Asst.Commissioner	
PW35	Sri.Fayis Ali.E.V, Inspector of Police	Police witness
PW36	Smt.Sudha.T.P., Inspector of Police (Rtd.)	Police witness
PW37	Smt.Reeshma Rameshan, Superintendent of Police	Police witness
PW38	Sri.Madhusoodanan Nair.T. DySP (Crime Branch)	Police witness
PW39	Sri.T.K.Retnakumar, DySP	Police witness
PW40	Sri.Augustine Joseph.K.G., Alternative Nodal Officer, Vodafone	Other witness

EXHIBITS FOR THE PROSECUTION:

Sl. No.	Date	Exhibit Number	Description
1	17-03-2020	P1/PW1	FI statement
2	18-03-2020	P2/PW1	164 CrPC statement
3	...	P3/PW1	Page of note book (subject to objection)
4	...	P4/PW1	Photograph (stage classroom)
5	...	P5/PW1	Photograph (pupil toilet)
6	...	P6/PW1	Photograph (teachers toilet)
7	15-04-2020	P7/PW2	Potency certificate
8	19-04-2021	P8/PW3	Site plan
9	18-06-2020	P9/PW4	Ownership certificate
10	22-06-2021	P10/PW5	Seizure mahazar (intervention form)
11	18-03-2020	P11/PW6	Seizure mahazar (attendance register)

12	18-03-2020	P12/PW6	Seizure mahazar (appointment order)
13	18-03-2020	P13/PW6	Seizure mahazar (attendance register)
14	30-11-2020	P14/PW6	Scene mahazar
15	18-03-2020	P15/PW8	Medico-Legal Certificate
16	18-01-2020	P16/PW9	Prescription
17	16-04-2020	P17/PW12	164 statement of CW2
18	17-03-2020	P18/PW13	Information to police
19	17-03-2020	P19/PW13	Intervention form (subject to objection)
20	12-05-2020	P20/PW14	Seizure mahazar
21	08-05-220	P21/PW14	Seizure mahazar
22	08-05-2020	P21(a)/PW15	Kacheet
23	07-05-2019	P22/PW14	Observation mahazar
24	18-03-2020	P23/PW15	Kacheet
25	...	P24/PW15	Portion of 161 statement of CW17
26	27-11-2020	P25/PW15	Portion of 161 statement of CW17
27	25-05-2020	P26/PW16	Seizure mahazar
28	03-08-2020	P27/PW16	Seizure mahazar
29	22-08-2020	P28/PW19	Psyciatry Medical Report
30	19-05-2021	P29/PW20	Extract of Birth Certificate
31	29-05-2020	P30/PW21	Forensic Rreport
32	30-11-2020	P31/PW22	Seizure mahazar
33	13-06-2021	P32/PW24	Seizure mahazar
34	30-11-2020	P33/PW25	Impression of sample seal
35	30-11-2020	P34/PW25	Report for the collection of evidence

36	04-06-2020	P35/PW28	Seizure mahazar
37	...	P36/PW30	Certified photocopy of CAF
38	...	P37/PW30	Copy of election ID card
39		P38/PW30	Application form for re-verified mobile connection
40	05-12-2020	P39/PW31	65B certificate of DVD
41	05-12-2020	P40/PW31	65B certificate of CD marked PB1
42	05-12-2020	P41/PW31	65B certificate of PB2 Disk
43	...	P42/PW31	DVD containing videographs Disc-1
44	...	P42(a)/PW31	DVD containing videographs Disc-2
45	...	P42(b)/PW31	DVD containing videographs Disc-3
46	...	P43/PW31	CD containing videographs PB-1
47	...	P44/PW31	CD containing videographs PB-2
48	...	P45/PW32	Seizure mahazar
49	29-01-2021	P46/PW33	Forensic Report DNA-02/21
50	29-01-2021	P47/PW33	Forensic Report BIO-101/20
51	17-03-2020	P48/PW34	FIR
52	19-03-2020	P49/PW34	Seizure mahazar (dress)
53	19-03-2020	P50/PW34	Seizure mahazar (medical slip)
54	21-03-2020	P51/PW34	Seizure mahazar (Lava phone)
55	21-03-2020	P52/PW34	Seizure mahazar (Redmi phone)
56	...	P53/PW33	Photograph (bathroom subject to proof)
57	...	P54/PW33	Photograph (stage classroom subject to proof)
58	...	P55/PW35	Seizure mahazar (Teachers Attendance Register)

59	01-04-2020	P55(a)/PW35	Kacheet
60	15-04-2020	P56/PW35	Arrest memo
61	15-04-2020	P57/PW35	Inspection memo
62	15-04-2020	P58/PW35	Address adding report
63	16-04-2020	P59/PW35	Section adding and deleting report
64	08-04-2020	P60/PW35	Property list
65	22-04-2020	P61/PW35	Seizure mahazar (Harddisk)
66	22-04-2020	P62/PW35	Property list
67	22-07-2020	P63/PW37	CMP 1569/2020
68	22-07-2020	P64/PW37	Common Order in CMP 1569/2020, 1570/20 and 1571/2020
69	14-07-2020	P65/PW38	Section adding report
70	14-07-2020	P66/PW38	Final Report dated 14-07-2020
71	...	P67/PW38	Document list
72	...	P68/PW38	Document list
73	27-03-2020	P69/PW38	Psychological assessment report of victim
74	24-07-2020	P70/PW38	Psycho Social Report page 1 to 55 submitted by Jasna.C.K and Rajasree.M
75	03-08-2020	P71/PW38	Document list of psycho social report.
76	12-06-2020	P72/PW38	Forwarding note (mobile phone)
77	03-08-2020	P73/PW38	Cyber Forensic Analysis Report
78	18-06-2020	P74/PW38	Document list of photos and CDS
79	14-10-2020	P75/PW38	Document List of CD
80	14-10-2020	P76/PW38	Document List of Audio CD)
81	02-11-2020	P77/PW39	Proceedings of the Police Chief

82		P78/PW39	Document list CD and DVDs)
83	02-12-2020	P79/PW39	Document List
84	30-11-2020	P80/PW39	Property list
85	01-01-2021	P81/PW39	Forwarding note
86	31-05-2021	P82/PW39	Document list
87	----	P83/PW39	Photo
88	----	P83(a)	Photo
89	13-06-2021	P84/PW39	Document list CDR
90	22-06-2021	P85/PW39	Document list (intervention)
91	13-08-2021	P86/PW39	Report submitting CAF
92	---	P87/PW40	CAF of Nabeesa
93	----	P88/PW40	CAF of Vijesh.V.K.
94	----	P89/PW40	CAF of Athul Krishnan
95	----	P89(a)/PW40	Photo copy of Election Identity Card
96	22.06.2021	P90/PW40	65 B certificate
97	22.06.2021	P91/PW40	65 B certificate
98	24-07-2020	P92/DW2	Report submitted by Swetha .J. Psycho-Social Service Counselor

WITNESS FOR THE DEFENCE:

Rank	Name	Whether eye witness, Police witness, Expert witness, Medical witness, other witness
DW1	Jisna.C.K., Clinical Psychologist	Other witness
DW2	Swetha.J., Psycho-Social Service Counselor	Other witness

DW3	M.A.Abdul Rahim, DySP Superintendent of Crime Branch, Kannur	Police witness
-----	--	----------------

THIRD PARTY EXHIBITS

Sl. No.	Date	Exhibit Number	Description
1	...	X1/PW15	Copy of teachers attendance register for the month of January and February 2020
2	...	X2/PW15	Copy of pupils attendance register for the month of January 2020
3	...	X3/PW15	Copy of pupils attendance register for the month of February 2020
4	01-06-2011	X4/PW15	Copy Appointment Order of K.Padmarajan
5	...	X5/PW15	Extract of admission register - VI-2(1)
6	...	X6/PW6	Time table register from 2013 June onwards
7	...	X6(a)/PW15	Time table register (page No.43)
7	...	X6(b)/PW15	Time table register (page No.45)
8	...	X7/PW15	Casual Leave Register
9	...	X8/PW15	LSS register (subject to objection)

EXHIBITS FOR DEFENCE

Sl. No.	Date	Exhibit Number	Description
1	...	D1/PW1	Photograph
2	...	D2/PW1	Photograph

3	...	D3/PW1	Photograph
4	...	D4/PW1	Photograph
5	28-07-2020	D5/PW1	161 statement of PW1
6	30-06-2020	D6/PW1	Portion marked in page No.34 of report of counsellors Rajasree.M. and Jasna.C.K.
7	-do-	D7/PW1	-do-
8	-do-	D8/PW1	-do-
9	-do-	D9/PW1	-do-
10	-do-	D10/PW1	Portion marked in page No.35 of report of counsellors Rajasree.M. and Jasna.C.K.
11	-do-	D11/PW1	-do-
12	-do-	D12/PW1	Portion marked in page No.36 of report of counsellors Rajasree.M. and Jasna.C.K.
13	-do-	D13/PW1	Portion marked in page No.36 of report of counsellors Rajasree.M. and Jasna.C.K.
14	15-05-2020	D14/PW1	-do-
15	-do-	D15/PW1	-do-
16	-do-	D16/PW1	-do-
17	-do-	D17/PW1	-do-
18	-do-	D18/PW1	-do-
19	03-08-2020	D19/PW1	Relevant portion of report of counsellors Rajasree.M. and Jasna.C.K.
20	-do-	D20/PW1	-do-
21	-do-	D21/PW1	-do-
22	-do-	D22/PW1	-do-

23	-do-	D23/PW1	-do-
24	-do-	D24/PW1	-do-
25	-do-	D25/PW1	-do-
26	-do-	D26/PW1	-do-
27	24-07-2020	D27/PW1	Portion in report of Psycho-Social Counsellor Smt.Swetha.J
28	-do-	D28/PW1	-do-
29	-do-	D29/PW1	-do-
30	-do-	D30/PW1	-do-
31	-do-	D31/PW1	-do-
32	-do-	D32/PW1	-do-
33	-do-	D33/PW1	-do-
34	-do-	D34/PW1	-do-
35	-do-	D35/PW1	-do-
36	-do-	D36/PW1	-do-
37	-do-	D37/PW1	-do-
38	-do-	D38/PW1	-do-
39	28-07-2020	D39/PW1	Relevant portion of 161 statement of PW1
40	-do-	D40/PW1	-do-
41	-do-	D41/PW1	-do-
42	-do-	D42/PW1	-do-
43	-do-	D43/PW1	-do-
44	-do-	D44/PW1	-do-
45	-do-	D45/PW1	-do-
46	-do-	D46/PW1	-do-

47	-do-	D47/PW1	-do-
48	-do-	D48/PW1	-do-
49	-do-	D49/PW1	-do-
50	-do-	D50/PW1	-do-
51	-do-	D51/PW1	-do-
52	-do-	D52/PW1	-do-
53	-do-	D53/PW1	-do-
54	-do-	D54/PW1	-do-
55	-do-	D55/PW1	-do-
56	-do-	D56/PW1	-do-
57	-do-	D57/PW1	-do-
58	-do-	D58/PW1	-do-
59	-do-	D59/PW1	-do-
60	-do-	D60/PW1	-do-
61	-do-	D61/PW1	-do-
62	-do-	D62/PW1	-do-
63	-do-	D63/PW1	-do-
64	-do-	D64/PW1	-do-
65	-do-	D65/PW1	-do-
66	-do-	D66/PW1	-do-
67	-do-	D67/PW1	-do-
68	-do-	D68/PW1	-do-
69	-do-	D69/PW1	-do-
70	-do-	D70/PW1	-do-
71	29-07-2020	D71/PW1	-do-

72	-do-	D72/PW1	-do-
73	-do-	D73/PW1	-do-
74	-do-	D74/PW1	-do-
75		D75/PW1	-do-
76	-do-	D76/PW1	-do-
77	-do-	D77/PW1	-do-
78	-do-	D78/PW1	-do-
79	-do-	D79/PW1	-do-
80	-do-	D80/PW1	-do-
81	-do-	D81/PW1	-do-
82	-do-	D82/PW1	-do-
83	-do-	D83/PW1	-do-
84	-do-	D84/PW1	-do-
85	-do-	D85/PW1	-do-
86	-do-	D86/PW1	-do-
87	-do-	D87/PW1	-do-
88	-do-	D88/PW1	-do-
89	-do-	D89/PW1	-do-
90	27-07-2020	D90/PW1	-do-
91	-do-	D91/PW1	-do-
92	05-08-2020	D92/PW1	-do-
93	-do-	D93/PW1	-do-
94	-do-	D94/PW1	-do-
95	-do-	D95/PW1	-do-
96	-do-	D96/PW1	-do-

97	-do-	D97/PW1	-do-
98	-do-	D98/PW1	-do-
99	17-03-2020	D99/PW1	Relevant portion of FI statement of PW1
100	-do-	D100/PW1	-do-
101	-do-	D101/PW1	-do-
102	-do-	D102/PW1	-do-
103	-do-	D103/PW1	-do-
104	18-03-2020	D104/PW1	Relevant portion of 164 statement of PW1
105	-do-	D105/PW1	Relevant portion of 161 statement of PW1
106	24-07-2020	D106/PW1	Portion marked in page No.36 of report of counsellor Smt.Swetha.J.
107	18-03-2020	D107/PW1	Relevant portion of 161 statement of PW1
108	-do-	D108/PW1	-do-
109	-do-	D109/PW1	-do-
110	-do-	D110/PW1	-do-
111	-do-	D111/PW1	-do-
112	21-03-2020	D112/PW1	-do-
113	-do-	D113/PW1	-do-
114	-do-	D114/PW1	-do-
115	30-03-2020	D115/PW1	Relevant portion of 161 statement of PW1
116	-do-	D116/PW1	-do-
117	-do-	D117/PW1	-do-
118	-do-	D118/PW1	-do-

119	-do-	D119/PW1	-do-
120	-do-	D120/PW1	-do-
121	...	D121/PW1	-do-
122	...	D122/PW1	-do-
123	...	D123/PW1	-do-
124	...	D124/PW1	-do-
125	...	D125/PW1	-do-
126	...	D126/PW1	-do-
127	...	D127/PW1	-do-
128	18-03-2020	D128/PW6	Scene mahazar
129	24-03-2020	D129/PW7	Relevant portion of 161 statement of PW7
130	26-05-2020	D130/PW7	Relevant portion of 161 statement of PW7
131	30-03-2020	D131/PW12	Relevant portion of 161 statement of PW12
132	19-03-2020	D132/PW12	-do-
133	30-03-2020	D133/PW12	-do-
134	...	D134/PW12	-do-
135	...	D135/PW12	-do-
136	...	D136/PW12	-do-
137	30-03-2020	D137/PW12	-do-
138	21-05-2020	D138/PW16	Relevant portion of 161 statement of PW16
139	-do-	D139/PW16	-do-
140	-do-	D140/PW16	-do-

141	-do-	D141/PW16	-do-
142	-do-	D142/PW16	-do-
143	-do-	D143/PW16	-do-
144	-do-	D144/PW16	-do-
145	-do-	D145/PW16	-do-
146	-do-	D146/PW16	-do-
147	-do-	D147/PW16	-do-
148	-do-	D148/PW16	-do-
149	-do-	D149/PW16	-do-
150	22-04-2020	D150/PW16	-do-
151	-do-	D151/PW16	-do-
152	...	D152/PW30	Relevant portion of 161 statement of PW30
153	...	D153/PW30	-do-
154	03-03-2020	D154/PW35	Relevant portion of 161 statement of PW35
155	30-09-2020	D155/DW3	Investigation Report on PE 7/20

Court Witnesses: Nil

MATERIAL OBJECTS

Sl. No.	Date	Exhibit Number	Description
1.	...	MO1	Pant of the victim
2.	...	MO2	Pant of the victim
3.	...	MO3	Top of the victim
4.	...	MO4	Top of the victim
5.	...	MO5	Shawl of the victim

6.	...	MO6	Shawl of the victim
7.	...	MO7	Top of the victim
8.	...	MO8	Pant of the victim
9.		MO9	Shimmies of the victim
10.	...	MO10	Shimmies of the victim
11.	...	MO11	Panties of the victim
12.	...	MO12	Panties of the victim
13.	...	MO13	Panties of the victim
14.	...	MO14	Toffee cover
15.	...	MO15 series	Photos of victim (passport size)

Sd/-

JALAJA RANI.M.T

Judge, PoCSO Court-Kannur.

(Full additional charge PoCSO Court-Thalassery).

IN THE COURT OF SPECIAL JUDGE

FAST TRACK SPECIAL COURT,
THALASSERY.

SESSIONS CASE No. 472 OF 2021

J U D G M E N T

DATED : 14-11-2025/15-11-2025

To

1	The Registrar, High Court of Kerala, Ernakulam, Kochi - 682 031.
2	The Public Prosecutor, Thalassery.
3	The Accused

* * * * *