

IN THE COURT OF THE FAST TRACK SPECIAL JUDGE, HARIPAD

(SESSIONS DIVISION, ALAPPUZHA)  
Present:- Sri. Hareesh G., Special Judge

Tuesday, the 31<sup>st</sup> day of March, 2026

**S.C. No.334/2025**

(Crime No.853/2024 of Kanakakkunnu Police Station)

Complainant : State of Kerala - represented S.I. of Police,  
Kanakakkunnu Police Station.  
*(By Adv.Sri.S. Reghu, Spl. Public Prosecutor)*

Accused : Anilkumar.  
*(By Adv.Sri.K Gopakumar)*

Charge : u/Ss.333 & 75(1)(i) of Bharatiya Nyaya  
Sanhita, 2023 and U/s.8 r/W 7 of the  
Protection of Children from Sexual Offences  
Act, 2012.

Plea : Not guilty.

Finding : Not guilty.

Sentence or Order : ***The accused is acquitted u/S.258(1) of  
BNSS for the offences punishable  
u/Ss.333 & 75(1)(i) of Bharatiya Nyaya  
Sanhita, 2023 and U/s.8 r/W 7 of the  
Protection of Children from Sexual  
Offences Act, 2012.***

**DESCRIPTION OF THE ACCUSED**

Sl.No.	Name	Father's name	Religion	Occupation	Residence	Age
1	Anilkumar S/o Krishnan Nair, Vaishnavam Veedu, Muthukulam P/W-15, Muthukulam North Muri, Muthukulam Village.					54/24

Date of:-

Offence	Report	Apprehension	Release on bail	Committal
08/12/2024	03/02/2025	08/12/2024	06/01/2025	-
Commencement of trial	Close of trial	Sentence/ order	Explanation for delay, if any	
13/01/2026	26/03/2026	31/03/2026	-	

This Sessions Case having been finally heard on 26/03/2026 and stood over for consideration to this day and the Court delivered the following:

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

- (1)** This case is based on the final report filed by the Sub Inspector of Police attached to the police station, Kanakakkunnu in Crime No.853/2024 of the Kanakakkunnu police station. The accused is put to trial alleging commission of the offence punishable u/Ss.333 & 75(1)(i) of the Bharatiya Nyaya Sanhita, 2023 (For short, BNS) and u/S.8 r/W 7 of the Protection of Children from Sexual Offences Act, 2012 (For short, PoCSO Act).
  
- (2)** The prosecution allegation against the accused is as follows:- that the accused with his intention to subject the victim girl, who just crossed 12 years of age, at around 09.30 am on 08/12/2024, criminally trespassed into the bedroom of the house bearing No.12/22 of Muthukulam Panchayat in Muthukulam North Muri of Muthukulam Village, and cuddled her and he also showed gesture to her to become silent. Thus, the accused has sexually assaulted the victim girl and committed the offence punishable u/Ss.333 &

75(1)(i) of the Bharatiya Nyaya Sanhita, 2023 and u/S.8 r/W 7 of the Protection of Children from Sexual Offences Act, 2012.

- (3)** This case had its genesis on Ext.P1 FIS given by PW1 before PW4, the A.S.I. of Police attached to the police station at Kanakakkunnu; then PW3, the S.I. of Police attached to the police station at Kanakakkunnu registered the case as per Ext.P2 First Information Report. Then, after completing the investigation, he has laid the final report before the Addl. Sessions Court-1, Alappuzha (the Special Court for trial of offences under the PoCSO Act & Children's Court) by citing CWs 1 to 20 as charge witnesses. The Special Court took cognizance of the offences alleged in the final report and taken the case on the files under the present number and issued process to the accused. Thereafter, the case was made over to this Court for trial and disposal.
- (4)** Upon receipt of the case records, this Court issued process to the accused. The accused appeared before the Court in response to the process issued. On his appearance before the Court, the accused was furnished with copies of all relevant prosecution records. The accused was defended by the counsel appointed by him.

- (5) The learned Special Public Prosecutor opened the case u/S.249 of Bharatiya Nagarik Sureksha Sanhitha (For short B.N.S.S) by describing by what evidence he proposes to prove the guilt of the accused. Thereafter, the counsel for the accused and the Special Public Prosecutor were heard u/S.250 of the BNSS and since there is sufficient materials to frame charge against the accused, charge u/Ss.333 & 75(1)(i) of Bharatiya Nyaya Sanhita, 2023 and U/s.8 r/ W 7 of the Protection of Children from Sexual Offences Act, 2012 was framed, read over and explained to the accused. The accused pleaded not guilty to the charge and claimed to be tried.
- (6) Thereafter, from the side of the prosecution, **PW1** to **PW4** were examined and marked **Exts.P1** to **18**.
- (7) After the closure of the prosecution evidence, the accused was examined u/S.351(1)(b) of BNSS with respect to incriminating circumstances appearing against him in the prosecution evidence. The accused denied all the incriminating circumstances brought against him and stated that he is innocent of the prosecution allegations.
- (8) Thereafter, the learned counsel for the accused and the learned S.P.P. were heard u/S.255 BNSS. Since there is evidence against the accused, it is found that the accused is not entitled to be

acquitted u/S.255 of BNSS. From the side of the accused, no evidence was adduced when he was called upon to enter on his defence.

**(9)** Among the prosecution witnesses examined, PW1 is the victim girl; she has set the law in motion by lodging Ext.P1 FIS. PW2 is the mother of the victim girl; she is examined to prove the incident. PW3 is the S.I. of Police attached to the police station at Kanakakkunnu; he has registered this case as per Ext.P2 FIR; he has conducted the investigation and laid the final report; through him, Exts.P2 to P18 documents were marked. PW4 is the A.S.I. of Police attached to the police station, Kanakakkunnu; she has recorded Ext.P1 FIS given by PW1.

**(10)** The prosecution has given up CWs 3 to 11 and 13 to 19.

**(11)** Heard the learned SPP and the learned counsel for the accused.

**(12)** The following points arise for consideration:-

- 1) Has the prosecution proved that PW1 was a child as defined in the Protection of Children from Sexual Offences Act, 2012 when the incident took place?
- 2) Whether the accused committed house-trespass in order to assault PW1?
- 3) Whether the accused committed sexual harassment on PW1?
- 4) Whether the accused committed sexual assault on PW1?
- 5) What, if any is the offence committed by the accused?

6) Regarding sentence or order?

**(13) Point No.1 to 4:-**

In this case, the prosecution alleges the offence punishable under Section 8 r/W 7 of the Protection of Children from Sexual Offences Act, therefore, the prosecution is bound to prove the age of the victim as a foundational fact. PW2, the mother of the victim testified that her daughter was born on 25/05/2012. The investigating officer in this case, who testified as PW3 deposed that he has obtained **Ext.P16**, the extract of the school admission register and **Ext.P17** birth certificate of PW1 from the office concerned and as per those records, the date of birth of PW1 is on 25/05/2012. Here, Exts.P16 and P17 documents are not challenged by the accused. Thus, it is found that those documents can be accepted as proof of the date of birth of the victim. Thus, it is found that on the alleged date of occurrence, ie. on 08/12/2024, PW1 has not completed the age of 18 years and therefore, she is a child as defined in the PoCSO Act.

**(14)** In this case, PW1 deposed before the court that she has given a statement to the police alleging that the accused molested her. It is her evidence before the court that the accused touched her shoulder, but did not commit any assault on her. PW1 deposed that the accused did not hug her, but he only touched her

shoulder. Since PW1 did not support the prosecution, the learned SPP confronted her with questions, but nothing in favour of the prosecution could be elicited from her.

**(15)** PW2 is the mother of PW1. She deposed that she has got acquaintance with the accused and the accused is a plumber. PW2 deposed that while she was in her working place, she received a call informing that the accused has assaulted her daughter. It is her evidence before the court that she reached near to her daughter and asked her about the incident. PW2 further deposed that her daughter told her that the accused touched her shoulder, but he did not commit any assault on her. Though the S.P.P has confronted PW2 with questions SPP, nothing in favour of the prosecution could be elicited from her.

**(16)** PW3 is the S.I. of Police attached to the police station, Kanakakkunnu; he deposed that on the basis of Ext.P1 FIS, he has registered the case as per **Ext.P2** FIR. He deposed that he got the victim girl examined by a medical practitioner and obtained **Ext.P3** series medical certificate and **Ext.P4** wound certificate. PW3 further deposed that he has inspected the scene of occurrence and prepared **Ext.P5** scene mahazar. PW3 deposed that he has arrested the accused and the arrest memo and the arrest intimation prepared at the time of arresting the accused are

marked as **Exts.P6 & P7**, respectively. He further deposed that he has seized the motorcycle of the accused as per **Ext.P8** seizure mahazar and he sent the accused for medical examination and obtained **Ext.P9** potency certificate. PW3 deposed that he has filed **Ext.P10** report for disclosing the name and address of the accused. It is his evidence before the court that he has obtained **Ext.P11** document which pertaining to the registration particulars of the bike of the accused and he also got the vehicle of the accused tested by the Vehicle Inspector and obtained **Ext.P12** certificate. The copy of driving licence of the accused is marked as **Ext.P13**. The ownership certificate of the scene of occurrence is marked as **Ext.P14** through PW3. PW3 further deposed that he has obtained **Ext.P15** scene plan with respect to the scene of occurrence. He further deposed that he has obtained Ext.P16 the extract of school admission register and Ext.P17 the birth certificate of the victim girl to prove the date of birth of the victim. PW3 deposed that vide Ext.P18 property list, he has produced the seized bike before the court.

**(17)** PW4 is the ASI of Police attached to the police station, Kanakakkunnu; she deposed that on 08/12/204, she recorded Ext.P1 FIS given by the victim girl.

**(18)** As already mentioned, the material witnesses (PWs 1 & 2) did not support the prosecution. PW1 has no case that she was sexually assaulted by the accused. She disowned her statement in Ext.P1 F.I.S. The evidence of PWs 3 & 4 are not helpful to prove the guilt of the accused as PWs 1 & 2 did not support the prosecution. In a case of these nature, the substantive evidence is the evidence of the victim and since the victim herself turned hostile to the prosecution, it is found that the prosecution has failed to prove the guilt of the accused beyond reasonable doubt. Thus, it is found that the prosecution has failed to prove the offence punishable u/Ss.333 & 75(1)(i) of Bharatiya Nyaya Sanhita, 2023 and U/s.8 r/W 7 of the Protection of Children from Sexual Offences Act, 2012 against the accused beyond reasonable doubt. These points are answered accordingly.

**(19) Point No.5:-**

Vide discussions made in the foregoing points, it is found that the prosecution has failed to prove the offence punishable u/Ss.333 & 75(1)(i) of Bharatiya Nyaya Sanhita, 2023 and U/s.8 r/W 7 of the Protection of Children from Sexual Offences Act, 2012 against the accused beyond reasonable doubt. This point is answered accordingly.

**(20) Point No.6:-**

Vide discussions made in the foregoing discussions, it is found that the prosecution has failed to prove the offence u/Ss.333 & 75(1)(i) of

Bharatiya Nyaya Sanhita, 2023 and U/s.8 r/W 7 of the Protection of Children from Sexual Offences Act, 2012 against the accused.

*In the result,*

***the accused is acquitted u/S.258(1) of BNSS for the offences punishable u/Ss.333 & 75(1)(i) of Bharatiya Nyaya Sanhita, 2023 and U/s.8 r/W 7 of the Protection of Children from Sexual Offences Act, 2012. The bail bond of the accused stands cancelled and he is set at liberty, forthwith.***

***The interim custody of the motorcycle bearing Regn.No.KL-29-K-4329 is made absolute.***

*(Dictated to the Confidential Assistant, she typed directly on computer, corrected and pronounced by me in Open Court on this the 31<sup>st</sup> day of March, 2026)*

Sd/-

Special Judge,

Fast Track Special Court, Haripad.

## **APPENDIX**

### **List of Prosecution/Defence/Court Witnesses:-**

### **STATEMENT UNDER RULE 134 OF THE CRIMINAL RULES OF PRACTICE**

#### **A. WITNESSES FOR THE PROSECUTION:-**

Rank	Name	Whether eye-witness, police witness, expert witness, medical witness, other witness	Date of deposition
PW1	Victim of the offence	-	24/02/26
PW2	Mother of the victim	-	24/02/26
PW3	Dharmarathnam A.K.	S.I. of Police, Kanakakkunnu Police Station	19/03/26
PW4	Reena	A.S.I. of Police, Kanakakkunnu P.S.	23/03/26

#### **B. WITNESSES FOR THE DEFENCE:-**

Rank	Name	Whether eye-witness, police witness, expert witness, medical witness, other witness	Date of deposition
-- N I L --			

#### **C. WITNESSES FOR THE COURT:-**

Rank	Name	Whether eye-witness, police witness, expert witness, medical witness, other witness	Date of deposition
- NIL -			

**List of Prosecution/Defence/Court Exhibits:-**

Sl.No	Exhibit Number	Description	Date
1	P1/PW1	First Information Statement	08/12/24
2	P2/PW3	First Information Report	08/12/24
3	P3 series/PW3	Medical certificate	08/12/24
4	P4/PW3	Wound certificate	08/12/24
5	P5/PW3	Scene mahazar	08/12/24
6	P6/PW3	Arrest memo	08/12/24
7	P7/PW3	Arrest intimation	08/12/24
8	P8/PW3	Seizure mahazar	08/12/24
9	P9/PW3	Potency certificate	08/12/24
10	P10/PW3	Address report	08/12/24
11	P11/PW3	R.C. particulars of the vehicle	17/12/24
12	P12/PW3	AMVI report	17/12/24
13	P13/PW3	Abstract of driving licence	18/12/24
14	P14/PW3	Ownership certificate	20/12/24
15	P15/PW3	Scene plan	28/12/24
16	P16/PW3	Extract of school admission register	30/12/24
17	P17/PW3	Birth certificate	28/12/24
18	P18/PW3	Property list	12/12/24

**B. EXHIBITS FOR THE DEFENCE:-**

Sl.No	Exhibit Number	Description	Date
- N I L -			

**C. EXHIBITS FOR THE COURT:-**

Sl.No.	Exhibit Number	Description	Date
- N I L -			

**D. MATERIALS OBJECTS:-**

Sl.No.	Exhibit Number	Description	Date
- N I L -			

Sd/-  
Special Judge,  
Fast Track Special Court, Haripad.

-//True Copy//-

Special Judge,  
Fast Track Special Court, Haripad.