

IN THE COURT OF THE FAST TRACK SPECIAL JUDGE, HARIPAD
(SESSIONS DIVISION, ALAPPUZHA)

Present:- Sri. Hareesh G., Special Judge

Thursday, the 30th day of April, 2026

S.C. No.317/2023

(Crime No.58/2023 of Kanakakkunnu Police Station)

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

Accused : 1. Adarshkumar @ Unni.
2. Yadhukrishnan.
(By Adv.Sri. Krishnakumar V.)

Charge : u/Ss.363 and 354-D(2) r/w 354-D(1)(i) r/w S.34 of the Indian Penal Code and u/Ss.12 r/w 11(iv) of the Protection of Children from Sexual Offences Act, 2012 and Sec.84 of the Juvenile Justice (Care and Protection of Children) Act.

Plea : Not guilty.

Finding : Not guilty.

Sentence or Order : ***The accused are acquitted u/S.235(1) Cr.PC for the offences punishable u/Ss.363 and 354-D(2) r/w 354-D(1)(i) r/w S.34 of the Indian Penal Code and u/Ss.12 r/w 11(iv) of the Protection of Children from Sexual Offences Act, 2012 and Sec.84 of the Juvenile Justice (Care and Protection of Children) Act.***

DESCRIPTION OF THE ACCUSED

Sl.No.	Name	Father's name	Religion	Occupation	Residence	Age
1	Adarshkumar @ Unni S/o Anilkumar, Adarsh Villa, Chingoli P/W-11, Chingoli Muri & Village.					24/23
2	Yadhukrishnan S/o Balachandran, residing on rent at Puthenpurayil (Koippallil) Veedu, Haripad M/W-26, Thulamparambu Muri, Haripad Village from Chakkolil Kizhakkathil Veedu, Haripad M/W-22, Vettuveni Muri, Karthikappally Village.					18/23

Date of:-

Offence	Report	Apprehension	Release on bail	Committal
05/02/2023	03/04/2023	10/02/2023 (A1) 12/02/2023 (A2)	30/05/2023 23/03/2023	-
Commencement of trial	Close of trial	Sentence/order	Explanation for delay, if any	
04/11/2023	23/04/2026	30/04/2026	-	

This Sessions Case having been finally heard on 23/04/2026 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 Inspector SHO attached to the police station at Kanakakkunnu in Crime No.58/2023 of the said police station. The accused are put to trial alleging commission of the offences punishable u/Ss.363 & 354-D(ii) r/W S.34 of the Indian Penal Code (for short, IPC), u/S.12 r/W 11(iv) of the Protection of Children from Sexual Offences Act, 2012 (for short, PoCSO Act) and Sec.84 of the

Juvenile Justice (Care and Protection of Children) Act (for short, J.J. Act).

(2) The prosecution allegation against the accused is as follows:- that the 1st accused with his intention to remove CW2, who was then aged 16 years, from the lawful custody of her parents, contacted her continuously through Instagram messages; then, on 05/02/2023, both the accused reached near to the house of CW2 situated in Ward IV of Arattupuzha Panchayat and thereafter, the accused took CW2 on the motorcycle bearing Regn.No.KL-29-U-0531 from the Perathu Mukku- Mallikattu Kadavu road near to the Mallikattu Kadavu junction. Thereafter, the 1st accused travelled along with CW2 on different places; the 2nd accused rendered help to the 1st accused to kidnap CW2. Thus, the accused have committed the offences punishable u/Ss.363 & 354-D(ii) r/W S.34 of the Indian Penal Code, u/S.12 r/W 11(iv) of the Protection of Children from Sexual Offences Act, 2012 and Sec.84 of the Juvenile Justice (Care and Protection of Children) Act.

(3) This case had its genesis on Ext.P8 FIS given by PW3 before PW5, the S.I. of Police attached to the police station, Kanakakkunnu; then he registered the case as per Ext.P9 First

Information Report. After completing the investigation, PW2 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 27 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 their appearance before the Court, the accused were furnished with copies of all relevant prosecution records and since they were released on bail at the investigation stage of the case, the accused were permitted to continue on the same bail bonds executed by them during the investigation of the case. The accused were defended by the counsel appointed by them.
- (5)** The learned Special Public Prosecutor opened the case u/S.226 of the Cr.PC 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.227 of

the Cr.PC and since there is sufficient materials to frame charge against the accused, charge u/Ss.363 and 354-D(2) r/W 354-D(1) (i) r/W S.34 of the Indian Penal Code and u/S.12 r/W 11(iv) of the Protection of Children from Sexual Offences Act, 2012 and Sec.84 of the Juvenile Justice (Care and Protection of Children) Act 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 PW5** were examined, marked **Exts.P1 to 32** and **MO.1 to MO.17**.
- (7)** After the closure of the prosecution evidence, the accused were examined u/S.313(1)(b) of Cr.PC with respect to incriminating circumstances appearing against them in the prosecution evidence. The accused denied all the incriminating circumstances brought out against them and stated that they are innocent of the prosecution allegations.
- (8)** Thereafter, the learned counsel for the accused and the learned S.P.P. were heard u/S.232 Cr.PC. Since there is evidence against the accused, it is found that the accused are not entitled to be acquitted u/S.232 of Cr.PC. From the side of the accused, no

evidence was adduced when they were called upon to enter on their defence.

(9) Among the prosecution witnesses examined, PW1 is the victim in this case; she did not support the prosecution and deposed that the 1st accused is her husband. PW2 is the Inspector SHO attached to the police station at Kanakakkunnu; he has conducted the investigation; through him, Ext.P1 to P7 and P10 to P32 documents and MO.1 to MO.17 were marked. PW3 is the father of the victim girl; he has set the law in motion by lodging Ext.P8 FIS. PW4 is the mother of the victim girl; she is examined to prove the incident. PW5 is the S.I. of Police attached to the police station, Kanakakkunnu; he has recorded Ext.P8 FIS and registered the case as per Ext.P9 FIR.

(10) The prosecution has given up CWs 4 to 25.

(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 incidents took place?
- 2) Whether the accused kidnapped PW1?
- 3) Whether the 1st accused followed and contacted PW1 to foster personal interaction repeatedly despite a clear indication of disinterest by her?

- 4) Whether the 1st accused committed sexual harassment on PW1?
- 5) Whether the accused shared any common intention to commit the offence?
- 6) What, if any is the offence committed by the accused?
- 7) Regarding sentence or order?

(13) Point No.1 to 5:-

The prosecution alleges the offence punishable under Sec.12 r/W 11(iv) of PoCSO Act in this case. That to attract the offence under the PoCSO Act, the prosecution must prove the victim was a child at the time of the alleged incident. PW4, the mother of the victim deposed that her daughter was born on 31/03/2006. Then the victim also deposed that she was born on 31/03/2006. In this case, the prosecution produced the birth certificate of PW1 from the Municipal Office, Mavelikara and the said document is marked as **Ext.P19**. As per Ext.P19, the date of birth of PW1 is on 31/03/2006. The above evidence adduced by the prosecution with regard to the age of PW1 is not challenged by the accused. The accused have no contention that on 05/02/2023, PW1 has completed the age of 18 years. In this case, as per the prosecution case, the incident happened on 05/02/203 and since it is found that PW1 was born on

31/03/2006, she has not completed the age of 18 years and therefore, she is a child as defined in the PoCSO Act.

(14) Law is set in motion by PW3, the father of the victim. He deposed that he gave **Ext.P8** FIS alleging that his daughter is found missing. It is his evidence before the court that his daughter was found missing at 00.30 hours on 05/02/2023. He further deposed that after three days, his daughter appeared in the police station, Kanakakkunnu along with the 1st accused. PW3 deposed that from police station, information was passed to him and the child was sent to CWC. He also deposed that his daughter left the house by writing a letter and the letter was handed over to the police. It is his evidence before the court that on attaining 18 years, his daughter was sent to his house, but later she went away with the 1st accused.

(15) PW1, the victim girl testified before the court that the 1st accused is her husband and she did not know the other accused. PW1 turned hostile to the prosecution and deposed that her mother complained in the police station alleging that she is missing. It is her evidence before the court that she has not left the house and she had not contacted the 1st accused over telephone. PW1 deposed that there was monetary transaction

between her parents and her husband and following that a complaint was filed in the police station. Though the learned SPP has confronted PW1 with questions, nothing in favour of the prosecution could be elicited from her.

(16) PW4 is the mother of the victim girl; she deposed that she has got acquaintance with the 1st accused and she has seen the 2nd accused for the first time. She deposed that on 05/02/2023, her daughter was found missing from the house. She deposed that due to the relationship between her daughter and the 1st accused, she and her daughter were staying in her house. PW4 further deposed that after putting a letter, her daughter left the house and later the 1st accused and her daughter appeared in the police station. She also deposed that on attaining the age of 18 years, her daughter was sent to her house from CWC, but she again went away with the 1st accused.

(17) In this case, the investigating officer testified before the court as PW2. He deposed that he has filed **Ext.P1** report before the court stating that he has taken over the investigation of the case. PW2 deposed that then he inspected the scene of occurrence and prepared **Ext.P2** scene mahazar. He would depose that he has then arrested the accused and the arrest

memo and the arrest intimation prepared at the time of arresting the 1st accused are marked as **Exts.P3 & P4** respectively. He deposed that he has filed reports before the court to bring on record the address of the accused persons and the said documents are marked as **Exts.P5 & P6** respectively. He deposed that he has seized the articles possessed by the 1st accused while arresting him as per a mahazar and the said mahazar is marked as **Ext.P7**.

(18) PW2 identified the bags seized from the 1st accused and the same is marked as **MO.1**. The Laptop and charger seized from the 1st accused are marked as **MO.2 & MO.3**. Two cell phones seized from the 1st accused are marked as **MO.4 & MO.5**. The wallet of the 1st accused seized and produced before the court is marked as **MO.6**. PW2 deposed that he has produced MO.1 to MO.6 articles before the court as per **Ext.P10** property list. He deposed that vide [Ext.P11](#) mahazar he has seized the clothes of the victim girl, PW2 identified the clothes of the victim girl, which are marked as **MO.7 to MO.11**. He further deposed that vide Ext.P12 mahazar, he has seized the dress of the 1st accused and the clothes of the 1st accused seized and produced before the court are marked as **MO.12 to MO.16**. He further deposed that he has produced MO.7 to MO.16 as per **Ext.P13** series,

property list. It is his evidence before the court that he has arrested the 2nd accused. The arrest memo, arrest intimation and inspection memo pertaining to the 2nd accused are marked as **Exts.P14 to P16**. He deposed that he has seized the cell phone of the 2nd accused as per the inspection memo and the said cell phone is marked as **M.O.17**.

(19) He deposed that he has seized the bike of the 1st accused as per **Ext.P17** mahazar and vide **Ext.P18** property list, he has produced the cell phone of the 2nd accused and the bike of the 1st accused before the court. He further deposed that he has obtained **Ext.P19** birth certificate of the victim girl and he has also obtained **Ext.P20** scene plan of the place of occurrence. It is his evidence before the court that he obtained **Ext.P21** certificate after getting the motorcycle of the 1st accused tested by AMVI. He further deposed that he obtained **Ext.P22** medical certificate with respect to the victim girl and he has also obtained **Ext.P23** potency certificate with respect to the 1st accused.

(20) He further deposed that he produced the copy of driving licence of the 1st accused before the court and the same is marked as **Ext.P24**. It is his evidence before the court that he has seized the samples collected from the victim and the 1st accused as per

two mahazars and the said mahazars are marked as **Exts.P25 & P26**. PW2 further deposed he has prepared Ext.P27 mahazar with respect to the register of the resort in which the 1st accused housed the victim girl. He further deposed he has produced the R.C. particulars of the vehicle of the 1st accused and the said document is marked as **Ext.P28**. PW2 further deposed that he incorporated S.84 of the J.J. Act in this case and he also incorporated the provisions of the PoCSO Act in the case by filing **Ext.P30** report. He further deposed that vide **Ext.P31** report, he incorporated S.34 of the IPC. The order appointing the VLO for the victim girl is marked through PW2 as **Ext.P32**.

(21) PW5 is the S.I. of Police attached to the police station, Kanakakkunnu. He deposed that he has registered the case on the basis of the FIS given by PW3 and the said FIR is marked as **Ext.P9**. He deposed that he has also recorded Ext.P8 FIS given by PW3.

(22) The prosecution has adduced the abovementioned evidence to prove that the accused persons with their common intention, kidnapped PW1 from the lawful custody of PWs 3 & 4. But, PW1 - the victim girl did not support the prosecution and deposed that she is married to the 1st accused. She deposed that the

accused neither kidnapped her nor did they sexually abused her. The above evidence of PW1 shatters the entire prosecution case. The evidence of PWs 3 & 4 is found insufficient to enter a finding against the accused persons. In a case of these nature, the substantive evidence is the testimony of the victim girl and she did not support the prosecution, the other evidence adduced by the prosecution is of no avail 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.354-A(2) r/W 354-A(1)(i), 354-A(1)(iii), 506 & 509 of the Indian Penal Code, u/Ss.8 r/W 7, 10 r/W 9(l), 10 r/W 9(n) & 12 r/W 11(ii) of the Protection of Children from Sexual Offences Act, 2012 and Sec.75 of the Juvenile Justice (Care and Protection of Children) Act against the accused beyond reasonable doubt. These points are answered accordingly.

(23) Point No.6:-

Vide discussions made in the foregoing points, it is found that the prosecution has failed to prove the offence punishable u/Ss.363 and 354-D(2) r/w 354-D(1)(i) r/w S.34 of the Indian Penal Code and u/Ss.12 r/w 11(iv) of the Protection of Children from Sexual Offences Act, 2012 and Sec.84 of the Juvenile

Justice (Care and Protection of Children) Act against the accused beyond reasonable doubt. This point is answered accordingly.

(24) Point No.7:-

Vide discussions made in the foregoing discussions, it is found that the prosecution has failed to prove the offence punishable u/Ss.363 and 354-D(2) r/w 354-D(1)(i) r/w S.34 of the Indian Penal Code and u/Ss.12 r/w 11(iv) of the Protection of Children from Sexual Offences Act, 2012 and Sec.84 of the Juvenile Justice (Care and Protection of Children) Act against the accused.

In the result,

the accused are acquitted u/S.235(1) Cr.PC for the offences punishable u/Ss.363 and 354-D(2) r/w 354-D(1)(i) r/w S.34 of the Indian Penal Code and u/Ss.12 r/w 11(iv) of the Protection of Children from Sexual Offences Act, 2012 and Sec.84 of the Juvenile Justice (Care and Protection of Children) Act. The bail bonds of the accused stand cancelled and they are set at liberty, forthwith.

MO.7 to MO.16 are directed to be destroyed after the expiry of the appeal period or if an appeal is preferred, they shall be disposed as per the direction of the Appellate Court.

MO.1 to MO.6 and MO.17 are directed to be released to its owners, as per rules after the expiry of the appeal period or if an appeal is preferred, they shall be disposed as per the direction of the Appellate Court.

The interim custody of the vehicle bearing Regn.No.KL-29-U-0531 is made absolute.

(Dictated to the Confidential Assistant, she typed directly on computer, corrected and pronounced by me in Open Court on this the 30th day of April, 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	-	25/02/26
PW2	Jayakumar V.	Inspector SHO, Kanakakkunnu P.S.	12/03/26
PW3	Father of the victim	-	23/03/26
PW4	Mother of the victim	-	23/03/26
PW5	Basharudeen 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/PW2	Investigation report	06/02/23
2	P2/PW2	Scene mahazar	10/02/23
3	P3/PW2	Arrest memo of A1	09/02/23

4	P4/PW2	Arrest intimation of A1	10/02/23
5	P5/PW2	Address report of A2	11/02/23
6	P6/PW2	Address report of A1	10/02/23
7	P7/PW2	Seizure mahazar	10/02/23
8	P8/PW3	First Information Statement	05/02/23
9	P9/PW5	First Information Report	05/02/23
10	P10/PW2	Property list	11/02/23
11	P11/PW2	Seizure mahazar	10/02/23
12	P12/PW2	Recovery mahazar	10/02/23
13	P13/PW2	Property list	11/02/23
14	P14/PW2	Arrest memo of A2	11/02/23
15	P15/PW2	Inspection memo of A2	11/02/23
16	P16/PW2	Arrest intimation of A2	11/02/23
17	P17/PW2	Recovery mahazar	15/02/23
18	P18/PW2	Property list	12/02/23
19	P18(a)/PW2	Property list	16/02/23
20	P19/PW2	Birth certificate	05/04/06
21	P20/PW2	Scene plan	28/02/23
22	P21/PW2	Inspection report	06/03/23
23	P22/PW2	Medical certificate of victim	10/02/23
24	P23/PW2	Potency certificate of A1	10/02/23
25	P24/PW2	Copy of driving licence of A1	-
26	P25/PW2	Seizure mahazar (sample of victim)	10/02/23
27	PW26/PW2	Seizure mahazar (sample of A1)	10/02/23
28	PW27/PW2	Mahazar on register	01/03/23
29	P28/PW2	R.C. particulars of the vehicle	-
30	P29/PW2	Section adding report	09/02/23
31	P30/PW2	Section adding report	09/02/23
32	P31/PW2	Section adding report	09/02/23
33	P32/PW2	Report regarding appointment of VLO	-

B. EXHIBITS FOR THE DEFENCE:-

Sl.No.	Exhibit Number	Description	Date
- NIL -			

C. EXHIBITS FOR THE COURT:-

Sl.No.	Exhibit Number	Description	Date
- NIL -			

D. MATERIALS OBJECTS:-

Sl.No	Exhibit Number	Description	Date
.			
1	MO1	Black bag	-
2	MO2	Laptop	-
3	MO3	Charger	-
4	MO4	Mobile phone (Huawei)	-
5	MO5	Mobile phone (Samsung)	-
6	MO6	Men purse	-
7	MO7	Churidhar top	-
8	MO8	Leggings	-

9	MO9	Shimmy	-
10	MO10	Pantice	-
11	MO11	Brazier	-
12	MO12	Jeans of A1	-
13	MO13	Baniyan of A1	-
14	MO14	Round neck baniyan of A1	-
15	MO15	Shorts of A1	-
16	MO16	Undergarment	-
17	MO17	Mobile phone of A2	-

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

-//True Copy//-

Special Judge,
Fast Track Special Court, Haripad.