

IN THE COURT OF THE FAST TRACK SPECIAL JUDGE, HARIPAD

Present: Hareesh G., Special Judge

Monday, the 20th day of April, 2026

C.M.P.No.2/2026 IN S.C. No.1062/2024

(Crime No.1356/2024 of Ambalappuzha Police Station)

Petitioner/Accused : Subramanyan @ Devan, S/o Thankavelu, Kizhakeppurathu Veedu, Opp: Poppy Umbrella, Zero Junction, Mullackal, Alappuzha Municipality (C/o Rajeswary, Valiyaveedu, Thirumala, Alappuzha Municipality).

(by Adv.Sri. Jayan P.)

Cr. Petitioner/Complainant : State of Kerala - represented by S.I. of Police, Ambalappuzha Police Station.

(By Special Public Prosecutor, Haripad)

Proceedings : Application u/S.311 Cr.P.C.

Order : **Allowed.**

This petition having been finally heard on 18/04/2026 and the Court on this day passed the following:-

ORDER

(1) This is an application filed u/S.311 of Cr.PC to reopen the defence evidence.

- (2) The application is put in by the petitioner/accused in S.C. No.1062/2024. The accused is put to trial alleging commission of the offences punishable u/Ss.354 & 354-A(1)(i) of the Indian Penal Code (for short, the IPC) and U/Ss.8 r/W 7, 10 r/W 9(l) & 10 r/w 9(m) of the Protection of Children from Sexual Offences Act, 2012 (for short, the PoCSO Act).
- (3) The facts stated in the application are as follows: The case stands posted for final hearing. From the side of the accused, the documents issued by the medical officer of Vandanam Medical College Hospital while the dead body of the mother of the accused was taken to the house, the death certificate of the mother of the accused and the '*sanjayana*' intimation of the mother of the accused were produced. But, due to the mistake of the defence counsel, the said documents could not be marked while the defence witness was examined. The said mistake was not deliberate. For the proper adjudication of the case, the said documents are to be marked in evidence, otherwise the accused would be put to irreparable injury and hardship. Therefore, DW1 is to be recalled for marking the said document produced from the side of the accused. Hence, the application.

- (4) Heard the counsel for the accused and the learned special public prosecutor.
- (5) The application is filed when the case is posted for final hearing. The accused is tried for the offences punishable u/Ss.354 & 354-A(1)(i) of the Indian Penal Code and U/Ss.8 r/W 7, 10 r/W 9(l) & 10 r/W9(m) of the Protection of Children from Sexual Offences Act, 2012. The prosecution allegation against the accused in this case is that on 15/01/2024 in the Medical College Hospital, Alappuzha and thereafter on 16/04/2024, in the house with name Erathara Puthenpurayil situated in Ward 13 of Pandanadu Panchayat, the accused sexually molested CW1, who was then aged only 10 years and thereby committed the aforesaid offences.
- (6) The counsel for the accused argued that to prove that this is a falsely foisted case against the accused, it is highly necessary to mark the documents produced from the side of the accused. According to the counsel for the accused, it is important to prove that the prosecution case is a false one by proving that no incident as depicted in the final report happened on 15/01/2024 in the Medical College Hospital, Alappuzha. According to the counsel for the accused to prove that the prosecution case is a false one it is highly important

to prove that the dates stated in the final report are false and no incident of sexual assault has happened on the said date and to prove that contention, it is highly necessary to mark the document produced from the side of the accused.

- (7) The arguments advanced from the side of the counsel for the petitioner are considered. It is to be noted that the accused has got every right to prove that the prosecution case is a false one. In this case, the documents produced from the side of the accused are found to be helpful for the accused to prove his case and therefore, opportunity cannot be denied to the accused to mark those documents in his evidence. Marking of the said documents does not cause prejudice to the prosecution. Hence, it is found that for the purpose of marking the documents produced from the side of the accused, DW1 can be recalled. Hence, it is found that the application can be allowed.

In the result,

the application is allowed; DW1 is recalled for further examination.

Dictated to the Confidential Asst. typed by her directly on the computer corrected and pronounced by me in open Court on this the 20th day of April, 2026.

Sd/-
Special Judge,

**Fast Track Special Court,
Haripad.**

-//True Copy//-

Special Judge,
Fast Track Special Court, Haripad.