

**IN THE COURT OF THE SPECIAL JUDGE FAST TRACK,
KOYILANDY**

(KOZHIKODE SESSIONS DIVISION)

Present: Sri. Noushadali K., Special Judge, Koyilandy.

Wednesday, the 25th day of March, 2026

**SESSIONS CASE No: 314 / 2024
(Crime No. 717/2023 of Mukkom Police Station)**

Complainant	:	Sub Inspector of Police, Mukkom Police Station
Name of accused	:	Kunhibava, S/o.Ahammad, Aged 59/23,Parappurath (H) Cheruvadi PO, Pazhamparamba.
No. of crime and name of Police station	:	Crime No. 717/2023 of Mukkom Police Station.
Prosecution conducted	:	Sri.Adv. P.Jethin, Special Prosecutor, Koyilandy.
Accused defended by	:	Adv. P K Muhsin
Charge	:	U/s.11(i)r/w 12 of PoCSO Act.
Plea of the accused	:	Not guilty
Finding	:	Guilty

Sentence:

The convict is found guilty and convicted of the offence under section 11(i) read with 12 of the Protection of Children from Sexual Offences Act and he is released on Probation of good conduct under section 4(1) of the Probation of Offenders Act and instead of sentencing him at once to any punishment, he is released on his entering bond for ₹ 50,000/- with two sureties each for the like sum to appear and receive sentence when called upon during a period of one year and in the meantime to keep the peace and be of good behaviour; and

The convict shall be under the supervision of the City Probation Officer, Kozhikode, during the above period of one year.

This case coming on for orders, upon hearing the arguments of Advocate P K Muhsin appearing for the accused and Special Public Prosecutor for the State. I do adjudge and pass the following.

3
J U D G M E N T

1. This case has been charge-sheeted by the Sub Inspector of Police, Mukkom Police Station, in FIR No. 717/2023, for the offences punishable under Sections 11(i) read with 12 of the Protection of Children from Sexual Offences Act (for brevity, the “POCSO Act”).
2. **In brief, the prosecution's case is as follows:** PW1 was a child aged 10 years at the time of the occurrence. On 10.03.2022, at about 06:30 p.m., when PW1 went to the shop run by the accused at Pazhamparamba to purchase provisions, the accused, with sexual intent, asked PW1 to allow him to touch his private parts. Thus, the accused is alleged to have committed the offences referred to above.
3. The First Information Report in this case was registered based on Ext. P1 First Information Statement dated 28.11.2023, furnished by PW1 to PW6, the Senior Civil Police Officer of the Mukkom Police Station. After the registration of Ext. P7 FIR, the investigation in this case was taken over by PW9, the Sub-Inspector of Police, Mukkom Police Station. PW9 completed the investigation and laid the final report alleging the above offence before the Additional District and Sessions Court for the Trial of Cases relating to

Atrocities and Violence Against Women and Children, Kozhikode. Pursuant to the order of the Principal Sessions Court, Kozhikode, the case was made over to this Court for disposal.

4. The accused appeared before the Court. Copies of all the prosecution case records and documents were supplied to him under section 207 of the Cr. P.C. The learned Special Prosecutor opened the prosecution case under section 226 Cr. P.C.
5. Upon consideration of the case records and the documents submitted with the final report and after hearing the submissions of the learned counsel for the accused and the learned Special Public Prosecutor, a charge for the offence punishable under Section 11(i) read with 12 of the Protection of Children from Sexual Offences Act was framed, read over, and explained to the accused. The accused pleaded not guilty and claimed to be tried.
6. On the prosecution side, 9 witnesses were examined as PW1 to PW9 and marked documentary evidence Ext. P1 to Ext. P12. The learned Special Public Prosecutor gave up CWs 2, 5, 6 and 9.
7. After closing the prosecution evidence, the accused was examined under section 313(1) (b) of the Code of Criminal Procedure regarding the incriminating circumstances against him. He denied all those circumstances and maintained his plea of innocence.

8. Thereafter, the matter was heard on both sides under Section 232 of the Code of Criminal Procedure. Finding no grounds to acquit the accused under the said provision, he was called upon to enter on his defence, and the case was adjourned for defence evidence.
9. The accused did not adduce any evidence in defence.
10. Heard both sides.
11. **The following points arise for consideration:**

1. *Was PW1 a "child" as defined in the Protection of Children from Sexual Offences Act at the time of the alleged occurrence?*
2. *Whether, on 10.03.2022 at about 06:30 p.m., at the shop run by the accused at Pazhamparamba, the accused, with sexual intent, asked PW1, a child, to permit him to grab his private parts, and thereby committed an offence of sexual harassment punishable under Section 11(i) read with Section 12 of the POCSO Act?*
3. *Sentence of Order?*

12. **Point No. (i):-** PW1 is the victim. The prosecution alleges that the accused committed an offence punishable under Section 11(i) read with Section 12 of the POCSO Act, 2012 against the victim. To attract an offence under the POCSO Act, the prosecution must prove that the victim was a child at the time of the alleged commission of the offence. PW1 was examined before the Court on 16.10.2024. He deposed that he was aged 12 years and that his date of birth is 12.02.2013. PW2, the mother of PW1, also deposed that her son (PW1) was born on 12.02.2013.
13. PW8 is the Headmistress of the Government Higher Secondary School, Cheruvady. She deposed that PW1 was admitted to the said school in the 1st standard. She further stated that the date of birth of PW1, as recorded in the school admission register, is 12.02.2013. The relevant page of the school admission register was produced, compared with the original, and marked as Ext. P6, and the relevant entry therein was marked separately as Ext. P6(a).
14. PW9, the Investigating Officer, deposed that he had obtained Ext. P11 birth certificate of PW1 from Thamarassery Grama Panchayat. The date of birth of PW1 as recorded in Ext. P11 is also 12.02.2013.
15. It is to be noted that there is no challenge regarding the date of birth of PW1. The unchallenged evidence of PW2, the mother of

PW1, coupled with Exts. P6(a) and P11 establish that PW1 was a child on the date of the alleged incident. The defence did not dispute the correctness of the date of birth of PW1 as entered in Ext. P6(a), the school admission register, and Ext. P11 birth certificate, nor as spoken to by PW1, PW2, PW8, and PW9.

16. Ext. P6(a), the entry in the school admission register, and Ext. P11 birth certificate, along with the oral evidence of PW1, PW2, PW8, and PW9, are sufficient to prove the date of birth and age of PW1 in accordance with the law. Accordingly, it stands proved that, at the time of the alleged incident on 10.03.2022, PW1 was a “child” as defined under Section 2(1)(d) of the Protection of Children from Sexual Offences Act. The point is found in favour of the prosecution.

17. **Point No. (ii):-** PW1 is the victim, who proved Ext. P1 First Information Statement and Ext. P2, the relevant portion of his statement recorded by the learned Magistrate under Section 164 of the Code of Criminal Procedure. PW2 is the mother of PW1. PW3 is the Secretary of Kodiyathur Grama Panchayat, who issued Ext. P3 certificate certifying that no building number had been assigned by the Panchayat to the building in which the accused runs his shop. PW4 is one of the attesting witnesses to Ext. P4 scene mahazar and he proved the same.

18. PW5 is the Grade Assistant Sub Inspector of Police attached to Mukkom Police Station, who escorted PW1 for medical examination and recorded his statement under Section 161 of the Code of Criminal Procedure. PW6 is another Grade Assistant Sub Inspector of Police attached to Mukkom Police Station, who recorded Ext. P1 First Information Statement of PW1. PW7 is the Village Officer attached to Kodyathur Village Office, who prepared Ext. P5 site plan.
19. PW8 is the Headmistress of GHSS Cheruvady, who proved Ext. P6, the relevant page of the school admission register, and Ext. P6(a), the relevant entry therein. PW9 is the Sub-Inspector of Police attached to the Mukkom Police Station, who registered Ext. P7 First Information Report, conducted the investigation, and laid the final report. He also proved Exts. P8 to P12 documents.
20. The learned Special Public Prosecutor submitted that the testimony of PW1 is wholly reliable and sufficient to establish the guilt of the accused. It was further contended that the evidence of PW1 stands corroborated by the testimonies of PW2 and other witnesses. Per contra, the learned counsel for the accused argued that the testimony of PW1 is unreliable and untrustworthy, being the result of tutoring, and hence liable to

be rejected. It was further contended that the accused has been falsely implicated and is therefore entitled to an acquittal.

21. PW1 is the sole witness who deposed regarding the occurrence.

He stated that he was acquainted with the accused, who runs a petty shop near his residence. He further stated that he used to address the accused as "Bavakka". According to him, the incident took place when he was studying in the sixth standard. On the date of occurrence, at about 08.00-08.30 p.m., after the Isha (night) prayer, he had gone to the shop of the accused to purchase certain provisions. At that time, the accused asked him whether he could touch his private parts. On being so asked, PW1 immediately left the shop. PW1 further deposed that he initially shared the incident with his friends and thereafter disclosed the same to his mother. He also stated that he had informed his school teacher about the matter. Subsequently, he gave a statement to the police, which bears his signature and is identified as Ext. P1. He further testified that he had also given a statement before the learned Magistrate, wherein he stated that the accused had asked him to permit him to grab his urinating organ. The relevant portion of the said statement is marked as Ext. P2.

22. PW2 is the mother of PW1. She deposed that she knew the accused, who runs a shop near her house. She further deposed

that PW1 informed her that the accused, while at his shop, asked PW1 to permit him to grab his genital organ. She also deposed that PW1 later stated the incident before the police when they came to her house.

23. It is trite that in prosecutions for sexual offences, if the testimony of the victim is found to be trustworthy, cogent, and credible, it can form the sole basis for conviction, even in the absence of any corroboration. The Honourable Apex Court and various High Courts have consistently held that the evidence of a victim of sexual assault stands on par with that of an injured witness and does not require further corroboration unless the circumstances of the case so demand.
24. The question that arises for consideration is whether the evidence tendered by PW1 is of such quality and character as to inspire the confidence of the Court and to be accepted as reliable. PW1 was aged 12 years at the time of deposition. It is pertinent to note that the evidence was recorded more than one year after the alleged incident. PW1, the victim, has given a clear, consistent and cogent narration of the occurrence. Though he was subjected to a searching cross-examination, nothing material could be elicited to shake his credibility or to cast any reasonable doubt on his veracity. No major or material contradictions or omissions were brought out between his

deposition before this Court and his previous statements recorded under Sections 154, 164 and 161(3) of the Cr. P.C. He consistently maintained that the accused asked him to permit him to hold his genital organ. He stated thus: “പ്രതി എന്നോട് മർമ്മസ്ഥലത്ത് പിടിച്ചോടെ എന്ന് ചോദിച്ചു.” He clarified that the term “മർമ്മസ്ഥലം” denotes the genital organ.

25. The learned defence counsel contended that the accused's shop is situated very close to the road and in a busy locality. It was therefore argued that the occurrence alleged by the prosecution is highly improbable. The learned counsel further pointed out that PW1, in his cross-examination, deposed that several persons were present on the road at the relevant time. On that basis, it was contended that the prosecution case that the accused requested sexual favours from PW1 inside his shop is inherently improbable and liable to be rejected.
26. I am unable to agree with the above contention. At the outset, it is to be noted that the allegation is not that the accused subjected PW1 to any physical assault; rather, the allegation is that the accused sought permission from PW1 to touch his private part. The place of occurrence, as revealed from the prosecution case, is the veranda of the accused's shop and not the road where people were present.

27. As per Ext. P4 scene mahazar, the veranda measures 5½ metres in length and 2½ metres in width. It is further evident from the scene mahazar that there exists a passage of about 4½ metres between the shop and the road. The defence has no case that any person other than PW1 and the accused was present inside the shop or on its veranda at the relevant time. This is also not a case where the accused raised his voice or shouted. The allegation centres around a statement allegedly made by the accused to PW1 in a discreet manner.
28. In the above circumstances, it is quite possible that such words could have been uttered from within the shop without being heard by persons standing on the road. Therefore, the contention of the learned defence counsel that the occurrence is improbable due to the proximity of the road and the presence of people therein cannot be accepted.
29. The learned defence counsel further contended that, in cross-examination, PW1 deposed that the incident occurred when he had gone to the accused's shop to purchase vegetables. It was argued that no vegetables were being sold in the accused's shop and, therefore, the testimony of PW1 is unreliable and liable to be rejected.
30. It is true that PW1, during cross-examination, stated that he had gone to the accused's shop to buy vegetables at the time of the

occurrence. He, however, denied the suggestion that no vegetables were being sold in the accused's shop. Though the defence has taken a specific stand that vegetables were not available for sale in the said shop, no question in this regard was put either to the Investigating Officer who prepared Ext. P4 scene mahazar or to PW4, the attester to Ext. P4, to substantiate the said contention. The omission to put such material suggestions to the relevant witnesses significantly weakens the defence version.

31. Even assuming, for the sake of argument, that vegetables were not being sold in the accused's shop, that circumstance alone is insufficient to discard the testimony of PW1 in its entirety. PW1 is a child witness aged only 11 years at the time of the occurrence, and such a statement can reasonably be attributed to a minor lapse or inadvertent expression. It does not, in any manner, affect the core of the prosecution case regarding the occurrence. Hence, the said contention of the defence does not merit acceptance.
32. The learned defence counsel further contended that PW2, the mother of the accused, deposed in cross-examination that it was the police who initially informed her about the alleged incident. It was also pointed out that PW2 stated that PW1 had preferred the complaint against the accused due to a misunderstanding.

On that basis, it was argued that the testimony of PW2 would cut the very root of the prosecution case.

33. Per contra, the learned Special Public Prosecutor submitted that PW2 was initially examined-in-chief on 16.10.2024, at which time she supported the prosecution case. Subsequently, she was recalled for cross-examination pursuant to the order in CrI. M.P. No. 451/2025 filed by the defence. During such cross-examination, PW2 resiled from her earlier version and deposed in a manner contrary to her examination-in-chief. However, in her further examination, conducted with the permission of the Court, it was elicited that the dispute had, in the meantime, been settled between her and the accused.
34. In the above circumstances, it is evident that PW2's departure from her earlier version is attributable to the subsequent settlement with the accused, and her testimony in cross-examination, to that extent, does not inspire confidence. It is also pertinent to note that PW2 has no direct knowledge of the occurrence, and her evidence is purely hearsay in nature. In view of the above, the version of PW2 in her cross-examination, after recall, carries little evidentiary value and does not materially affect the prosecution case.
35. The learned defence counsel contended that PW1 did not state the exact date of the occurrence while deposing before this

Court, and that such omission is fatal to the prosecution case, suggesting that no such incident had occurred.

36. It is true that PW1 has not mentioned the specific date of the occurrence in his testimony before this Court. However, he has clearly stated that the incident took place when he was studying in the 6th standard. As already noted, PW1 was examined before this Court more than one year after the alleged incident, and at the time of his examination, he was a boy aged about 12 years. It is a matter of common experience that children of such age do not ordinarily retain or recollect precise calendar dates of events. Instead, they tend to associate incidents with phases of their school life or other relatable milestones. Therefore, the manner in which PW1 has described the timing of the occurrence cannot be said to be unnatural or unreliable. In the present case, PW1's testimony regarding the occurrence remains consistent and cogent, and nothing substantial has been elicited in cross-examination to discredit his version on this aspect. In such circumstances, having regard to the age of the witness and the time gap between the incident and his examination, the omission to state the precise date of occurrence cannot be treated as a material flaw. Accordingly, the contention of the learned defence counsel in this regard is devoid of merit and is liable to be rejected.

37. Apart from the above, the accused has no case that PW1 or his parents had any enmity towards him to falsely implicate him. Significantly, no such suggestion was put to PW1 during his cross-examination. PW1 has given clear, cogent, and consistent evidence regarding the occurrence. In the absence of any material indicating prior animosity, there is no reason to infer any motive for false implication. It is also highly improbable that the parents of PW1 would fabricate an allegation of this nature merely on account of any enmity. In such circumstances, and in the absence of any reason to doubt the credibility of PW1, this Court finds no ground to disbelieve his testimony that the accused asked him to permit him to hold his penis.
38. Uttering any word with sexual intent, with the intention that such word be heard by the child, constitutes an offence punishable under Section 11(i) read with Section 12 of the Protection of Children from Sexual Offences Act.
39. In the present case, the allegation is that the accused asked PW1 to permit him to hold his penis. The content of the words spoken is explicit and leaves no room for doubt as to the sexual intent behind the utterance. Such a statement, addressed to a child, is inherently sexual in nature and is clearly intended to be heard and understood by the victim.

40. The essential ingredients of Section 11(i) are thus satisfied, namely, the use of words of a sexual nature coupled with the requisite intention. The evidence of PW1 on this aspect is clear and consistent, and nothing has been brought out in cross-examination to discredit his version.
41. Accordingly, the act of the accused in making such a request to PW1 squarely falls within the definition of “sexual harassment” under Section 11(i) and is punishable under Section 12 of the Act. This Court, therefore, finds that the prosecution has successfully established the said offence against the accused. The point is, accordingly, answered in favour of the prosecution.
42. Accordingly, the accused is found guilty of the offence punishable under Section 11(i) read with Section 12 of the Protection of Children from Sexual Offences Act and is hereby convicted thereunder.
43. **Point No. (iii):-** The convict is now aged above 60 years. The maximum punishment prescribed for the offence of which he has been convicted is imprisonment for a term of up to three years and fine. There are no criminal antecedents reported against the convict.
44. In these circumstances, for the purpose of considering whether the convict is entitled to the benefit of the benevolent provisions of the Probation of Offenders Act, a report was called for from

the District Probation Officer, Kozhikode. In the confidential report dated 03.03.2026 submitted by the City Probation Officer, it has been opined that the convict is fit to be dealt with under Sections 4(1) and 4(3) of the Probation of Offenders Act.

45. Therefore, having regard to the facts and circumstances of the case, including the nature of the offence, the character of the offender, his health condition, and his family background as reflected in the report of the City Probation Officer, this Court is of the view that this is a fit case to extend the benefit of the Probation of Offenders Act.
46. Accordingly, instead of sentencing the convict at once, he is directed to be released on probation of good conduct, on his executing a bond with two sureties, undertaking to appear and receive sentence as and when called upon during a period of one year, and in the meantime to keep the peace and be of good behaviour.
47. Further, in the interest of the convict, it is considered expedient to pass a supervision order directing that he shall remain under the supervision of the City Probation Officer for a period of one year.

48. **In the result: -**

1. *the convict is found guilty and convicted of the offence under section 11(i) read with 12 of the Protection of Children from Sexual Offences Act and he is released on Probation of good conduct under section 4(1) of the Probation of Offenders Act and instead of sentencing him at once to any punishment, he is released on his entering bond for ₹ 50,000/- with two sureties each for the like sum to appear and receive sentence when called upon during a period of one year and in the meantime to keep the peace and be of good behaviour; and*
2. *It is hereby directed that the convict shall be under the supervision of the City Probation Officer, Kozhikode, during the above period of one year.*
3. *Forward copies of this judgement and the bond executed by the convict and his sureties to the City Probation Officer, Kozhikode.*

(Dictated to the C.A., typed by her, corrected and pronounced by me in open court, on this the 25th day of March, 2026).

SPECIAL JUDGE

20
APPENDIX

A. Prosecution Witnesses :

Rank	Name	Date of Evidence	Whether Eye witness, Police witness, Expert witness, Medical witness, Other witness.
PW1	xxx	16-10-2024	Victim
PW2	Hafsath	16-10-2024	Other witness
PW3	Abida	11-11-2024	Other witness
PW4	Abdul Salam	23-01-2025	Other witness
PW5	Leena. T	23-01-2025	Police witness
PW6	Mini	23-01-2025	Police witness
PW7	Shiju	15-02-2025	Other witness
PW8	Nisha	26-04-2025	Addl. witness
PW9	Santhoshkumar	20-06-2025 07-11-2025 26-02-2026	Police witness

B. Defence Witnesses:

Rank	Name	Date of Examination	Whether Eye witness, Police witness, Expert witness, Medical witness, Other witness
		Nil	

C. Court Witness:

Rank	Name	Whether Eye witness, Police witness, Expert witness, Medical witness, Other witness
	Nil	

List of Prosecution/Defence/Court Exhibits

A. Prosecution Exhibits:

Sl. No.	Exhibit Number	Description
1	Ext.P1/PW1	First Information statement
2	Ext.P2/PW1	Relevant portion of 164 statement
3	Ext.P3/PW3	Ownership certificate
4	Ext.P4/PW4	Scene mahazar
5	Ext.P5/PW7	Site Plan
6	Ext.P6/PW8	Extract of School Admission Register
7	Ext.P6(a)/PW8	Relevant portion of the Admn. Register
8	Ext.P7/PW9	FIR
9	Ext.P8/PW9	Medico-legal Examination Report
10	Ext.9/PW9	Arrest Memo
11	Ext.P10/PW9	Bail Bond
12	Ext.P11/PW9	Birth Certificate
13	Ext.P12/PW9	Report to add name and address of accused

B. Defence Exhibits:

Sl.No.	Exhibit Number	Description
	Nil	

C. Court Exhibits:

Sl.No	Exhibit Number	Description
	Nil	

D. Material Objects:

Sl.No.	Material Objects	Description
	Nil	--

SPECIAL JUDGE

Tabular statement as per Rule 132 of Crl.Rules of Practice in Kerala

1. Serial No. SC 314/2024
2. Description of the accused

Sl. No	Name	Father's Name	Occupation	Age	Residence
1.	Kunhibava	Ahammad		59/23	Parappurath House Cheruvadi PO, Pazhamparamba

Date of :-

Occurrence : 10-03-2023
 Complaint : 28-11-2023
 Apprehension : 22-12-2023
 Release on bail : 22-12-2023
 Arrest : 22-12-2023
 Commencement of trial : 16-10-2024
 Close of trial : 26-02-2026
 Sentence or order : 25-03-2026
 Explanation for the delay : No delay

Examination of witnesses commenced on 16-10-2024 Evidence closed on 26-02-2026. Judgment pronounced on 25-03-2026.

NOUSHADALI.K.,
SPECIAL JUDGE,
FAST TRACK SPECIAL COURT,
KOYILANDY

FAIR/COPY JUDGMENT IN
SC NO.314/2024,
DATED:25-03-2026