

IN THE COURT OF SESSIONS KOTTAYAM DIVISION

Present: Smt. Lilly K, Addl.Sessions Judge - I

Thursday the 19th day of March 2026

28th Phalguna ,1947

S.C.4/2026

(CP No.85/2022 of Judicial First Class Magistrate Court-I, Changanacherry)

Complainant

State of Kerala, represented
by Sub Inspector of Police,
Changanacherry Police Station,
Cr.No.23/2022 of Changanacherry
P.S

***By Addl. Public Prosecutor
Adv. Smt. Meera S S.***

Accused:

Rabeek P.A, aged 45/2022 ,
S/o. Abdul Salam,
Puthupparambil house,
Puthoorpally Bhagam,
Changanacherry P.O.
Changanacherry Village

By Adv. K Madhavan Pillai

Charge

: Section 6(b) r/w 24 of the
COTPA Act, 2003 and Section
118(i) of Kerala Police Act.

Plea

: Not guilty

Sentence/Order

: The accused is discharged of
offence under Section 77 of the
Juvenile Justice (Care and
Protection of Children) Act 2015.
As the offence under Section
118(i) of KP Act and 6(b) r/w 24
of COTPA are not exclusively
triable by Court of Session and
none of the witnesses are
children, the case is transferred
for trial to the court of
Judicial First Class Magistrate
Court-I, Changanacherry under
Sec. 251(1) (a) of BNSS, 2023.

ORDER

Final report was submitted by Sub Inspector of Police, Changanacherry against the accused, alleging offences punishable under Section 77 of Juvenile Justice (Care and Protection of Children) Act, Section 6(b) r/w 24 of the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 and Section 118(i) of Kerala Police Act.

2. Prosecution case is that the accused was found in possession of 5250 packets of Hans and 348 packets of Cool Lip, prohibited tobacco products, for the purpose of sale to children and public, from the second floor of building No.XXIX/501-1 of Changanacherry Municipality, at 06:45 p.m. on 04.01.2022, and thereby committed the offences.

3. Cognizance was taken and the case was taken on file as CC No. 302/2022 of Judicial First Class Magistrate Court-I, Changanacherry. Since the offence alleged was exclusively triable by Court of Session, the case was refiled as CP No.85/2022 and committed under Sec.323 Cr.P.C. on

16.12.2025. The case was taken on file as SC No.4/2026 and was made over to this Court for trial and disposal.

4. Accused, who was on bail appeared on summons. Learned Additional Public Prosecutor opened the prosecution case. Counsel for accused filed Crl.M.P.No.1/2026, application under Section 250 of BNSS, alleging that there is no ground to frame charge against the accused under Section 77 of the Juvenile Justice Act. Learned counsel sought to discharge the accused of the said offence.

5. Heard both sides.

6. Learned Additional Public Prosecutor did not oppose the fact that there were no materials in the records to reveal that accused had given tobacco products to any children.

7. As per the records, 5250 packets of Hans and 348 packets of Cool Lip, prohibited tobacco products, were seized from the godown of the accused. The statements of none of the Charge Witnesses reveal that they saw the accused giving tobacco products to minors. No children are cited as witnesses.

8. As per Section 77 of the Juvenile Justice (Care and Protection of Children) Act, 2015, whoever gives or causes to

be given to any child any intoxicating liquor or any narcotic drug or tobacco products or psychotropic substance, except on the order of a duly qualified medical practitioner, shall be punishable.

9. There are no materials on record to show that accused had conducted sale of prohibited tobacco products to any children below the age of 18 years. In the absence of documents or materials to show that tobacco products were given to any child, there is no ground to frame charge against the accused for offence under Section 77 of Juvenile Justice (Care and Protection of Children) Act and hence, he is discharged of that offence. But there are materials to proceed against the accused for the remaining offences. Hence, charge is being framed against the accused for the said offences. In view of the above discussion, CMP No.1/2026 stands allowed and the accused is discharged of offence under Section 77 of JJ Act.

In the result, the accused is discharged of offence under Section 77 of the Juvenile Justice (Care and Protection of Children) Act 2015. As the offence under Section 118(i) of

KP Act and 6(b) r/w 24 of COTPA are not exclusively triable by Court of Session and none of the witnesses are children, the case is transferred for trial to the court of Judicial First Class Magistrate Court-I, Changanacherry under Sec.251(1)(a) of BNSS, 2023. The accused shall appear before the Judicial First Class Magistrate Court-I, Changanacherry on 24.04.2026.

Dictated to the Confidential Assistant, transcribed by her, corrected and pronounced by me in open Court, on this the 19th day of March, 2026.

Sd/-

Lilly K.
Addl. Sessions Judge - I,
Kottayam.

APPENDIX NIL

Id/-

Addl. Sessions Judge-I

Serial No. of the Case : Sessions Case No.4/2026
Crime No. : Cr.No. 23/2022
Name of Police Station : Changanacherry Police Station

DESCRIPTION OF THE ACCUSED

Sl. No	Name	Father's Name	Occupation	Residence	Age
	Rabeek P.A,	Abdul Salam		Puthuparambil house, Puthoorpally Bhagam, Changanacherry P.O. Changanacherry Village	45/22

**Copy of Order in
S.C. No.4/2026
Dated: 19.03.2026**

Dates of

Occurrence : 04.01.2022
Complaint : 04.01.2022
Date of Arrest : 26.02.2022
Release on bail : 26.02.2022
Commitment : 16.12.2025
Name of committing Magistrate : Sri. Anilkumar T.S
Judicial First Class Magistrate-I,
Changanacherry
Date of Commencement of Trial : Nil
Date of Hearing : 16.03.2026
Date of Order : 19.03.2026
Reason for delay : No delay
Remarks : Nil

Id/-

Addl.Sessions Judge-I

//True copy//

Copied by:
Compared by:

Sd/-

Lilly K.

**Addl. Sessions Judge - I,
Kottayam.**