

IN THE COURT OF ADDL. SESSIONS JUDGE -II (SPECIAL),KOTTAYAM

Present: Sri. Subash.S, Addl. Sessions Judge-II (Spl.)Kottayam

Saturday the 30th day May 2026
9th Jyaistha 1948

SESSIONS CASE No.317/2019

(Crime No.5/96 Vanitha Police Station Ernakulam and Cr.No.
192 CR 96 CBCID Ernakulam.)
(C.P No.23/2014 of Judicial First Class Magistrate Court-I,
Ernakulam.)

Complainant:

Kerala State Represented by
the Public Prosecutor,
Crime No.5/96 Vanitha Police Station Ernakulam
and Cr.No. 192 CR 96 CBCID Ernakulam.

By Special Public Prosecutor Adv. Rajagopal Padipurackal.

1st Accused

Suresh, Aged 54/2021, S/o. Shamsudeen,
Jubairia Manzil, Kattambally, Ittiva,
Kadakkal, Kollam.

By Adv. K. Vinod.

Charge	:	Offences U/ss. 376(1) r/w S.109 and S.34 of IPC, 372, 344 of IPC, and U/ss 3(1) and 5(1)(d) (ii) of Immoral Traffic (Prevention) Act.
Plea	:	Guilty.
Finding	:	Guilty.
Sentence/Order	i.	The 1 st accused is sentenced to undergo Rigorous Imprisonment for a period of three years, and to pay a fine of

₹1,000/- U/s. 344 of IPC. In default of payment of fine, he shall undergo Rigorous Imprisonment for a further period of one month.

- ii. The 1st accused is sentenced to undergo Rigorous Imprisonment for a period of ten years and to pay a fine of ₹2,000/- U/s. 372 of IPC. In default of payment of the fine, he shall undergo Rigorous Imprisonment for a further period of two months.
- iii. The 1st accused is sentenced to undergo Rigorous Imprisonment for a period of ten years and to pay a fine of ₹2,000/- U/s. 376(1) r/w 109 of IPC. In default of payment of the fine, he shall undergo Rigorous Imprisonment for a further period of two months.
- iv. The 1st accused is sentenced to undergo Rigorous Imprisonment for a period of 3 years and to pay a fine of ₹1,000/- U/s.3(1) of Immoral Traffic (Prevention) Act, 1956. In default of payment of the fine, he shall undergo Rigorous Imprisonment for a further period of one month.
- v. The 1st accused is sentenced to undergo Rigorous Imprisonment for a period of

10 years and to pay a fine of ₹1,000/- under S.5(1) (d) (ii) of Immoral Traffic (Prevention) Act, 1956. In default of payment of the fine, he shall undergo Rigorous Imprisonment for a further period of one month.

Date of Hearing : 30.05.2026

Date of Judgment : 30.05.2026

JUDGMENT

The accused stands charge sheeted by the Superintendent of Police, Special Branch C.I.D, Ernakulam Range, for offences punishable U/ss 344, 372, 373, 342, 376(1) r/w S.109 and S.34 of IPC and U/ss 3(1) and 5(1)(d)(ii) of the Immoral Traffic (Prevention) Act.

2. The case of the prosecution in brief is as follows: The first accused, with the intention of gaining profit by conducting prostitution, wrongfully confined the victim girl, aged 17 years, at the house bearing No.453 situated in ward No.11 of Chalakkudy Municipality, during the period from November 1995 to June 1996 and on a day in the 3rd week of February 1996, he took the victim girl to Ernakulam and entrusted the victim girl to the 2nd and 3rd accused after receiving ₹2,500/-.

The 2nd and 3rd accused took the victim girl to a flat bearing No. XL/ 6767, situated on the southern side of Convent Road and to the east of Ernakulam T.D. Road, and wrongfully confined her at the said flat. Thereafter, on the night of the aforesaid day, the 2nd accused committed rape on the victim girl two times and the 3rd accused committed rape on her once. Thereby, the accused have committed the above offences. With respect to the above occurrence, CW1, the victim girl, gave FIS to CW36, who was the Woman Sub-Inspector of Police, Vanitha Police Station, Ernakulam. Based on the said statement, CW36 registered an F.I.R against the accused at Vanitha Police Station, Ernakulam, as Crime No.5/1996. On completion of the investigation, CW40, the Superintendent of Police, S.B.C.I.D, Ernakulam Range, submitted final report before the Judicial First-Class Magistrate Court – I, Ernakulam.

3. As the offence alleged against the accused was exclusively triable by the Court of Sessions, the learned Magistrate committed the case to the Court of Sessions, Ernakulam, after complying with the provisions of S.207 Cr.P.C. Since A1 was absconding, firstly, the case against A2 and A3

was committed to the Sessions Court, Ernakulam. The said case was transferred to the Sessions court, Kottayam, from where it was made over to this court. A2 and A3 were acquitted as per the judgment in S.C. No. 301/2012 dated 01.02.2014. Later, A1 surrendered before the Judicial First Class Magistrate Court-I, Ernakulam, on 02.12.2014, and the case against him was committed to the Sessions Court, Ernakulam, on 23.02.2015. Thereafter, the case was transferred to the Sessions Court, Kottayam. The said case was taken on file as S.C.188/2015 and made over to this court. As the 1st accused again absconded, the case against him was transferred to the Long Pending Register as LP No.11/2019. Later, the 1st accused was arrested and produced on 18.06.2019, and the case against him was refiled as S.C. No.317/2019. On 10.12.2018, my predecessor in office framed charges against A1 for offences under S. 344, 372, 376(1) r/w S.109 and S.34 of IPC and U/ss3(1) and 5(1)(d)(ii) of Immoral Traffic (Prevention) Act. The 1st accused pleaded not guilty to the charge framed against him. Then the case was posted for evidence of the prosecution. Thereafter, A1 filed an application seeking to read over the

charge again and to permit him to plead guilty. The said application was allowed on 14.05.2026, and the charge against A1 was again read over, to which he pleaded guilty. He was made aware of the nature of the accusation and the consequences of pleading guilty. A1, after understanding the same, pleaded guilty to the charges framed against him for offences under 376(1) r/w S.109 and S.34 of IPC, 344, 372 of IPC and U/ss 3(1) and 5(1)(d)(ii) of Immoral Traffic (Prevention) Act. This court has examined the said plea of the 1st accused and is satisfied that it is voluntary, and there is nothing to indicate that the plea is the result of any inducement or misunderstanding. The plea of the 1st accused was recorded under S.229 Cr.P.C/ S.252 of BNSS, and he has been convicted for the aforesaid offences.

4. Heard the 1st accused on the question of sentence as required u/s.258(2) of BNSS/S.235(2) of Cr.P.C. The learned counsel for the 1st accused was also heard on the question of sentence. 1st accused submitted that he is now aged 59 years, and he has wife and a daughter who is studying in plus-two. The learned Special Public Prosecutor argued that, considering

the nature and gravity of offences and the manner in which he committed the aforesaid offences, the 1st accused has to be awarded the maximum punishment provided for the offences. On the other hand, the learned counsel for the 1st accused submitted that a lenient view may be taken in awarding sentence. Considering the nature and gravity of offences and the manner in which he had committed the aforesaid offences, I am of the view that he is not entitled to leniency in the matter of punishment, and he deserves exemplary punishment.

5. The offence U/s.344 IPC is punishable with imprisonment of either description for a term which may extend to three years and shall also be liable to fine. Considering the facts and circumstances of the case, this court is of the considered opinion that a sentence of rigorous imprisonment for a period of three years and a fine of ₹1,000/- is adequate for the above offence.

6. The offence U/s. 372 of IPC is punishable with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine. Considering the facts and circumstances of the case, this court is of the

considered opinion that a sentence of rigorous imprisonment for a period of ten years and a fine of ₹2,000/- is adequate for the above offence.

7. The offence U/s. 376(1) of IPC is punishable with imprisonment of either description for a term which shall not be less than 7 years, but which may be for life or for a term which may extend to 10 years and shall also be liable to fine. The charge against A1 is under S.376(1) r/w S.109 and S.34 of IPC. Considering the facts and circumstances of the case, this court is of the considered opinion that a sentence of rigorous imprisonment for a period of ten years and a fine of ₹2,000/- is adequate for the above offence.

8. The offence U/s. 3(1) of Immoral Traffic (Prevention) Act is punishable on first conviction with rigorous imprisonment for a term of not less than one year and not more than three years and also with fine which may extend to two thousand rupees and in the event of a second or subsequent conviction, with rigorous imprisonment for a term of not less than two years and not more than five years and also with fine which may extend to two thousand rupees. Considering the facts and

circumstances of the case, this court is of the considered opinion that rigorous imprisonment for a period of 3 years and a fine of ₹1,000/- is adequate for the above offence.

9. The punishment provided for the offence U/s. 5(1) (d) (ii) of the Immoral Traffic (Prevention) Act is rigorous imprisonment for a term not less than 7 years and not more than 14 years, and also with a fine which may extend to two thousand rupees. Considering the facts and circumstances of the case, this court is of the considered opinion that rigorous imprisonment for a period of 10 years and a fine of ₹1,000/- is adequate for the above offence.

10. The next aspect to be considered is the period of set off under S.428 of Cr. P.C./S.468 of BNSS. A1 surrendered before the Judicial First-Class Magistrate Court-I, Ernakulam, on 02.12.2014, and he was remanded to Sub Jail, Ernakulam. Even though a bail application was filed before the said court, the same was dismissed, and the case was committed to the Sessions Court, Ernakulam, on 23.02.2015. Thereafter, the case was transferred to the Sessions Court, Kottayam. The said case was taken on file as S.C.188/2015 and made over to this court.

He is also accused in many other cases. He is the 1st accused in sessions cases S.C.139/2014, 475/14, 168/14, 310/19, 311/19, 312/19, 313/19, 314/19, 315/19, 316/19, 318/19, 319/19, 320/19, 321/19, 322/19, 323/19, 324/19, 325/19, 326/19, 327/19, 328/19, 329/19 and S.C.330/2019. When S.C. 312/2019 was scheduled for trial, A1 absconded, and he was later arrested and produced in the said case on 15.06.2019. As the 1st accused again absconded, this case was transferred to the Long Pending Register as LP No.11/2019. Later, after A1 was remanded in the S.C.312/2019, he was produced in this case on 18.06.2019 pursuant to a production warrant and the case against him was refiled as SC No.317/2019. He has since been in custody in this case as well.

11. Learned counsel for A1 submitted that he is entitled to set off during the period from 02.12.2014 to 27.02.2016 and from 18.06.2019 to 30.05.2026. In this context, it is useful to refer to the judgment of the Hon'ble Apex Court in State of Maharashtra V Najakat (AIR 2001 SC 2255) and the judgment of the Hon'ble High Court in Chandran V State of Kerala (2007(4) KHC 607).

12. In the case of Najakat (supra), the Hon'ble Apex Court held as follows:

“ 18. Reading Section 428 of the Code in the above perspective, the words of the same case are not to be understood as suggesting that the set off is allowable only if the earlier jail life was undergone by him exclusively for the case in which the sentence is imposed...

.....21. We have no reason to think that the High Courts mentioned above have gone wrong in taking the view that section 428 of the Code permits the accused to have the period undergone by him in jail as an under-trial prisoner set off against the period of sentence imposed on him irrespective of whether he was in jail in connection with the same case during that period.”

13. In the case of Chandran (supra), the Hon'ble High Court held as follows:

“To summarise and to harmonise Najakat's case with the decision in Bensons case, it has to be held that while considering the claim for set off by an accused person every court has to consider whether the accused had undergone detention during investigation, enquiry or trial of the same case. If

such detention is referable and attributable to the investigation conducted in the case, notwithstanding the absence of production of the accused before the Magistrate or omission to issue a production warrant, the accused must be held to be entitled for set off. This is so notwithstanding the fact that the accused may be detained in custody in connection with other cases also, and the detention was not exclusively referable to the case in question.”

14. In view of the aforesaid judgments of the Hon’ble Apex Court and the Hon’ble High Court, this court is of the considered opinion that A1 is entitled to set off for the period from 02.12.2014 to 27.02.2016, and from 18.06.2019 to 30.05.2026.

15. It is to be noted that on 12.02.2021, A1 was convicted and sentenced to undergo imprisonment and to pay fine in S.C 312/2019 for offences U/ss. 344 and 372 of IPC and U/ss3(1) and 5(1)(d)(ii) of Immoral Traffic (Prevention) Act. On 10.04.26, A1 was convicted and sentenced to undergo imprisonment and to pay a fine in S.C 168/2014 for offences under Ss. 342, 344, 372 and 373 of IPC and under S.3(1) and 5(1) (d) (ii) of Immoral Traffic (Prevention) Act, 1956 of IPC. A1

has also been convicted and sentenced to undergo imprisonment and to pay fine in S.C 475/2014 for offences under S.376(1) r/w S.109 of IPC, Ss. 342, 344, 372 and 373 of IPC and under S.3(1) and 5(1) (d) (ii) of Immoral Traffic (Prevention) Act, 1956 of IPC. A1 has also been convicted and sentenced to undergo imprisonment and to pay fine in S.C 139/2014 for offences under S.376(1) r/w S.109 of IPC, Ss. 342, 344, 372 and 373 of IPC and under S.3(1) and 5(1) (d) (ii) of Immoral Traffic (Prevention) Act, 1956. In S.C 313/2019, A1 has been convicted and sentenced to undergo imprisonment and to pay fine for offences under S.115 r/w S.376(1) of IPC, Ss. 342, 344, 372 and 373 r/w S.109 of IPC and under S.3(1) and 5(1) (d) (ii) of Immoral Traffic (Prevention) Act, 1956. In S.C 314/2019, A1 has been convicted and sentenced to undergo imprisonment and to pay fine for offences under S.115 r/w S.376(1) of IPC, Ss. 342, 344, 372 r/w s.34 of IPC and 373 r/w S.109 of IPC and under S.3(1) and 5(1) (d) (ii) of Immoral Traffic (Prevention) Act, 1956. In S.C 323/2019, A1 has been convicted and sentenced to undergo imprisonment and to pay fine for offences under S.115 r/w S.376(1) of IPC, Ss. 342, 344,

372 of IPC and 373 r/w S.109 of IPC and under S.3(1) and 5(1) (d) (ii) of Immoral Traffic (Prevention) Act, 1956. Learned counsel for the 1st accused submitted that, considering the facts and circumstances of the case, period of detention already undergone by him and the age of the 1st accused, this is a fit case for giving a direction to run the sentence to be imposed in this case concurrently with the sentence already imposed in S.C. No.312/2019, S.C. No.168/2014, S.C. No.475/2014, S.C. No.139/2014, S.C. 313/2019, S.C. 314/2019 and S.C.323/2019. In this context, it is useful to refer to S.427 of Cr. P.C.

S.427. Sentence on offender already sentenced for another offence.

(1) When a person already undergoing a sentence of imprisonment is sentenced on a subsequent conviction to imprisonment or imprisonment for life, such imprisonment or imprisonment for life shall commence at the expiration of the imprisonment to which he has been previously sentenced, unless the Court directs that the subsequent sentence shall run concurrently with such previous sentence:

Provided that where a person who has been sentenced to imprisonment by an order under section 141 in default of furnishing security is, whilst undergoing such

sentence, sentenced to imprisonment for an offence committed prior to the making of such order, the latter sentence shall commence immediately.

(2) When a person already undergoing a sentence of imprisonment for life is sentenced on a subsequent conviction to imprisonment for a term or imprisonment for life, the subsequent sentence shall run concurrently with such previous sentence.

16. So, by virtue of S.427 of Cr. P.C./S.467 of BNSS, the court has power and discretion to direct that all the subsequent sentences run concurrently with the previous sentences. Coming to the present case, the occurrence took place in 1995, and now the 1st accused is aged 59 years. He has been in custody for more than 8 years. This case is one of a series of cases known as "Vithura Cases". He is the 1st accused in 24 cases, and he has been convicted and sentenced in 7 cases. All the cases arise out of the same crime registered as FIR No. 5/1996 at Vanitha Police Station, Ernakulam. It is pertinent to note that he has not contested the case and pleaded guilty. In SC.312/2019, he was convicted and sentenced to undergo R.I. for a period of 2 years under S.344 IPC, R.I. for a period of 10

years under S.372 IPC, R.I. for a period of 2 years under S.3(1) of Immoral Traffic (Prevention) Act, 1956 and R.I. for a period of 10 years under S.5(1) (d) (ii) of Immoral Traffic (Prevention) Act, 1956. In SC.168/2014, he was convicted and sentenced to undergo R.I. for a period of 1 year under S.342 IPC, R.I. for a period of 3 years under S.344 IPC, R.I. for a period of 10 years under S.372 IPC, R.I. for a period of 10 years under S.373 IPC, R.I. for a period of 3 years under S.3(1) of Immoral Traffic (Prevention) Act, 1956 and R.I. for a period of 10 years under S.5(1) (d) (ii) of Immoral Traffic (Prevention) Act, 1956. In SC.475/2014, he was convicted and sentenced to undergo R.I. for a period of 1 year under S.342 IPC, R.I. for a period of 3 years under S.344 IPC, R.I. for a period of 10 years under S.372 IPC, R.I. for a period of 10 years under S.373 IPC, R.I. for a period of 10 years under S.376(1) of IPC, R.I. for a period of 3 years under S.3(1) of Immoral Traffic (Prevention) Act, 1956 and R.I. for a period of 10 years under S.5(1) (d) (ii) of Immoral Traffic (Prevention) Act, 1956. In SC.139/2014, he was convicted and sentenced to undergo R.I. for a period of 1 year under S.342 IPC, R.I. for a period of 3 years under S.344 IPC,

R.I. for a period of 10 years under S.372 IPC, R.I. for a period of 10 years under S.373 IPC, R.I. for a period of 10 years under S.376(1) of IPC, R.I. for a period of 3 years under S.3(1) of Immoral Traffic (Prevention) Act, 1956 and R.I. for a period of 10 years under S.5(1) (d) (ii) of Immoral Traffic (Prevention) Act, 1956. In SC.313/2019, he was convicted and sentenced to undergo R.I. for a period of 1 year under S.342 IPC, R.I. for a period of 3 years under S.344 IPC, R.I. for a period of 10 years under S.372 IPC, R.I. for a period of 10 years under S.373 IPC, R.I. for a period of 7 years under S.115 r/w S.376(1) of IPC, R.I. for a period of 3 years under S.3(1) of Immoral Traffic (Prevention) Act, 1956 and R.I. for a period of 10 years under S.5(1) (d) (ii) of Immoral Traffic (Prevention) Act, 1956. In SC.314/2019, he was convicted and sentenced to undergo R.I. for a period of 1 year under S.342 IPC, R.I. for a period of 3 years under S.344 IPC, R.I. for a period of 10 years under S.372 IPC, R.I. for a period of 10 years under S.373 IPC, R.I. for a period of 7 years under S.115 r/w S.376(1) of IPC, R.I. for a period of 3 years under S.3(1) of Immoral Traffic (Prevention) Act, 1956 and R.I. for a period of 10 years under S.5(1) (d) (ii)

of Immoral Traffic (Prevention) Act, 1956. In SC.323/2019, he was convicted and sentenced to undergo R.I. for a period of 1 year under S.342 IPC, R.I. for a period of 3 years under S.344 IPC, R.I. for a period of 10 years under S.372 IPC, R.I. for a period of 10 years under S.373 IPC, R.I. for a period of 7 years under S.115 r/w S.376(1) of IPC, R.I. for a period of 3 years under S.3(1) of Immoral Traffic (Prevention) Act, 1956 and R.I. for a period of 10 years under S.5(1) (d) (ii) of Immoral Traffic (Prevention) Act, 1956. Having regard to the facts and circumstances of the case, I am inclined to give a direction to run the sentence to be imposed in this case concurrently with the sentence already imposed in S.C 312/2019, S.C No.168/2014, S.C. No.475/14, S.C. No.139/2014, S.C. No. 313/2019, S.C .No.314/2019, and S.C. No.323/2019.

As a result, the 1st accused is sentenced for the offences committed in this case as follows:

- i. The 1st accused is sentenced to undergo Rigorous Imprisonment for a period of three years, and to pay a fine of ₹1,000/- U/s. 344 of IPC. In default of payment of fine, he shall undergo Rigorous Imprisonment for a further period of one month.

- ii. The 1st accused is sentenced to undergo Rigorous Imprisonment for a period of ten years and to pay a fine of ₹2,000/- U/s. 372 of IPC. In default of payment of the fine, he shall undergo Rigorous Imprisonment for a further period of two months.
- iii. The 1st accused is sentenced to undergo Rigorous Imprisonment for a period of ten years and to pay a fine of ₹2,000/- U/s. 376(1) r/w 109 and S.34 of IPC. In default of payment of the fine, he shall undergo Rigorous Imprisonment for a further period of two months.
- iv. The 1st accused is sentenced to undergo Rigorous Imprisonment for a period of 3 years and to pay a fine of ₹1,000/- under S.3(1) of Immoral Traffic (Prevention) Act, 1956. In default of payment of the fine, he shall undergo Rigorous Imprisonment for a further period of one month.
- v. The 1st accused is sentenced to undergo Rigorous Imprisonment for a period of 10 years and to pay a fine of ₹1,000/- under S.5(1) (d) (ii) of Immoral Traffic (Prevention) Act, 1956. In default of payment of the fine, he shall undergo Rigorous Imprisonment for a further period of one month.
- vi. The fine amount, if paid or realized, will be paid to the victim, as compensation U/s 395(1) of BNSS/s.357(1) Cr.P.C.

- vii. 1st accused is entitled to set off for a period of detention undergone by him during the investigation and trial, that is, from 02.12.2014 to 27.02.2016 and from 18.06.2019 to 30.05.2026.
- viii. The substantive sentence of imprisonment shall run concurrently.
- ix. The substantive sentence of imprisonment imposed in the present case shall run concurrently with the substantive sentence of imprisonment already imposed in S.C No.312/2019, S.C. No.168/2014, S.C No.475/2014, S.C. No.139/2014, S.C. No. 313/2019, S.C. No.314/2019 and S.C. No.323/2019 of this court.

At the time of the occurrence, the victim was aged 17 years and she has suffered grave physical and mental trauma on account of the offences committed against her. Considering the nature of offences, its lasting impact on psychological well-being and the social life of the victim, this court is of the considered opinion that just and reasonable compensation shall be awarded to the victim. Having regard to the facts and circumstances of the case, I am of the view that she requires rehabilitation under the victim compensation

scheme. Hence, I recommend the District Legal Services Authority, Kottayam to decide the quantum of compensation to be awarded to her for her rehabilitation under the victim compensation scheme as provided u/s. 396 of BNSS/s.357-A of Cr.P.C.

Dictated to the Confidential Assistant, transcribed by her, revised and corrected by me and pronounced in Open Court on this, the 30th day of May, 2026.

Sd/-

Subash. S
Addl. Sessions Judge-II (Spl.),
Kottayam

APPENDIX: NIL.

Id/-

Addl. Sessions Judge-II(Spl).
Kottayam.

Serial No. of the Case : Sessions Case No.314/2019
Crime Number and : Crime No.5/96
Vanitha Police Station
Ernakulam
Name of Police Station and Cr.No. 192 CR 96 CBCID
Ernakulam.

DESCRIPTION OF THE ACCUSED

	Name	Father's Name	Occupation	Residence Age	Age
1	Suresh	Shamsudeen	Business	Jubairia Manzil, Kattambally, Ittiva, Kadakkal, Kollam	54/21

***Fair copy of Judgment in
S.C. No.317/2019
Dated: 30.05.2026***

Dates of

Occurrence	:	1995 November to 1996 May
Complaint	:	24.07.1996
Apprehension and Release on bail	:	A1 Surrendered on 02.12.2014 and released on bail on 27.02.2016. He absconded again and he was produced in this case on 29.08.2019 on production warrant and now he is in custody.
Committal	:	23.02.2015
Hearing	:	30.05.2026
Judgment	:	30.05.2026
Reason for delay	:	No delay
Remarks	:	NIL

Copied by:
Compared by:

//True Copy//

Id/-
**Addl. Sessions Judge-II(Spl).
Kottayam.**

By Order

Sd/-
Sheristadar