

IN THE COURT OF THE I ADDITIONAL SESSIONS JUDGE, THRISSUR.

Present:

Sri. K. Kamanees, Addl. Sessions Judge- I.

Friday the 05th day of June, 2026/15th Jyeshtha, 1948.

SC 725/2025

(Crime No. 516/2017 of Pudukkad Police Station)

Complainant : State of Kerala - represented by The Sub
Inspector of Police, Pudukkad Police
Station.

By Public Prosecutor Sri. K. P. Ajayakumar.

Accused : Ratheesh, aged 35/2017 years, S/o. Balan,
Thekkan Oorakath House, Vendoor
Kavungappilly Desom, Amballur Village,
Thrissur District.

By Adv. I. D. Radhakrishnan.

Offences : U/ss. 279, 338 of IPC and 3(1) r/w 181
and 146 r/w 196 of the Motor Vehicles Act.

This sessions case is coming on this day for hearing and on the same day the court passed the following:

ORDER

This is a case charge sheeted by the Sub Inspector of Police, Pudukkad Police Station in Crime No.516/2017 of that Police Station against the accused alleging offences punishable u/ss. 279, 338 of IPC and 3(1) r/w 181 and 146 r/w 196 of the Motor Vehicles Act.

2. The records reveal that the case had been originally filed before the Judicial First Class Magistrate Court, Irinjalakuda, and the case was transferred to this court.

3. There was an order of the learned Magistrate, as reflected in the committal order in C.P No.9/2025, re-filed from ST 3370/2017. The substantial portion of the order reads as follows.

“After conducting 313 examination, when the case was posted for final hearing, it is noticed that, CW3, one of the injured in the case was minor at the time of the incident. As per S.86 substituted by the Amendment Act of 2021 to Juvenile Justice (Care and Protection of Children) Act, 2015, offence against child is to be tried by the Hon’ble Children’s Court.”

4. The case records reveal that the CW3 Anandu, examined as PW3, had been a minor who was injured in the incident. The substantial part of evidence had already been taken.

5. On going through the chargesheet, he is only one of the witnesses who were injured in the incident. There is no allegation that any deliberate act of violence had been there on a child. The allegation is that the rash and negligent driving of the accused, resulting in injury to the witness.

6. In order to attract the jurisdiction in this case, this court should have materials to prima facie satisfy itself that violation of child rights are involved in this case or at least the offences should be against children in the perspective as it is understood under Section 2. (b) Of the Act. [*“child rights” includes the children's rights adopted in the United Nations convention on the Rights of the Child on the 20th November, 1989 and ratified by the Government of India on the 11th December, 1992;*]

7. In **Abdul Aziz vs. Circle Inspector of Police and Ors. MANU/KE/1731/2011**, The Hon'ble High Court of Kerala has examined the position and laid down the following parameters to understand the import of the word child right.

"The Commission for Protection of Child Rights Act, 2005, Central Act 4 of 2006 was enacted to provide for the constitution of National Commission and State

Commissions for Protection of Child Rights and Children's Courts for providing speedy trial of offences against children or of violation of child rights and for matters connected therewith or incidental thereto. The functions of the Commission constituted under the Act are mainly to study and monitor all matters relating to constitutional and legal rights of children, to examine and review the safeguards provided by any law on the protection of child rights. The Act also recommended measures for their effective implementation in the best interest of the children. The Act also says that the policy of the State shall be such that the tender age of the children should not be abused and their rights are not infringed. The Convention on the Rights of Children, 1989 was adopted by General Assembly Resolution 44/25 without vote on 20-11-1989. That Convention recognised that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding. It was also considered that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity. Bearing in mind that ideal, the need to extend particular care to the child was stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the

Child adopted by the General Assembly on 20-11-1959 and recognised in the Universal Declaration of Human Rights. The International Covenant on Civil and Political Rights (in particular Articles 23 and 24), the International Covenant on Economic, Social and Cultural Rights (in particular in Article 10) and the statutes and relevant instruments of specialized agencies and international organizations were concerned with the welfare of children. It was also noted that the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth. The Convention also took note of the fact that in all countries in the world, there are children living in exceptionally difficult conditions and that such children need special consideration. The importance of the traditions and cultural values of the people for the protection and harmonious development of the child was also taken into account. Article 1 of the Convention mentioned above defines a child to mean every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier. Therefore, though Central Act 4 of 2006 does not specifically define, 'child' since Act 4 of 2006 was enacted based on the United Nations Convention mentioned above, it has to be understood that a person below the age of eighteen years is a child for the purpose of Sec.2(b) of this Act.

The object of the Act is to ensure that the child is given

such protection and care as are necessary for his or her well-being, taking into account the rights and duties of his or her parents, local guardians or other individuals legally responsible for him or her. The Convention on the Rights of the Child, which was concluded by the U.N. General Assembly on 20-11-1989 was accepted by India. That Convention affirms that children's rights require special protection and it aims, not only to provide such protection but also to ensure the continuous improvement in the situation of children all over the world. Therefore, what can be gathered is that children are given the facility to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment."

8. In the said judgment, the position involved was whether the jurisdiction of Children's Court is attracted in a case where rash and negligent driving was alleged to have been perpetrated against children. It was held as follows.

"If the act is done by the accused with the knowledge that his act is likely to violate or infringe the child right then also the case may have to be tried by the Children's Court. So far as the case involved in Crl. M.C. 2715/2011 is concerned, the victim child happened to sustain injuries, to which he subsequently succumbed, only because of the alleged rash or negligent driving of the vehicle by the accused. It was not an act done to violate or negate the 'child right'. Hence, I am of the view that this accident case is not one which has to be

tried by the Special Court/Children's Court presided over by the Principal Sessions Judge of the District."

9. It seems that this position of law escaped the sight of the learned Magistrate and therefore the case had been transferred to this court. Definitely the court shall lack jurisdiction to entertain this case, in as much as no child right is violated or no offence against a child are revealed as such.

10. In such circumstances, it is ordered that the records be sent back to the court of Hon'ble Chief Judicial Magistrate, Thrissur who shall try the case herself or use her discretion in getting the case transferred to the appropriate Magistrate court. Ordered accordingly.

11. The accused shall appear before the appropriate court as and when he is called upon by the competent court.

(Dictated partially to the Confidential Assistant, and partially to the appropriate dictation software, transcribed by her/it, corrected by me and pronounced in open court on this the 5th day of June, 2026).

Sd/-

K. KAMANEES

I ADDL. SESSIONS JUDGE, THRISSUR.

Copied by : Lekshmi

Compared by : Reshma

/True copy/

By order

Sheristadar

Order in
SC 725/2025
Dated: 05.06.2026