

IN THE COURT OF THE FAST TRACK SPECIAL JUDGE, HARIPAD
(SESSIONS DIVISION, ALAPPUZHA)
Present:- Sri. Hareesh G., Special Judge

Wednesday, the 10th day of June, 2026

S.C. No.1320/2024

(Crime No.840/2024 of Haripad Police Station)

Complainant : State of Kerala – represented by S.I. of Police, Haripad Police Station.

(By Adv.Sri.S. Reghu, Spl. Public Prosecutor)

Accused : Anilkumar.

(By Adv.Sri. Satheesh Chandra)

Charge : u/S.78(i) of the Bharatiya Nyaya Sanhita, 2023 and U/Ss.12 r/W 11(i) & (iv) of the Protection of Children from Sexual Offences Act, 2012.

Plea : Not guilty.

Finding : Not guilty.

Sentence or Order : ***The accused is acquitted u/S.258(1) of BNSS for the offences punishable u/S.78(i) of the Bharatiya Nyaya Sanhita, 2023 and U/Ss.12 r/W 11(i) & (iv) of the Protection of Children from Sexual Offences Act, 2012.***

DESCRIPTION OF THE ACCUSED

Sl.No.	Name	Father's name	Religion	Occupation	Residence	Age
1	Anilkumar S/o Thankan, Manappally Colony, Pallippad Vadakkekkara Kizhakkum Muri, Pallippad Village.					50/24

Date of:-

Offence	Report	Apprehension	Release on bail	Committal
10/05/2024 & 18/07/2024	18/10/2024	10/10/2024	10/10/2024	-
Commencement of trial	Close of trial	Sentence/ order	Explanation for delay, if any	
31/12/2025	01/06/2026	10/06/2026	-	

This Sessions Case having been finally heard on 01/06/2026 and stood over for consideration to this day and the Court delivered the following:

J U D G M E N T

- (1)** This case is based on the final report filed by the Sub Inspector of Police attached to the police station at Haripad in Crime No.840/2024 of the Haripad police station. The accused is put to trial alleging commission of the offences punishable u/S.78(i) of the Bharatiya Nyaya Sanhita, 2023 (for short, BNS) and u/Ss.12 r/W 11(i) & (iv) of the Protection of Children from Sexual Offences Act, 2012 (for short PoCSO Act).
- (2)** The prosecution allegation against the accused is as follows:- that the accused with lustful desire, followed 13-years old victim girl, with his intention to contact her privately; and at 06.15 am on 10/05/2024, the accused followed the victim girl upto the market at Pallippad while she was proceeding to attend tuition on her bicycle from her residence at Manapally Colony; thereafter, the accused pelted stones on to the door of the house of the victim; then on 18/07/2024, the accused showed ₹.100/- to the victim girl by standing on the north-western corner of his house situated in Ward III of Pallippad Panchayat of Pallippad Village and called the victim girl by flapping his hand; thus the accused sought sexual

favours from the victim girl and thereby committed the offences punishable u/S.78(i) of the Bharatiya Nyaya Sanhita, 2023 and u/Ss.12 r/W 11(i) & (iv) of the Protection of Children from Sexual Offences Act, 2012.

- (3)** This case had its genesis on Ext.P2 FIS given by PW3 before PW13, the S.I. of Police attached to the police station at Haripad; then she registered the case as per Ext.P8 First Information Report. Then, after completing the investigation, PW13 has laid the final report before the Addl. Sessions Court-1, Alappuzha (the Special Court for trial of offences under the POCSO Act & Children's Court) by citing CWs 1 to 15 as charge witnesses. The Special Court took cognizance of the offences alleged in the final report and taken the case on the files under the present number and issued process to the accused. Thereafter, the case was made over to this Court for trial and disposal.
- (4)** Upon receipt of the case records, this Court issued process to the accused. The accused appeared before the Court in response to the process issued. On his appearance before the Court, the accused was furnished with copies of all relevant prosecution records and since he was enlarged on bail at the investigation stage of the case, the accused was permitted to continue on the

same bail bond executed by him during the investigation of the case. The accused was defended by the counsel appointed by him.

- (5) The learned Special Public Prosecutor opened the case u/S.249 of Bharatiya Nagarik Sureksha Sanhitha (For short B.N.S.S.) by describing by what evidence he proposes to prove the guilt of the accused. Thereafter, the counsel for the accused and the Special Public Prosecutor were heard u/S.250 of the BNSS and since there is sufficient materials to frame charge against the accused, charge u/S.78(i) of the Bharatiya Nyaya Sanhita, 2023 and U/Ss.12 r/W 11(i) & (iv) of the Protection of Children from Sexual Offences Act, 2012 was framed, read over and explained to the accused. The accused pleaded not guilty to the charge and claimed to be tried.
- (6) Thereafter, from the side of the prosecution, **PW1 to PW13** were examined and marked **Exts.P1 to P12**.
- (7) After the closure of the prosecution evidence, the accused was examined u/S.351(1)(b) of BNSS with respect to incriminating circumstances appearing against him in the prosecution evidence. The accused denied all the incriminating circumstances brought against him and stated that he is innocent of the

prosecution allegations. The accused further stated that there exists boundary dispute between him and the parents of the victim girl and out of that grudge, this false case is lodged against him.

- (8)** Thereafter, the learned counsel for the accused and the learned S.P.P. were heard u/S.255 of BNSS. Since there is evidence against the accused, it is found that the accused is not entitled to be acquitted u/S.255 of BNSS. No evidence was adduced from the side of the accused when he was called upon to enter on his defence.
- (9)** Among the prosecution witnesses examined, PW1 is the mother of the victim; she testified that she has hearsay knowledge about the incident. PW2 is the relative of the victim girl; she is an attestor of Ext.P1 mahazar. PW3 is the victim girl; she has set the law in motion by lodging Ext.P2 FIS. PW4 is the sister of the victim; she is also examined to prove the incident. PW5 is the WCPO attached to the police station at Haripad; she was the VLO of the victim girl. PW6 is the Village Officer attached to the Village Office, Pallippad; he has prepared Ext.P3 scene plan. PW7 is the Village Officer attached to the Village Office, Pallippad; he has issued Ext.P4 possession certificate with respect to the place

of occurrence. PW8 is the Headmistress of Haripad Town Muslim L.P. School; she has issued Ext.P5 certificate stating the date of birth of the victim girl. PW9 is the doctor in the Taluk Hospital, Haripad; he has examined the accused and issued Ext.P6 certificate. PW10 is the uncle of the victim girl; he is examined to prove the occurrence. PW11 is another attester of Ext.P1 mahazar. PW12 is the gynaecologist in the Taluk Hospital, Haripad; she has examined the victim girl and issued Ext.P7 series, certificate. PW13 is the S.I. of Police attached to the police station, Haripad; she has registered the case as per Ext.P8 FIR and after completing the investigating, she has laid the final report; through her, Exts.P8 to P12 documents were marked.

(10) The prosecution has given up CWs 12 & 13.

(11) Heard the learned SPP and the learned counsel for the accused.

(12) The following points arise for consideration:-

- 1) Has the prosecution proved that PW3 was a child as defined in the Protection of Children from Sexual Offences Act, 2012 when the incidents took place?
- 2) Whether the accused stalked PW3?
- 3) Whether the accused committed sexual harassment on PW3?
- 4) What, if any is the offence committed by the accused?

5) Regarding sentence or order?

(13) Point No.1:-

In this case, the prosecution alleges the offence punishable U/Ss.12 r/W 11(i) & (iv) of Protection of Children from Sexual Offences Act; therefore, the prosecution is bound to prove the age of the victim as a foundational fact. To discharge the said onus, prosecution relied on the testimony of the mother of the victim, who gave evidence as PW1. She deposed that her daughter was born on 13/07/2011. The said evidence adduced by PW1 regarding the age of her daughter was not challenged by the accused. The Hon'ble High Court of Kerala in **Raveendran V. S. v. Deputy Superintendent of Police [2025 KHC 226 : 2025 KER 14285 : 2025 KLT OnLine 1341]** held **'Undisputedly, the most competent person to depose about the age of a child is the child's mother.**

(14) As per S.2(1)(d) of the Protection of Children from Sexual Offences Act, '*child*' means any person below the age of 18 years. Regarding the mode of determination of the age of victims, there is no specific provision under the Protection of Children from Sexual Offences Act. S.34(2) of the Protection of Children from

Sexual Offences Act states that if any question arises in any proceeding before the Special Court whether a person is a child or not, the Special Court shall determine such a question after satisfying itself about the age of such person and it shall record in writing its reasons for such determination. However, no procedure is prescribed under the Act, or the rules made thereunder with the mode of age determination. Likewise, the Code of Criminal Procedure does not provide any such procedure.

(15) It is quite worthy to note that in **P. Yuvaprakash v. State represented by Inspector of Police (2023 KHC 6709)**, the Hon'ble Supreme Court held that conjoining reading of S.34(1) of Protection of Children from Sexual Offences Act and S.94 of the Juvenile Justice (Care & Protection of Children) Act would show that whenever there is a dispute with regard to the age of a person arises in the context of her/him being a victim under the Protection of Children from Sexual Offences Act the Court have to take recourse to the steps indicated in S.34 of the J.J. Act. Furthermore, in **Biju v. State of Kerala (2024 (2) KHC 297)**, the Hon'ble High Court of Kerala held that for establishing the age of a child under the Protection of Children from Sexual Offences Act, anyone of the ways permitted under the Indian Evidence Act can be resorted to.

(16) Prosecution examined PW8, the Headmistress of Town Muslim L.P. School, Haripad. She would testify that she has issued a certificate to the investigating officer stating the date of birth of the victim girl. The certificate so issued by PW8 is marked as **Ext.P5** and as per the said document, the date of birth of PW3 is on 13/07/2011. The said evidence regarding the age of PW3 is not challenged by the accused. As per the final report, the accused committed the offence punishable u/S.12 of the PoCSO Act against PW3 on 18/07/2024 and also on 10/05/2024. Thus, it is found that on the said dates, PW3 has not completed the age of 18 years and therefore, she is a child as defined in the PoCSO Act. This point is answered accordingly.

(17) Point No.2 & 3:-

In this case, the prosecution allegation is that the accused sexually harassed PW3 and he also followed her with lustful intent. The victim girl testified before the court as PW3. She deposed before the court that she is residing in the next door of the accused and she is attending tuition classes in Thathwamasi Tuition Centre at Poyyakkara. It is her evidence before the court that when she was proceeding to the tuition centre, the accused followed her on his bike and blown horn. She further deposed that the accused used to follow her up to the market at Pallippad.

It is her evidence before the court that on 18/07/2024, while she was brooming in the rear courtyard of her house, the accused called her by showing ₹.100/-. PW3 deposed that at that time, her mother reached the house after her job and her sister informed her that mother has reached home. On hearing the said sound, the accused rushed to his house. She deposed that then she gave **Ext.P2** FIS.

- (18)** The mother of the victim girl testified before the court as PW1. She deposed that the accused is residing in her neighbourhood. PW1 deposed that the incident took place while she has gone for her job and at that time, her children were all alone in the house. It is her evidence before the court that while her daughter was sweeping the rear courtyard of her house, the accused summoned her by showing money. PW1 further deposed that on hearing her footstep, the daughter summoned her and as she reached the rear side of her house, the accused rushed to his house. PW1 would testify that her younger daughter told her that the accused summoned her sister by showing money. It is her evidence before the court that she has discussed the matter with politicians and they directed her to approach police.

- (19)** PW4 is the sister of PW3. She would depose that she is studying in Std.VII in Naduvattom Vocational Higher Secondary School. It is her evidence before the court that while her sister was sweeping the rear courtyard of her house, the accused summoned her sister by showing ₹.100/-. PW4 deposed that at that time her mother was away from the house.
- (20)** In this case, PW2 is the relative of the victim girl. It is her evidence before the court that she came to know that the accused misbehaved with the child in this case. She also deposed that she witnessed the preparation of the scene mahazar by the police and she signed the said mahazar. The mahazar is marked as **Ext.P1**.
- (21)** PW5 is the WCPO attached to the police station, Haripad. She deposed that she was appointed as the VLO of the victim girl and as such she was taken the victim girl for medical examination and she has also taken the victim girl to the Magistrate for recording statement.
- (22)** PW6 is the Village Officer attached to the Village Office, Pallippad. He deposed that as directed by the investigating officer, he has prepared a scene plan of the place of occurrence. The said scene plan is marked as **Ext.P3**.

(23) PW7 is the Village Officer attached to the Village Officer, Pallippad. He deposed that he has issued a possession certificate with the respect to the place of occurrence and the said certificate is marked as **Ext.P4**. PW7 deposed that as per the said certificate issued by him, the accused is in possession of the place of occurrence.

(24) PW9 is the doctor attached to the Taluk Hospital, Haripad. He deposed that on 10/10/2024, he examined the accused and issued **Ext.P6** potency certificate stating that the accused is sexually potent.

(25) PW10 is the uncle of the victim girl. It is his evidence before the court that the accused is the neighbour of his niece. PW10 deposed that the accused used to follow the victim child while she proceeds to her tuition classes. It is his evidence before the court that the accused used to pelt stones at the kitchen door of the victim girl's house and he came to know that the accused tendered toffy and money to the victim girl.

(26) PW11 is another attester of Ext.P1 mahazar. She deposed that she has hearsay knowledge of the incident and she was present at the place of occurrence while the mahazar was prepared.

(27) PW12 is the doctor attached to the Taluk Hospital, Haripad. She would testify that on 29/07/2024, she examined the victim girl and issued **Ext.P7** series certificate.

(28) PW13 is the S.I. of Police attached to the police station, Haripad. She deposed that on the basis of the statement given by the victim girl, she has registered the case as per **Ext.P8** FIR. PW13 deposed that she appointed a VLO for the victim girl and the report showing appointing the VLO is marked as **Ext.P9**. It is her evidence before the court that she sent the victim girl for medical examination and obtained **Ext.P7** certificate. She would testify that she prepared Ext.P1 mahazar after inspecting the scene of occurrence. She further deposed that she has arrested the accused and the arrest memo and the arrest intimation prepared at the time of arresting the accused are marked as **Exts.P10 & P11** respectively. She further deposed that she filed **Ext.P12** report to bring on record the address of the accused. PW13 deposed before the court that she sent the accused for potency examination and obtained Ext.P6 certificate. She further deposed that she obtained and filed Ext.P5 certificate before the court to show the date of birth of PW3. She further deposed that she has obtained Ext.P3 scene plan and Ext.P4 ownership certificate with respect to the place of occurrence.

(29) The prosecution has adduced the abovementioned evidence. The learned counsel appearing for the accused filed an argument note. The first point argued by the counsel for the accused is that this is a politically motivated case and there occurred delay of ten days in lodging the FIS. He also argued that the prosecution has suppressed the earliest version of the incident stated by PW3 to the police from the court and the FIS was lodged after due deliberation. The counsel for the accused also argued that the ingredients of the none of the offences are made out in this case and the prosecution has failed to prove the offences against the accused.

(30) The evidence on record and the contention of the accused are put to scrutiny. Here, PW3 and her sister (PW4) deposed that the accused showed ₹.100/- to PW3 and called her while she was sweeping the rear courtyard of their house. PW3 in the cross-examination deposed that after 18/07/2024, she has not given any statement to the police. But, Ext.P2 FIS is seen lodged on 28/07/2024. If the testimony of PW3 is accepted, there is no chance for PW3 giving a statement to the police after the elapse of ten days. The learned SPP has not tried to clear the said ambiguity in the evidence of PW3 through re-examination. In Ext.P2 FIS, PW3 maintained a case that one day while she was

washing the vessels in the kitchen of her house, the accused pelted stone on to her door of the house. But, by giving evidence before the court, PW3 has not given such a statement before the court. Likewise, as per Ext.P2 FIS, before approaching the police, PW3 has informed the matter to the political members and they have warned the accused.

(31) Here, it is to be noted that the accused has followed PW3 on his bike while she proceeded to her tuition classes. The prosecution alleges the offence punishable u/S.78(1)(i) of the BNS. On a reading of Sec.78(1)(i) of BNS, it can be seen that the evidence of PW3 does not constitute the offence of stalking. To attract the offence of stalking, the prosecution must prove that the accused followed and contacted a woman despite a clear indication of disinterest by such person. Here, in this case, PW3 has no case that the accused tried to contact her in any manner. The travelling of the accused on his bike when PW3 proceeded for her tuition classes cannot be construed as the offence of stalking. Thus, it is found that the prosecution could not prove the offence of stalking against the accused.

(32) The prosecution then alleges the offence u/S.12 of the PoCSO Act. It is to be noted that to attract the offence u/S.12 of the PoCSO

Act, the act of gesture shown by the accused should be with sexual intent. But, it is already found that there is inconsistency between the testimony of PW3 before the court and her Ext.P2 FIS. As per the evidence of PW3, the incident happened on 18/07/2024 and on the said day itself, she has given a statement to the police and after 18/07/2024, she has not given any statement to the police. As already mentioned, Ext.P2 FIS was recorded on 28/07/2024, PW1 - the mother of PW3 in her examination-in-chief stated that she approached the police after discussing with political leaders. Thus, it is found that the chance of PW3 giving an embellished version to the police with a view to implicate the accused in a serious crime cannot be ruled out. Thus, it is found that it is very unsafe to rely entirely on the testimony of PW3 to enter a finding against the accused.

(33) Provisions of Protection of Children from Sexual Offences Act, 2012 are both stringent and rigorous and therefore the burden heavily lies on the prosecution. It must be recalled that the well-established rule of criminal justice is that "**fouler the crime higher the proof**". More serious the offence the stricter the degree of proof require.

(34) The function of the Court in a criminal trial is to find whether the

person arraigned before it as the accused is guilty of the offence with which he is charged. For this purpose, the Court scans the material on record to find whether there is any reliable and trustworthy evidence upon the basis of which it is possible to convince to pass the conviction of the accused and to hold that he is guilty of the offence with which he is charged. If in a case prosecution leads uncorroborated evidence and shows it to be unreliable, the result would necessarily be that the Court would be left with no reliable and trustworthy evidence upon the conviction of the accused might be based. Inevitably, the accused would have the benefit of such a situation.

- (35)** It is settled that if the Court entertains a reasonable doubt regarding the guilt of the accused, the benefit of that doubt must go to the accused. Mere suspicion, however strong or probable it may be, is no effective substitute for the legal proof required to substantiate the charge of commission of a crime **see Ashish Batham v. State of M.P., 2002 (7) SCC 317**. Taking all the circumstances into account, it is concluded that it is a fit case where the benefit of doubt must be extended to the accused.
- (36)** Upshot of the discussion is that the prosecution could not prove the overt act of the accused persons herein beyond reasonable

doubt and it is also found that the prosecution evidence is not sufficient to prove that the accused has committed the offences punishable u/S.78(i) of the Bharatiya Nyaya Sanhita, 2023 and U/Ss.12 r/W 11(i) & (iv) of the Protection of Children from Sexual Offences Act, 2012. These points are answered accordingly.

(37) Point No.4:-

Vide discussions made in the foregoing points, it is found that the prosecution has failed to prove that the accused has committed the offence punishable u/S.78(i) of the Bharatiya Nyaya Sanhita, 2023 and U/Ss.12 r/W 11(i) & (iv) of the Protection of Children from Sexual Offences Act, 2012. This point is answered accordingly.

(38) Point No.5:-

Vide discussions made in the foregoing points, it is found that the prosecution has failed to prove that the accused have committed the offences punishable u/S.78(i) of the Bharatiya Nyaya Sanhita, 2023 and U/Ss.12 r/W 11(i) & (iv) of the Protection of Children from Sexual Offences Act, 2012.

In the result,

the accused is acquitted u/S.258(1) of BNSS for the offences punishable u/S.78(i) of the Bharatiya Nyaya Sanhita, 2023 and U/Ss.12 r/W 11(i) & (iv) of the Protection of Children from Sexual Offences Act,

2012. The bail bond executed by the accused stands cancelled and he is set at liberty, forthwith.

(Dictated to the Confidential Assistant, she typed directly on computer, corrected and pronounced by me in Open Court on this the 10th day of June, 2026)

Sd/-

Special Judge,

Fast Track Special Court, Haripad.

APPENDIX

List of Prosecution/Defence/Court Witnesses:-

STATEMENT UNDER RULE 134 OF THE CRIMINAL RULES OF PRACTICE

A. WITNESSES FOR THE PROSECUTION:-

Rank	Name	Whether eye-witness, police witness, expert witness, medical witness, other witness	Date of deposition
PW1	Mother of the victim	-	05/03/26
PW2	Relative of the victim	-	05/03/26
PW3	Victim of the offence	-	07/03/26
PW4	Sister of the victim	-	07/03/26
PW5	Sreejamol	WCPO, Haripad Police Station	07/03/26
PW6	Saju Varghese	Village Officer, Pallippad Village Office	17/03/26
PW7	Manzoor A.	Village Officer, Pallippad Village Office	17/03/26
PW8	Manjusha S.	Headmistress, Town Muslim L.P.S., Haripad	17/03/26
PW9	Dr. Manu Prabhakaran	Taluk Hospital, Haripad	23/03/26
PW10	Uncle of the victim	-	30/03/26
PW11	Shyla C.	Mahazar witness	30/03/26
PW12	Dr. Jane Jacob	Taluk Hospital, Haripad	25/04/26
PW13	Shaija E.S.	S.I. of Police, Haripad Police Station	06/05/26

B. WITNESSES FOR THE DEFENCE:-

Rank	Name	Whether eye-witness, police witness, expert witness, medical witness, other witness	Date of deposition
-- N I L --			

C. WITNESSES FOR THE COURT:-

Rank	Name	Whether eye-witness, police witness, expert witness, medical witness, other witness	Date of deposition
- N I L -			

List of Prosecution/Defence/Court Exhibits:-

Sl.No.	Exhibit Number	Description	Date
1	P1/PW2	Scene mahazar	29/07/24
2	P2/PW3	First Information Statement	28/07/24
3	P3/PW6	Scene plan	30/08/24
4	P4/PW7	Ownership certificate	08/10/24
5	P5/PW8	Abstract of admission register	22/08/24
6	P6/PW9	Potency certificate	10/10/24
7	P7/PW12	Medical certificate of the victim	29/07/24
8	P8/PW13	First Information Report	28/07/24
9	P9/PW13	VLO report	28/07/24
10	P10/PW13	Arrest memo	10/10/24
11	P11/PW13	Arrest intimation	10/10/24
12	P12/PW13	Address report	10/10/24

B. EXHIBITS FOR THE DEFENCE:-

Sl.No.	Exhibit Number	Description	Date
- N I L -			

C. EXHIBITS FOR THE COURT:-

Sl.No.	Exhibit Number	Description	Date
- N I L -			

D. MATERIALS OBJECTS:-

Sl.No.	Exhibit Number	Description	Date
- N I L -			

Sd/-
Special Judge,
Fast Track Special Court, Haripad.

-//True Copy//-

Special Judge,
Fast Track Special Court, Haripad.