

IN THE COURT OF THE SPECIAL JUDGE, MUVATTUPUZHA

(For the trial of Protection of Children from Sexual Offences Act Cases)

Present:- Sri. Anish Kumar P.V., M.A., LL.B., Special Judge

Wednesday, the 21st day of February, 2024/02nd Phalgunam, 1945

SESSIONS CASE No. 1054/2023

Crime No. 194/2023 of Oonnukal Police Station

Complainant:-

State of Kerala represented by the Sub Inspector of Police
Oonnukal.

By P.R. Jamuna, Special Public Prosecutor

Accused:-

Shemavun Ramban, S/o Thomas, aged 77/2023, Carmel
Dagara, Kandanadu, Kandanadu Kara, Thiruvankulam Village.
By Adv: M.Y. Varghesekutty

Offence : U/S. 354, 354A(1)(ii), 354A(1)(iv), 509 of Indian Penal
Code and section 8 r/w 7, 12 r/w 11(i) of Protection of
Children from Sexual Offences Act, 2012.

Plea : Not Guilty

Finding : Not guilty

Sentence or Order :-

The accused is found not guilty of the offences punishable U/S.
**354, 354A(1)(ii), 354A(1)(iv), 509 of Indian Penal Code and section 8
r/w 7, 12 r/w 11(i) of Protection of Children from Sexual Offences Act,
2012 charged against him, and he is acquitted of the offences charged**

against him, u/s. 235 (1) of Code of Criminal Procedure. The bail bond executed by the accused stands cancelled and he is set at liberty.

Description of the accused

Sl. No	Name	Father's Name	Religion/Caste	Occupation	Age	Residence
	Shemavun Ramban	Thomas	-	-	77/2023	Thiruvankulam

Date of

Occurrence	Complaint	Apprehension	Released on bail	Committal	Commencement of trial	Close of trial	Sentence or Order
03.04.2023	20.04.2023	21.04.2023	13.05.2023	--	10.01.2024	17.02.2024	21.02.2024

This case having been finally heard on 17.02.2024 and the Court on 21.02.2024 delivered the following:

JUDGMENT

The accused herein stands charge sheeted by the Sub Inspector of Police, Oonnukal Police station alleging commission of the offences punishable U/S. 354, 354A(1)(ii), 354A(1)(iv), 509 of Indian Penal Code and section 8 r/w 7, 12 r/w 11(i) of Protection of Children from Sexual Offences Act, 2012.

2. The prosecution case is that the victim was 16 years old minor girl, the accused is the temporary appointed priest of her church. On 03.04.2023 at about 1 pm, the victim went to her parish

for serving food to the petitioner, then the accused with sexual intention asked to victim can you breastfeed me? accused caught hold her hand and said please, please.., Thus, the accused committed an offence punishable under section under section U/S. 354, 354A(1)(ii), 354A(1)(iv), 509 of Indian Penal Code and section 8 r/w 7, 12 r/w 11(i) of Protection of Children from Sexual Offences Act, 2012.

3. The Sub Inspector of Police, Oonnukal conducted investigation, submitted final report before the Additional District and Sessions Court (PoCSO), Ernakulam. On appearance of the accused he was enlarged on bail and copies of prosecution records were furnished to him. As per the order of the Hon'ble Sessions Court, Ernakulam this case was made over to this court for trial and disposal.

4. The accused appeared before this court. After hearing both sides and verifying the records in the case charge U/S. U/S. 354, 354A(1)(ii), 354A(1)(iv), 509 of Indian Penal Code and section 8 r/w 7, 12 r/w 11(i) of Protection of Children from Sexual Offences Act, 2012.

5. From the side of the prosecution, PW1 to PW5 were examined and Exts. P1 to P14 were marked. Remaining witnesses were given up by Public Prosecutor.

6. After completing the prosecution evidence, the accused was questioned U/S.313 (1) (b) of Code of Criminal Procedure and the accused denied all the incriminating circumstances appearing in evidence against them.

7. On hearing both sides U/S.232 of Code of Criminal Procedure this court was of the opinion that there was no sufficient ground to acquit the accused at that stage. The accused was called upon to enter on his defence. No evidence was adduced from the defence side.

8. Heard both sides.

9. The points that arise for consideration are:-

1	Whether the accused outraged the modesty of the victim?
2	Whether the accused demand or request for sexual favours to the victim?
3	Whether the accused made sexually coloured remarks to the victim?
4	Whether the accused insult the modesty of the victim?
5	Whether the accused committed sexual assault on victim?
6	Whether the accused utters any word or any sound exhibit

	any object or part of body with the intention such word or sound shall be heard or seen by the victim?
7	What is the appropriate sentence to be awarded to the accused, if he is found guilty ?

10. Point Nos. 1 to 6 :-

11. For the sake of convenience these points considered together.

12. PW1 deposed that now she is 17 years old. She has seen the accused. She deposed that she did not state to the police that the accused committed sexual assault and other offences on her. She further deposed that the accused did not commit any offences and sexual assault on her. She was declared hostile to the prosecution. She acknowledged her signature in the statement. This statement is marked as Ext.P1. She denied the contents of Ext. P1(a). According to her, she gave a statement to the Magistrate. She acknowledged her signature in the statement and it is marked as Ext. P2. But she does not remember what she has stated. She denied that the accused committed sexual assault on her. She further deposed that, she does not want to continue the case.

13. PW2 deposed that PW1 is her daughter. She knows the accused. She deposed that she did not state to the police that the accused

committed sexual assault or rape on PW1. She denied that she has given any statement to the police. She was declared hostile to the prosecution. She denied the contents of Ext. P3. She further deposed that, he does not want to continue the case.

14. PW3 deposed that on 20/04/2023 she was the Civil Police Officer of Oonnukal Police Station, on that day she recorded the Ext. P1 statement of the victim, victim was brought before the Magistrate for recording her statement u/s 164 Cr.PC and entire records produced before the Station House Officer.

15. PW4 deposed that on 20/04/2023 he was the Sub Inspector of Oonnukal Police Station, on that day on the basis of Ext. P1 statement he registered this case and prepared Ext. P4 FIR, thereafter he deputed CW23 for recording the statement u/s 164 Cr.PC of the victim, further investigation was done by Station House Officer.

16. PW5 deposed that on 20/04/2023 he was the Station House Officer of Pothanikkadu Police Station, on that day as per the order of Deputy Superintendent of Police, Muvattupuzha, he took the investigation of this case, he reached at the place of occurrence and prepared Ext. P5 scene mahazar, he obtained Ext. P6 medical certificate of the victim, on

21/04/2023 he arrested the accused and prepared Ext. P7 series (3 numbers) arrest memo, inspection memo and custody memo, he obtained Ext. P8 potency test report of the accused, he seized the cloth of the victim as per Ext. P9 seizure mahazar, he seized the dress of accused as per Ext. P10 seizure mahazar, he seized school admission register of the victim as per Ext. P11 seizure mahazar, thereafter it returned as Ext. P12 kaichit, he prepared section adding report, correct address of the accused and sent to the court, he obtained Ext. P13 birth certificate of the victim, he obtained Ext. P14 site plan of the place of occurrence, after completing the investigation he filed final report before the court.

17. Let us look whether the prosecution has succeeded in proving the case against the accused ?

18. PW1 is none other than the victim who did not support the prosecution case. She is declared hostile to the prosecution. She categorically deposed that the accused did not commit sexual assault and other offences on her. PW1 further deposed that though she had given statement before the learned Magistrate, it was not true. So from the evidence of PW1 it can be seen that absolutely nothing to connect the accused with the alleged crime.

19. PW2 is the mother of PW1, she deposed that she did not give any statement to the Police regarding the incident of this case. She deposed that the accused did not commit sexual assault and other offences on PW1.

20. PW3 to PW5 are the Investigating Officers. There is no evidence to prove the allegation against the accused other than the testimony of official witnesses. The question before me is whether the testimony of the police official is sufficient to prove the guilt of the accused beyond the shadow of doubt.

21. As PW1 victim did not support the prosecution case and specifically stated that the accused did not commit any offence against her, I am of the view that the testimony of the official witnesses are not sufficient to fasten the criminal liability upon the accused.

22. Therefore I am of the view that the prosecution miserably failed to prove the guilt of the accused beyond the shadow of doubt. These points are answered accordingly against the prosecution.

23. **Point No. 12 :-**

The accused is found not guilty of the offences punishable U/S 354, 354A(1)(ii), 354A(1)(iv), 509 of Indian Penal Code and section 8 r/w 7,

12 r/w 11(i) of Protection of Children from Sexual Offences Act, 2012, charged against him, and he is acquitted of the offences charged against him, u/s. 235 (1) of Code of Criminal Procedure. The bail bond executed by the accused stands cancelled and he is set at liberty.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in the Open Court on this the 21st day of February, 2024.

Sd/-
ANISH KUMAR P.V.
SPECIAL JUDGE

Appendix

Prosecution Exhibits:-

P1	First information statement
P1(a)	Part of first information statement
P2	Statement u/s 164 Cr.PC
P3	Part of 161 statement
P4	FIR
P5	Scene Mahazar
P6	Medical Certificate of victim
P7 series	Arrest Memo, Inspection Memo, Custody Memo
P8	Potency Certificate of accused
P9	Seizure Mahazar of dress of victim
P10	Seizure Mahazar of dress of accused
P11	Seizure Mahazar of School Admission Register
P12	Kaichit
P13	Birth Certificate of victim

P14 Site plan

Prosecution Witnesses:-

PW1	24.01.2024	Victim
PW2	24.01.2024	Limi Roy W/o Roy
PW3	02.02.2024	Bushara T.A., Senior Civil Police Officer-11560, Oonnukal Police Station.
PW4	02.02.2024	Sidheek K.P., Sub Inspector of Police, Oonukal Police Station.
PW5	02.02.2024	Sameesh P.H., Station House Officer, Pothanikkadu Police Station.

Defence Exhibits:- Nil

Defence witnesses :- Nil

Material Objects:- Nil

Sd/-
SPECIAL JUDGE

//True Copy//

SPECIAL JUDGE

S.C. No. 1054 of 2023

JUDGMENT

Dated : 21.02.2024