

**IN THE FAST TRACK SPECIAL COURT (POCSO),
THIRUVANANTHAPURAM.**

Present:- Smt. **Anju Meera Birla**, Special Judge.

Friday, 29th day of August, 2025 (8th Bhadhra, 1947)

SESSIONS CASE No.1865/2021

(Crime No.998/2020 of Poojappura Police Station)

Complainant	: State - represented by the Inspector of Police, Poojappura Police Station, Thiruvananthapuram <i>(By Special Public Prosecutor Sri.Vijay Mohan R.S.)</i>
Accused	: Aneesh @ Lalu aged 31/2021 years, S/o.Thomas, Roadarikathu Veedu, Near Cheruthalakkal Unduветty Temple, Melariyode Ward, Maranalloor Village. <i>(By Adv. Sri. Kiran K.C.)</i>
Charge	: Offences punishable under section 6 r/w 5(l), 6 r/w 5(n), 10 r/w 9(l), 10 r/w 9(n) of POCSO Act and 506 Part II, 506 Part I of IPC.
Plea	: Not Guilty
Finding	: Guilty
Sentence/order	: The accused is found guilty of the offences under S.6 read with S.5(l), S.6 read with S.5(n), S.10 r/w S.9(l), S.10 r/w S.9(n) of the POCSO Act and Section 506(i) and (ii) of IPC and is convicted under Section 235(2) CrPC.

1. The accused shall suffer rigorous imprisonment for twenty (20) years and fine of rupees Fifteen Thousand (₹15,000/-) in default to simple imprisonment for a period of one year for offence u/S.6 r/w S.5(n) of the POCSO Act.
2. The accused shall suffer rigorous imprisonment of five (5) years and fine of rupees five thousand (₹5,000/-) in default to simple imprisonment for a period of 2 months for offence u/S.10 r/w S.9(l) of the POCSO Act.
3. The accused shall suffer rigorous imprisonment of five (5) years and fine of rupees five thousand (₹5,000/-) in default to simple imprisonment for a period of 2 months for offence u/S.10 r/w S.9(n) of the POCSO Act.
4. The accused shall suffer rigorous imprisonment of two (2) years for offence u/S.506(i) IPC;
5. The accused shall suffer rigorous imprisonment of three (3) years for offence u/S.506(ii) IPC;
6. The fine amount, if realized, shall be paid as compensation to the victim under S.6(2) of the POCSO Act and S.357(1)(b)CrPC.
7. Sentence of imprisonment shall run concurrently
8. Set off allowed from 18/6/2020 to 23/11/2020 and 2/5/24 to 30/8/25 of 645 days.
9. MOs, shall be disposed as per rules after the appeal period or the disposal of appeal whichever is later.

DESCRIPTION OF THE ACCUSED

Sl. No.	Name of accused	Father's Name	Religion/ Caste	Occupation	Age
1	Aneesh @ Lalu	Thomas	xx	xxxx	31/21

Residence	Occurrence	Complaint	Apprehension	Released on bail	Committal
Roadarikathu Veedu	Month of January 2020, on several days 2019 and 24/12/19	23/5/20	18/6/20 2/5/24	23/11/20 30/8/25	Nil

Commencement of trial	Close of trial	Sentence/ order	Explanation or delay
20/11/24	23/8/25	29/8/25	No delay

The Sessions Case coming on for hearing before me on 23/8/2025, upon perusing the records of evidence and proceeding and upon duly considering the same after hearing the Special Public Prosecutor and counsel for the accused on 29/8/2025, I do adjudge and deliver the following:

J U D G M E N T

1. The case was charge sheeted as crime number 998/20 by the Inspector SHO of Poojappura Police Station alleging offences punishable under section 376(3), 376 (2)(f), (2)(n), 506 of IPC and section 4(2) read with section 3(a), 6(1) r/w section 5(l), 5(n), section 8 read with section 7, section 10 read with section

9(n) of the Protection of Children from Sexual Offences Act (POCSO Act) and Section 75 of Juvenile Justice (Care and Protection of Children) Act (JJ Act).

2. Prosecution case in short is as follows:- The accused harboured the intention of sexually assaulting CW1 a minor. The accused who is the stepfather of CW1 was in a position of trust and authority over CW1. The accused from 2019 onwards abused CW1 when they were staying in lodge in Visakhapatnam. He threatened to kill CW1, CW2 and CW1's brother, if the same were disclosed. On 24/12/ 2019, when CW2 had gone outside at 10 o'clock in the morning when CW1 and her mother had been staying with the accused in Nagercoil, the accused held the chest of CW1 and pressed it, causing pain. On a day in January 2020. when CW2 had gone outside, at 12 PM, in the jurisdiction of Kottar Post Office, Agastheeshwaram Taluk, Kanyakumari district, Tamil Nadu, when CW1 was sleeping in the hall of the house bearing door number 79 belonging to Rathna Pandian, the accused He pressed his penis against the vagina of CW1 and repeated the act several times in the following days, for more than 10 times. The accused raped the minor CW1 and committed aggravated penetrative sexual assault. On 21/5/2020 at 11 PM, the accused with sexual intent, when CW1 was sleeping in the central room in the rented house bearing number TC-18/1110 by name Chandra Bhavan in Thrikkannapuram ward in Tirumala village, the accused held the shoulder of CW1 and voluntarily caused bodily injury on several days. Thus, the accused is alleged to have committed offences punishable under section 376(3), 376 (2)(f), (2)(n), 506 of IPC and section 4 read with section 3(a), 6(1) r/w section 5(l), 5(n), section 8 read with section 7, section 10 read with section 9(n) of the POCSO Act.

3. On the basis of statement given by CW1 as recorded by CW25, Sub Inspector of Police, City Women's Police Station crime number 998/20, under

section 376(3), 376 (2)(f), (2)(n), 506 of IPC and section 4 read with section 3(a), 6(1) r/w section 5(l), 5(n), section 8 read with section 7, section 10 read with section 9(n) of the POCSO Act was registered by CW27, the Sub Inspector of Police, Poojapura Police Station. After investigation, CW29-Inspector SHO of Poojapura Police Station filed final report, alleging offences punishable under section 376(3), 376 (2)(f), (2)(n), 506 of IPC and section 4(2) read with section 3(a), 6(1) r/w section 5(l), 5(n), section 8 read with section 7, section 10 read with section 9(n) of the POCSO Act and section 75 of J.J. Act before the Honourable Additional District and Sessions Court (POCSO), Thiruvananthapuram. Cognizance was taken of the aforesaid offences and taken on file as As SC 1688/2021 and later converted into LP192/23. It was again taken on file on the arrest of the accused as SC1865/2021 and was made over to this Court.

4. Charge was framed against the accused for offences punishable under section 6 read with section 5(l), 5(n), section 10 r/w section 9(l), 9(n) of POCSO Act and section 506(i) and (ii) of IPC. It was read over and explained to the accused in Malayalam to which he pleaded not guilty.

5. From the side of the prosecution, PW1 to PW20 were examined and exhibits P1 to P24 and MO1 and MO2 were marked in evidence. On the incriminating circumstances brought out in evidence against the accused, he was examined under section 313 CrPC. He denied the same and explained that he had no relationship with the child in question, though he knew her mother. He alleged that the mother of the child had borrowed amounts from him. He further stated that he had not taken the houses on rent in the places stated.

6. After hearing, seeing no circumstance to acquit the accused under S.232 CrPC, the case was proceeded with. No defense evidence was adduced from the side of the accused in spite of opportunity granted.

7. Heard both sides and argument notes was filed from the side of the accused

8. The following points arise for consideration:-

1. Whether the prosecution proves that accused in the month of January 2020 at about 12 PM, inserted his penis into the vagina of the victim child at the hall of house number 79 belonging to Ratna Pandian in Kottar Post Office limit, Agastheshwaram Taluk, Kanniyakumari district, Tamil Nadu State and committed the offence of aggravated penetrative sexual assault, an offence punishable under section 6(1) r/w section 5(l) of the POCSO Act?
2. Whether the prosecution proves that accused in the month of January 2020 at about 12 PM, inserted his penis into the vagina of the victim child at the hall of house number 79 belonging to Ratna Pandian in Kotar Post Office limit, Agastheshwaram Taluk, Kanniyakumari district, Tamil Nadu State misusing his position of trust and authority through the domestic relationship shared with the mother of the child while living in the shared household subjected her to sexual assault several times, amounting to aggravated penetrative sexual assault, an offence punishable under section 6(1) r/w section 5(n) of the POCSO Act?
3. Whether the prosecution proves that the accused, on several days in lodges in Visakhapatnam in the year 2019, and on 24/12/2019, with sexual intent, touched the chest of the child at the house where she was residing with her mother and the accused at Nagarkovil and on 21/5/2020 at about 11 PM, touched the shoulder of the child with with sexual intent in a room in Chandra Bhavan house bearing number TC-18/1110 at Thrikkannapuram lodge in Thirumala village and committed the offence of aggravated sexual assault on the minor punishable under section 10 read with section 9(l) of the POCSO Act?

4. Whether the prosecution proves that the stepfather of the child committed sexual assault on the child several days in different places in the year 2019 in Vishakapatnam and on 24/12/2019, touched the breast of the child in the house she was residing with her mother and the accused at Nagarkovil, on 21/5/2020 at about 11 PM, touched the shoulder of the victim in Chandra Bhawan house bearing number TC-18/1110 ,at Thrikkannapuram ward in Thirumala village and committed the offence of aggravated sexual assault on the minor punishable under section 10 read with section 9(n) of the POCSO Act?
5. Whether the prosecution proves that the accused in 2019, committed criminal intimidation by threatening to kill the child, her mother and her brother when she objected to sexual assault in Visakhapatnam and committed offence punishable under section 506(ii) of IPC?
6. Whether the prosecution proves that the accused on 24/12/2019, committed criminal intimidation by threatening the child with fear of sexual assault, when she objected to sexual assault in Visakhapatnam and committed offence punishable under section 506(i) of IPC?
7. Sentence or Order?

9. **Points No. 1 and 2:-**These points are considered together for the sake of convenience. Prosecution case has already been referred to. The first aspect relates to the incidents which allegedly occurred in Kanyakumari district in Tamil Nadu. One of the major arguments raised in this regard is the lack of territorial jurisdiction as far as this Court is concerned. Hence, the first aspect to be dealt with is in relation to the jurisdiction of this court to try this case. When dealing with this matter, it is not possible to confine oneself to the incident which occurred allegedly in Kanyakumari or even Visakhapatnam or Nagarkoil as allegedly these incidents have occurred prior to the incident stated to have triggered filing of exhibit P2-FIS, which can be seen to be dated 2020. The allegations pertain to incidents which have started from 2019 onwards and which continued till

21/5/2020 at 11PM. When the offence to be dealt with is an offence as such on account of the repeated aspect of its nature, the fact that the incident on 21/5/2020 has occurred within the jurisdiction of this court, is to be taken into account in arriving at a finding in relation to the territorial jurisdiction of this court. The argument raised which would strike at the root of the territorial jurisdiction of this court relates to the fact that PW1 has not deposed as regards any offence having occurred to her while she was in Thirumala.

10. On going through the deposition of the alleged victim as PW1, it can be seen that she has stated that she had shifted along with her mother to the house taken on rent by her stepfather on 16/5/2020 at which point of time her stepfather had looked at her with bad intention. She further stated that on 21/5/ 2020 when she was sleeping, the accused had held her by her shoulders. The continued nature of allegations and offences are to be considered in this regard. It is not possible in many cases to segregate between the various aspects of sexual violence, especially against children who are rendered helpless on account of their age and dependency on the elders. This can be seen to be one of the factors which is to be considered in the present case. Family background of PW1 is to be understood from the fact that she has a brother who is with her estranged father and a mother who is jobless at the time of the incident which is not seen controverted. So the helplessness of the situation can be seen to stem from the fact that for her survival, when she is virtually homeless and helpless and in that even her mother has to depend on her stepfather for their day-to-day lives, she is also left at the mercy of her step-father. On top of that is the sexual harassment accompanied by threats, which would render any girl in her situation to be helpless, who can be seen to be aged only 14 years in 2020 when the statement was recorded. She can be seen to have garnered enough strength and courage from the encouragement rendered by her relative, who is none other than PW9. She deposed that she had talked to this Cousin, who had encouraged her to report the matter to the police, which had led her to depose as regards the same in the wee hours of 22/5/2021.

11. The argument raised that no complaint was registered at Nagercoil and Andhra Pradesh is to be considered with the fact that the offences alleged as discussed earlier has a continuity in its nature. Once, the continuing nature of the crime is established, the various incidents can be brought within the same umbrella of continuing sexual assault, ultimately resulting in complaint being registered in Thirumala, which is within the jurisdiction of this Court. When the very ingredient of the offence is repetition of acts of sexual assault, the last alleged act within the territorial jurisdiction of this Court would confer jurisdiction to this Court inspite of the territorial differences in relation to the incidents prior to the same. To think otherwise would be going against the practicality of the provisions of this Act, which basically deals with children who are always at the mercy of the elders in their life who determine the place of residence or domicile. In this circumstance, I am of the opinion that the argument advanced that there is no continuity of offence can be seen negated. So the acts of sexual assault alleged in Vishakapatnam, Tamilnadu and Kerala can be seen to be brought within areas where this Court has jurisdiction on account of the very nature of continuity of offences.

12. The specific charge is that offences in relation to section 6 read with section 5 have occurred in Kanyakumari in Tamil Nadu. As per exhibit P4, scene mahassar, which is proved through PW3, it can be seen that the place of occurrence is in Kanyakumari and to be specific in a place called Pattakashala. When the continuity in nature of offence is taken into account together with the aspect of the evidence tendered by the preparation of exhibit P4 Mahassar through PW3, WCPO with Poojapura Police Station cannot be found fault with. Only because PW3 is a police officer cannot be seen to be sufficient to reject the veracity of exhibit P4, especially in the light of Ext.P23 as deposed by PW19. She is the Commissioner with Nagercoil Corporation who issued Ext.P23 ownership certificate in relation to house no.79 to be belonging to one K Rathnapandian which is reported on the basis of the relevant property tax records. PW11 as the Village Officer with Nagercoil South Village Office has issued Ext.P9 scene plan.

13. PW1 and PW6, the mother of PW1 have deposed along the lines of having resided along with the accused in Pattakashala. PW1 can be seen to have explained that the place Pattakashala was in Nagercoil and to also have resided in a rented house therein. It is argued by the learned counsel for the accused that he has only acquaintance with the mother of the accused and has not resided in any rented house. The aspect of the evidentiary value in relation to the said denial shall be discussed later on in the judgment.

14. Once the place of occurrence is proved as above, it is time to consider the deposition of PW1 in relation to the commission of offence. For proceedings to be within the jurisdiction of this Court, one of the important aspects to be proved by the prosecution is the age of the alleged victim. PW1 deposed that her date of birth is on 12/8/2005. Ext.P1 is the verified copy of her SSLC certificate of PW1 which also shows the same date of birth. When this is related to the alleged incidents of 2019 and 2020, the alleged victim can be seen to be a minor, bringing the case within the jurisdiction of this Court. PW13 as the Registrar of Births and Deaths at Thiruvananthapuram Corporation deposed as regards issuance of Ext.P11, certificate of birth showing the date of birth to be 12/08/2005, thereby substantiating the deposition of PW1.

15. PW1 has deposed in detail supporting the prosecution case. Absolutely nothing has been brought out to doubt the veracity of this witness as no contradiction is brought as per the requirement of S.145 of the Indian Evidence Act. When this is considered with the aspect of omission sought to be brought out as regards the failure of PW1 to have deposed as regards her claim of being gagged with his hands before the authorities concerned, this cannot be seen to be a major omission to amount to a contradiction to strike at the root of the prosecution case in relation to the incident in Kanyakumari.

16. PW1 can be seen to have been consistent in relation to the allegations raised from the beginning to the time of deposition before the Court bringing her within the purview of being a sterling witness. She can be seen to have stated as regards the incidents of aggravated penetrative sexual assault. This aspect can be seen to have been substantiated with medical evidence. PW2 can be seen to be the Doctor who examined PW1 on 23/5/20. She stated that PW1 had told her that he last intercourse was in March, 2020. She deposed as regards the hymen being torn and her opinion that history stated of sexual assault by step-father could have happened due to penetrative sexual assault. She is deposed to have issued Ext.P3. Though it is asked of PW2 as regards there being various reasons for a torn hymen, the fact remains that there is nothing to suspect the deposition of PW1. This is more so in the light of the deposition of PW8 as regards the potency test carried out on the accused wherein as per Ext.P8, the Doctor has opined that there is nothing to suggest that the person is incapable of performing sexual acts.

17. Interestingly, though the accused has a definite defense while giving explanation on the incriminating circumstances at the time of examination under S.313 CrPC that the child is not known to him, it has not even been put across as a suggestion to PW1 or for that matter, to PW6. There is no iota of evidence brought out that there is no relationship between them when PW1 was being cross-examined. This is so even after her assertion as regards the relationship between the accused and herself and the offences committed by the accused. This is all the more so that inspite of asserting that there is a relationship between PW1 and himself, the relationship is not seen denied during cross-examination. In fact, it is asked about the sexual connect alleged to be in existence between the cousin and PW1, which is denied. PW6, the mother of PW1 detailed that the wedding between the accused and herself has occurred as tying of 'thali' and was not registered. This is to be considered in the light of the reverse burden under S.29 and 30 of the POCSO Act on the accused, after the burden of proof has been discharged by the prosecution. The onus of proof is not seen discharged by the accused inspite of

opportunity given. Thus, prosecution can be seen to be successful in proving these points.

18. **Points No. 3 to 6:-** These points are considered together for the sake of convenience. It has been argued from the side of the accused that no documents have been produced in relation to the alleged incident in Visakhapatnam. This is to be considered with the prosecution case that the victim and her mother did not know about the places they had gone to in Visakhapatnam in Andhra Pradesh. In the light of the finding above that there is nothing to suspect the evidence of PW1, she having deposed in tune with the prosecution case.

19. In relation to the incident in Thrikkunnapuram ward in Thirumala Village, it is argued that the place of occurrence is not seen proved. In relation to the incident in Visakhapatnam, I am of the opinion that the lack of knowledge as regards the particular place where they have lived in lodges cannot be suspected. If that were to be construed otherwise, it might lead to disastrous effects especially in cases where the places of abuse are not known to the victim on account of not knowing language and various other conditions which includes dependency on the abuser.

20. PW6 has substantiated the aspect of having lived in Visakhapatnam, Nagarkoil and Thiruvananthapuram. PW6 during examination stated that she does not know the name of the House Owner as she had not talked much with the House Owner as she had done with his wife in relation to her stay in Pattakashala. She can also be seen to have stated that they shifted to the rented house on the 17th of the month and of her daughter having reported the incident within four days of such shifting. She also denied the suggestion of a relationship between PW1 and PW9. Absolutely nothing has been asked of this witness in relation to explanation offered during S. 313 CrPC as regards money claimed to be borrowed from the

accused. Also her assertion that she was married to the accused as stated during examination-in-chief is not seen controverted during cross- examination.

21. PW9 is the cousin of PW1 who deposed that the child had revealed as regards the plight suffered by her on account of the closeness developed by them when PW1 and PW2 were staying close-by in 2020 on account of lock-down. He deposed that PW1 and PW6 had shifted with the accused on house taken on rent on 17/5/20. He stated that the victim had called him from the number ending with the digits 7939 five days later and disclosed that the accused had threatened her and revealed the incidents of sexual abuse by the accused. He also deposed that she had called last on the 22nd. He also deposed as regards the threat from the accused that he would kill her entire family.

22. PW10 can be seen to have deposed as regards Ext.P7 scene mahasar prepared adding credibility to the scene of occurrence in Thrikkannapuram.

23. The learned Counsel for the accused drew the attention of the court to the incorrectness of Ext.P7 as to the place of occurrence. This is also admitted by the investigating officer who deposed as PW16. The investigating officer during examination-in-chief stated that the place of occurrence was Chandra House bearing house number TC-18/1110 in Thirukkannapuram ward. This description can be seen to be incorrect from the records. However, this has been argued by the learned Special Public Prosecutor as being the place which has been shown by PW6, who is none other than the mother of PW1 and who has lived in the same house as did PW1 and the accused. It is argued that merely because there is a wrong reference to the house name and number of the place of occurrence, when considering exhibit P6, this cannot be seen to make any difference in the larger scheme of things. It is pointed out that going by the description in exhibit P7, the place of occurrence can be seen to be 23.75 m to the north of the KSEB post bearing number T/TT/121/40. This can be seen to reflect in exhibit P6, the scene

plan. So, the incorrect reference to the place of occurrence, as Chandra Bhavan and TC-18/110 and its admission from the side of the investigating officer can only be seen to be a case of clerical oversight. The said reference to the incorrect number and name of the house cannot automatically lead to a conclusion that what has been reported is not the actual place of occurrence. Exhibit P10 can be seen to be the ownership certificate issued in relation to Chandara Bhavan as TC 18/1110. This lapse on the part of the investigating officer cannot be held to be of such significance as to strike at the root of the prosecution case. There being no contradiction brought out and PW1 having been found to be a Sterling witness, I am of the opinion that this aspect in evidence should not hold back the court in arriving at a finding as regards the incident having occurred in the house taken on rent by none other than the accused himself. The evidence of PW12 as regards Ext.P10 places into insignificance in the light of the above.

24. This aspect is to be appreciated in the light of the deposition of PW7 who can be seen to have deposed that he had given his daughter's house on rent to the accused where he had lived with his wife and child in 2020. He identified the accused from the dock as being the person to whom the house had been given on rent. He deposed that the rent agreement had not been signed on account of lockdown due to Covid. This can be seen substantiated by the evidence of PW6 who deposed along the same lines. This witness can be seen to have signed in exhibit P7. During cross-examination, he can be seen to have deposed that he was aware of the content of the Mahassar and enumerated it as being to the effect that he had given the house on rent to the accused, and they had lived in the said house. Though there is lack of details as regards the address of the house in question from this witness, the fact remains that he is talking about the house in Thrikkunnapuram ward as is palpable from the tone and tenor of his deposition. Any other interpretation would lead to absurdity on the touch stone of reasonableness of a common man as is the requirement under law.

25. It is in the circumstance that the argument advanced that the FIR is not believable and that there is delay in lodging FIR is to be considered. PW15 is the investigating officer who registered Ext.P12 - FIR. As already discussed, the shoddy attitude from the part of the police has been sufficiently brought out through the incorrectness of the entry in relation to the place of occurrence in Thirumala. Though PW1 has deposed that she had reported the matter to the police in the wee hours of the 22nd, the FIR is seen lodged only on 23/5/20. The delay in prosecution is to be appreciated in the light of the deposition of PW15. He was asked about the time of receipt of information in the police station which he stated to be on 23/5/20 which is enumerated to be at 1:49PM. This aspect is to be considered with the deposition of PW1 that she had reported the matter in the wee hours of 22/5/20. The aspect of prejudice caused by delay in registering FIR is not made mention of anywhere in the FIR recorded. This is to be considered with the fact that this witness has not been asked about the prejudice caused to the accused on account of the delay. This is more so in the light of the victim having explained her difficulty in disclosing the matter of sexual abuse. It is also to be considered that the investigation as explained earlier has not been spot on but the same cannot be seen to be such as to throw out the entire prosecution case. In Ext.P2 FIS, it can be clearly stated by the victim that she had called the police on the day before making the statement, after taking the mobile of the accused, without his knowledge by calling the number '100'. The delay in recording the statement can be seen to be laxity in kicking off investigation which cannot be seen to be sufficient to throw out the entire prosecution case. Also, PW1 has stated that the immediate move from the part of the police was in moving the child to the Children's home after which the statement was recorded on the 23rd.

26. The dictum in *Thula Kali v. State of TN* - AIR 1973 SC 501 is argued by the learned counsel for the accused to be valid on the point. The facts of the case would show that the delay in lodging FIR took place in relation to an offence alleged under S.302 of IPC. It was held therein that "First information report in a

criminal case is an extremely vital and valuable piece of evidence for the purpose of corroborating the oral evidence adduced at the trial. The importance of the above report can hardly be overestimated from the standpoint of the accused. The object of insisting upon prompt lodging of the report to the police in respect of commission of an offence is to obtain early information regarding the circumstances in which the crime was committed, the names of the actual culprits and the part played by them as well as the names of eye witnesses present at the scene of occurrence. Delay in lodging the first information report quite often results in embellishment which is a creature of afterthought. On account of delay the report not only gets bereft of the advantage of spontaneity danger creeps in of the introduction of coloured version, exaggerated account or concocted story as a result of deliberation and consultation. It is, therefore, essential that the delay in the lodging of the first information report should be satisfactorily explained". As per the decision, the delay in lodging FIR should be properly explained. This can be seen to have been properly explained by the victim and even the FIS is clear on the reporting as discussed above. The aspect of delay in reporting rape cases cannot be seen to be of such import as to strike at the root of the prosecution case taking into account the nature of offence and the vulnerability of the victim.

27. PW16 deposed as regards the various documents gathered in the course of investigation. PW17 can be seen to have deposed as regards the completion of investigation. There being no other issues seen other than discussed above with the investigation, no further discussion is seen required in relation to the same.

28. The learned counsel for the accused argued that section 26 of the POCSO Act has not been complied with at the time of filing the FIR. Section 26(1) of the Act provides that statement of the victim should be recorded by the Magistrate or the police officer, as may be spoken by the child in the presence of the parents of the child or any other person in whom the child has trust and

confidence. This section can be seen to be under the umbrella. 'Additional provisions regarding statement' to be under the heading 'Procedure for Recording statement of the child in part V of the POCSO Act which deals with investigation.

29. Section 26(1) can be seen to be more or less in the nature of a guiding force and the use of the word 'shall' can only be seen by way of a directive. In the instant case, the child can be seen to have stated before the police in the presence of her mother as stated by PW20, who is the person who recorded such statement before the police, presence of the mother not being recorded in exhibit P2 statement. This cannot be held to be non-compliance of section 26(1) of the Act as to garner a benefit to the accused when the guideline is for ensuring the safety of the victim and to ensure a worry-free environment to the child. Also, no benefit can be derived by the accused on account of the same. In the light of the above, prosecution can be seen to have discharged its burden of proof. There not being any evidence rebutting the presumption available against the accused under section 29 and 30 of the Act, the Court is constrained to arrive at a finding against the accused. The finding of PW1 being a sterling witness stands in good stead for the prosecution. These points are found in favour of the prosecution.

30. **Point No.7:-** In the light of the above, this point is found in favour of the prosecution.

28. In the result, the accused is found guilty of the offences under S.6 read with S.5(l), S.6 read with S.5(n), S.10 r/w S.9(l), S.10 r/w S.9(n) of the POCSO Act and Section 506(i) and (ii) of IPC and is convicted under Section 235(2) CrPC.

Typed by me on my laptop, corrected and pronounced by me in open Court on this the 29th day of August, 2025.

Sd/-
ANJU MEERA BIRLA
 SPECIAL JUDGE

29. The accused was heard on the question of sentence. The accused stated that he is 35 years of age and that he is the only bread winner in the family. He stated that he has an elderly mother and a wife and 2 children aged 14 and 13 years. He sought for the minimum punishment to be imposed and for set off for the time already spent in jail. Taking into account the minimum punishment imposed, there is no application for the provisions of the PO Act. But on account of there not being any other case against the accused as borne from records and also the young age of the accused, I am of the opinion that the minimum punishment alone needs to be imposed. The Learned counsel for the accused also argued in favour of the minimum punishment while the learned Special Public Prosecutor sought for maximum punishment. The young age of the accused ought to be a major factor in deciding minimum punishment to be imposed on the accused.

In the result, the accused is sentenced as follows:

- 1) The accused shall suffer rigorous imprisonment for twenty (20) years and fine of rupees Fifteen Thousand (₹15,000/-) in default to simple imprisonment for a period of one year for offence u/S.6 r/w S.5(l) of the POCSO Act.
- 2) The accused shall suffer rigorous imprisonment for twenty (20) years and fine of rupees Fifteen Thousand (₹15,000/-) in default to simple imprisonment for a period of one year for offence u/S.6 r/w S.5(n) of the POCSO Act.
- 3) The accused shall suffer rigorous imprisonment of five (5) years and fine of rupees five thousand (₹5,000/-) in default to simple imprisonment for a period of 2 months for offence u/S.10 r/w S.9(l) of the POCSO Act.
- 4) The accused shall suffer rigorous imprisonment of five (5) years and fine of rupees five thousand (₹5,000/-) in default to simple imprisonment for a period of 2 months for offence u/S.10 r/w S.9(n) of the POCSO Act.

- 5)The accused shall suffer rigorous imprisonment of two (2) years for offence u/S.506(i) IPC;
- 6)The accused shall suffer rigorous imprisonment of three (3) years for offence u/S.506(ii) IPC;
- 7)The fine amount, if realized, shall be paid as compensation to the victim under S.6(2) of the POCSO Act and S.357(1)(b)CrPC.
- 8)Sentence of imprisonment shall run concurrently
- 9)Set off allowed from 18/6/2020 to 23/11/2020 and 2/5/24 to 30/8/25 of 645 days.
- 10)MOs, shall be disposed as per rules after the appeal period or the disposal of appeal whichever is later.
- 11)Recommendation is made u/S.357A of CrPC to provide compensation to PW1 in the light of the mental agony suffered. Send copy of judgment to the Secretary, DLSA, Thiruvananthapuram to be placed as per rules before the DLSA, Thiruvananthapuram.

Typed by me on my laptop, corrected and pronounced by me in open Court on this the 30th day of August, 2025.

Sd/-
ANJU MEERA BIRLA
SPECIAL JUDGE

APPENDIX

Prosecution witnesses:

PW1 : Child victim - 22/5/25
 PW2 : Dr. Vijayalakshmi R., Doctor - 4/6/25
 PW3 : Suchithra L., CPO – 4/6/25

- PW4 : Raji S., CPO – 5/6/25
 PW5 : Manoj Kumar K.S., Dy. Tahsildar, Tvpm – 5/6/25
 PW6 : Mother of PW1 – 12/6/2025
 PW7 : K.S. Surendran Nair – 12/6/25
 PW8 : Dr. Shano D., Junior Consultant, Koothuparamba, Kannur – 13/6/25
 PW9 : Cousin brother of PW1 – 13/6/25
 PW10 : Vishnu S., Driver – 23/6/25
 PW11 : A. Manikandan, Village Administrative Officer – 23/6/25
 PW12 : Lakshmi S., Retd. Govt. Servant – 23/6/25
 PW13 : Dr. A.Sasikumar, Health Officer – Grade I – 24/6/25
 PW14 : Shini K.S. Civil Police Officer – 24/6/25
 PW15 : Jijin G. Chacko, Inspector of Police – 24/6/25
 PW16 : Vincent M.S. Das – 24/6/25
 PW17 : Roj R., Inspector of Police – 25/6/25 & 18/7/25
 PW18 : R. Sureshkumar, Librarian – 7/7/25
 PW19 : Asha Ajith, IAS - 10/7/25
 PW20 : Kala Kairali S.R., Retd. Inspector of Police – 18/7/25

Prosecution Exhibits:

- P1 : Copy of SSLC dated 15/6/22 proved by PW1 on 22/5/25
 P2 : First Information Statement dated 23/5/20 proved by PW1 on 22/5/25
 P3 : Medico Legal Certificate dated 23/5/20 proved by PW2 on 4/6/25
 P4 : Scene mahazar dated 26/2/21 proved by PW3 on 4/6/25
 P5 : Dress mahazar dated 11/6/20 proved by PW4 on 5/6/25
 P6 : Scene plan dated nil proved by PW5 on 5/6/25
 P7 : Scene Mahazar dated 24/5/20 proved by PW7 on 12/6/25
 P8 : Potency Certificate dated 17/6/20 proved by PW8 on 13/6/25
 P9 : Scene Plan dated 13/8/21 proved by PW11 on 23/6/25
 P10 : Ownership Certificate dated 3/8/20 proved by PW12 on 23/6/25
 P11 : Birth Certificate dated 18/6/20 proved by PW13 on 24/6/25
 P12 : First Information Report dated 23/5/20 proved by PW15 on 24/6/25
 P13 : Property List dated 11/6/20 proved by PW16 on 24/6/25
 P14 : Forwarding Note dated 15/12/20 proved by PW16 on 24/6/25
 P15 : Address Report of accused dated nil proved by PW16 on 24/6/25
 P16 : Arrest Memo dated nil proved by PW16 on 24/6/25
 P17 : Inspection Memo dated 17/6/20 proved by PW16 on 24/6/25
 P18 : Arrest Intimation dated 17/6/20 proved by PW16 on 24/6/25
 P19 : Section Adding Report dated 20/8/20 proved by PW16 on 24/6/25
 P20 : Section Adding Report dated 1/11/20 proved by PW16 on 24/6/25

P21 : Section Correction Report dated 1/11/20 proved by PW16 on 24/6/25
P22 : Section Adding Report dated 12/11/20 proved by PW16 on 24/6/25
P23 : Ownership Certificate dated 20/7/21 proved by PW19 on 10/7/25
P24 : Correction Report dated nil proved by PW17 on 18/7/25

Defence witness : Nil

Defence Exhibits: Nil

Material Object:

MO1 : Leggings

MO2 : Panties.

// True Copy //

Sd/-
ANJU MEERA BIRLA
SPECIAL JUDGE

ANJU MEERA BIRLA
SPECIAL JUDGE

Judgment in SC 1865/2021
Dated: 30/8/2025