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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

FRIDAY, THE 10<sup>TH</sup> DAY OF APRIL 2026 / 20TH CHAITHRA, 1948

CRL.A NO. 581 OF 2016

CRIME NO.8/2011 OF OTTAPALAM POLICE STATION, PALAKKAD

THE JUDGMENT DATED 21.06.2016 IN SC NO.502 OF 2011 OF IST ADDITIONAL  
SESSIONS COURT, PALAKKAD

APPELLANT/ACCUSED:

ANIL N,  
AGED 28 YEARS,  
S/O.RAMACHANDRAN, NURANGANTODI HOUSE, VANIVILASINI,  
CHUNANGAD, OTTAPALAM

BY ADVS. SRI.P.VIJAYA BHANU (SR.)  
SRI.M.REVIKRISHNAN  
SRI.VIPIN NARAYAN

RESPONDENT/COMPLAINANT:

STATE OF KERALA  
REPRESENTED BY THE PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM

BY SENIOR PUBLIC PROSECUTOR SRI.RENJITH GEORGE

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 30.03.2026, THE COURT  
ON 10.04.2026 DELIVERED THE FOLLOWING:



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**'CR'**

## **JUDGMENT**

Dated this the 10<sup>th</sup> day of April, 2026

The sole accused in S.C.No.502 of 2011 on the files of the I<sup>st</sup> Additional Sessions Judge, Palakkad has filed this Criminal Appeal challenging the conviction and sentence imposed against him in the said case dated 21.06.2016.

2. Heard the learned counsel for the appellant/accused. Also heard the learned Public Prosecutor in detail. Perused the verdict impugned and the evidence available.

3. Here the prosecution alleges commission of offences punishable under Sections 450, 354 and 377 of the Indian Penal Code, 1860 (for short 'IPC') by the accused/appellant.

4. The prosecution case in brief is that around at 2:00 p.m. on 12.12.2010, the accused with an intention to satisfy his lust criminally trespassed upon the residential



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house of the victim girl of 11 years in village bearing doo. Thereafter the accused sexually seduced her, threatened and intimidated the girl, forcefully overpowered and denuded her and thereby her modesty was outraged. Further the accused forcefully subjected her for unnatural sexual offences/carnal intercourse and thereby committed the aforesaid offences.

5. On getting the matter before the Additional Sessions Court, the learned Judge completed pre-trial formalities and framed charge for the said offences and tried the case. During trial, PW1 to 16 were examined, Exts.P1 to P18 and MO1 to MO2 were marked on the side of the prosecution. Ext.D1 was marked on the side of the defence. No other defence evidence adduced.

6. Finally the Additional Sessions Court found that the accused committed the offences punishable under Sections 450, 354 and 377 of the IPC. The sentence imposed on the accused are as under:

“(a) He is sentenced to undergo rigorous



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imprisonment of 4(Four) years and a fine of RS.25,000/- (Rupees Twenty five thousand only) and in default to undergo rigorous imprisonment for 1(One) year for the offence punishable under Section 450 of IPC.

(b) He is sentenced to undergo rigorous imprisonment of 2 (Two) years and to pay a fine of Rs.50,000/- (Rupees Fifty thousand only) and in default to undergo rigorous imprisonment for 6(Six) months for the offence punishable under Section 354 of IPC.

(c) He is further sentenced to undergo rigorous imprisonment for 7 (Seven) years and to pay a fine of Rs.50,000/- (Rupees Fifty thousand only) and in default to undergo rigorous imprisonment for 2(Two) years for the offence punishable under Section 377 of IPC.”

7. While assailing the verdict, it is submitted by the learned counsel for the appellant that in this Case the offence under Section 450 IPC would not attract since Section 450 would attract when a person commits house-trespass in order to commit offence punishable with imprisonment for life. According to the learned counsel, though the serious



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offence alleged by the prosecution is one punishable under Section 377 of IPC for which the sentence provided is imprisonment for life or with imprisonment of either description for a term which may extend to ten years, as far the offence under Section 377 of IPC is concerned, the ingredients for the said offence could not be found from the evidence of PW1, the victim. Thus none of the offences could be found against the accused/appellant for want of convincing evidence. It is also pointed out that there is marginal delay in registering the FIR in respect of an occurrence on 12.12.2010 where the FIS marked as Ext.P2 was recorded on 27.12.2010 and FIR was registered on 04.01.2011. It is also submitted that Ext.P1 was also tendered in evidence while examining PW1 stating the same was given by her to PW5, Dr.Girija Madhavan, consultant Paediatrician, the doctor who had examined her on 12.01.2011, while issuing Ext.P3 certificate. According to him, even prior to that PW1 had given statement before the Vanitha Cell and the same did not form part of the prosecution records. The



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said circumstances would throw light on the fact that the accusations made against the accused are false. Accordingly, the learned counsel for the appellant/accused insisted for interference of the impugned verdict to acquit the accused.

8. The learned Public Prosecutor strongly supported the verdict passed by the Sessions Court and according to him, serious sexual assault committed by the accused/appellant against PW1, the victim who was aged only 11 years, was disclosed after a while as the accused threatened her from disclosing the same by showing a knife with the fear of fatality and the same led to disclosure of the offence little bit late than the date of occurrence. In the said circumstances, there is no deliberate delay in lodging the FIR and therefore, the prosecution could not be found fault with for non-registration of FIR on 12.12.2010 or a very near date.

9. According to the learned Public Prosecutor, the ingredients of the offences alleged are proved by the



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evidence of PW1 supported by PWs 2 and 3, 5 as well as PW8, 15 and 16 supported by other evidence and therefore, the verdict impugned does not require any interference.

10. The following points arise for discussion and determination, in view of the rival arguments:

1. Whether the finding of the Sessions Court that the accused committed the offence punishable under Section 450 of IPC is justifiable?

2. Whether the finding of the Sessions Court that the accused committed the offence punishable under Section 354 of IPC is justifiable?

3. Whether the finding of the Sessions Court that the accused committed the offence punishable under Section 377 of IPC is justifiable?

4. Any interference in the verdict impugned is necessary?

5. Order to be passed?



Point Nos. 1 to 5:

11. The learned Additional Sessions judge has given much emphasis on the evidence of PW1, the Victim to find commission of the above offences by the appellant/accused.

12. PW1, the prosecutrix testified that she was residing with her parents at Chunangad in Ottapalam. According to her, on the date of occurrence she alone was there in her house. Her father had gone to the cattle shed for attending the newborn calf, her elder sister had gone for her studies and the younger siblings went for playing. Her mother had gone for collecting hay for the cow and she was left alone in the house. According to her, at around 1 - 2 P.M while she was watching T.V, a stranger came over there and enquired of her parents. When she interacted, he inquired whether they would sell bicycle and she answered in the negative. He asked her name and she replied. He then went away and after a short while he again came back. She had testified that on his first visit he was wearing a brown colour shirt and he returned back his clad was green in



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colour. He at once rushed into her room and suddenly closed the door. Although she screamed for her father, at once the accused gagged her mouth and tied around with her father's cloth. He tied up her upper and lower limbs with his clads. Before that he ungarbed her. He was inebriated and then he made her to lay down and kept himself close to her; he cuddled her bosom and forcefully possessed her lips. He squeezed her vagina and beat her hardly. When she resisted, he spit on her face. He then forcefully penetrated his sexual organ to her mouth untying the cloth put around. When she refused to open her mouth he beat her. He photographed her porno.

13. She deposed that then accused put a knife on her belly and scared her against disclosure of this event with dire consequences that her father would be killed. Further the accused threatened her that he would show her nude photographs to his friends and would show the same in Internet. When her father knocked the door, he untied her and moved beneath the cot. On seeing her in such a



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posture, her father brought her out. By that time the accused got up and came out through the kitchen door and came over to the front side and conversed with her father. She out of scare and fright did not reveal the incident to her father then and there. According to her, after a short while her mother and sister came back to home. He again asked her mother for sale of bicycle and she replied in the negative. She told her sister that this man forcefully hugged her and took her photograph. Though her sister conveyed the matter to their mother, the latter did not take it seriously.

14. Her version further is that during night she felt pain on the body and stomach, and her mother took her to the Taluk Hospital, Ottapalam, from where she was given first aid and then referred to Valluvanad Hospital, Ottapalam. She testified that at the hospital she was subjected to detailed clinical investigation by scanning and had given two injections and sent her back to home. In either of these two hospitals she did not reveal the incident. Her version further is that on



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the next day she had gone to School and the accused came over there also and threatened her showing his mobile phone that he would flash her nudity all around and intimidated her from divulging the incident to her parents. On that night also she felt uneasy. She was again taken to \_\_\_\_\_ by her mother. When the doctor asked about the reason for which she was scared of, her mother told that a stranger forcefully hugged her. She was admitted in the hospital. When her mother had gone out for buying medicine, the accused came there and peeped through the window to threaten her. She had informed the same to her mother. Then she could learn from her mother that he was the son of Parukutty. On the next day, when the doctor interrogated her, she told the whole incident. She identified Ext.P1 as the statement she had given before the doctor and her mother also signed Ext.P1. Ext.P1 is in the letter pad on \_\_\_\_\_ Hospital, \_\_\_\_\_ (A multi-disciplinary Hospital). She further stated that a complaint was lodged before the Vanitha Cell, which she identified as



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Ext.P2, in which also herself and her mother signed. Ext.P2 is a signed statement of the victim recorded by the Circle Inspector of Police, Women Cell, Palakkad, on 27.12.2010 in the presence of her mother.

15. In Ext. P2 also PW1 narrated the casual response expressed by her mother on having been told by her elder sister that the victim was hugged by the accused. The version of PW1 found to be consistent that she disclosed the entire incident at the \_\_\_\_\_ Hospital when she was again taken over there for treatment.

16. PW1 during her examination identified MO1 and MO2 as the inner outfits worn by her on the date of occurrence. Even though PW1 was subjected to searching cross examination, nothing elicited either to shake or to make her testimony unbelievable.

17. In addition to the evidence of PW1, PW2 the mother of the victim was also examined on the prosecution side. She deposed that the occurrence was on 12.12.2010 at \_\_\_\_\_, during this time her



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cow delivered and she went to purchase hay from the house of \_\_\_\_\_ and returned back in between 2:30 p.m.and 3:00 p.m. On return she found the accused on the courtyard of the house after keeping his shirt hanging on his hand and when she asked why he was there, he replied that he came to purchase a cycle which was offered for sale. She deposed further that, the accused found to be intoxicated. During this time her husband, PW3 was in the cattle shed. When it was informed to her by daughter \_\_\_\_\_ that the accused caught hold PW1 and took her photograph, she did not care about that because she was engaged in the care of the cow. Later PW1 disclosed stomach pain and she was taken to the Government Hospital, Valluvanad. Even though the doctor advised to admit her, it was not done due to presence of young children at home. On the second day, at 8:00 p.m., PW1 felt stomach pain and she was taken again to the hospital. Hence she was admitted there. When the nurse informed that the accused threatened PW1 at hospital, PW2 told that



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the accused was the son of one Parukuttty and Krishnan Ezhuthachan. She identified the accused at the dock.

18. On 27.12.2010 they reached the Vanitha cell and lodged Ext.P2 and produced MO1 and MO2 before the police. Apart from the evidence of PW2, PW3 also support of the versions of PWs 1 and 2. The evidence of PW2 and PW3 also failed to be shaken by the defence with the aid of cross examination, though they were cross-examined thoroughly. In Ext.P5, the certificate issued by the Doctor, it was stated that she had examined the victim but she did not find any evidence of sexual violence. Considering the evidence of PW1, a delayed examination of the victim may not show much evidence for sexual assault.

19. In order to prove the age of the victim, PW8 the headmistress, \_\_\_\_\_ was examined and Ext.P6, the extract of School Admission Register was marked showing the date of birth of the victim as 22.01.2000 and as per which evidently, PW1 is a minor girl. Ext.P7 is the scene mahazar prepared in this case.



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PW9 and PW12 supported of the same. In order to prove the place of occurrence, Ext.P12 certificate issued by PW15 was given emphasis by the Sessions Court and in fact the same is not at all disputed.

20. The question to be decided in this case whether the offences alleged against the accused/appellant are proved by the prosecution beyond reasonable doubt to record conviction and sentence.

21. Sections 354, 377 and 450 of IPC before amendment (ie. during the period of occurrence) are as under:

**“354. Assault or criminal force to woman with intent to outrage her modesty.**—Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**377. Unnatural offences.**—Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with imprisonment for life, or with imprisonment of either



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description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section.

**450. House-trespass in order to commit offence punishable with imprisonment for life-** Whoever commits house-trespass in order to the committing of any offence punishable with imprisonment for life, shall be punished with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.”

22. In the decision reported in **Anwesh Pokkuluri and Others V. Union of India** [(2018) 10 SCC (1)] the Apex Court considered the constitutionality of 377 of IPC and held as under:

“Section 377 IPC, so far as it penalises any consensual sexual relationship between two adults, be it homosexuals (man and a man), heterosexuals (man and a woman) or lesbians (woman and a woman), cannot be regarded as constitutional. However, if anyone, which includes both man and a woman, engages in any kind of sexual activity with an animal, the said aspect of Section 377 is constitutional and it shall remain a penal offence under Section 377 IPC. Any act of the description



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covered under Section 377 IPC done between two individuals without the consent of any one of them would invite penal liability under Section 377 IPC.

Testing Section 377 IPC on the principles evolved under Articles 14, 19 and 21 of the Constitution, it is clear that it neither withstands the sanctity of dignity of an individual, expression of choice, paramount concept of life, nor it allows an individual to lead to a life that one's natural orientation commands. That apart, more importantly, such a gender-neutral offence, with the efflux of time, should not be allowed to remain in the statute book especially when there is consent and such consent elevates the status of bodily autonomy."

23. Thus by the above decision the Apex Court held that the consensual sexual relationship between two adults, viz., man and a man, man and a woman and a woman and a woman is not an offence under Section 377 of IPC. But the said dictum of law would not apply when the victim is a minor. In the instant case, it is argued by the learned counsel for the accused/appellant that no evidence is forthcoming from the version of PW1 regarding carnal intercourse as provided under Section 377. But the learned



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Public Prosecutor would submit that in the evidence of PW1 it was stated that the accused put his penis on the mouth of the victim and therefore the offence is completed. On scrutiny of the evidence of PW1 to address this contention, she categorically deposed that the accused forcefully penetrated his penis into her mouth after untying the cloth put around when she resisted to open her mouth. This categorical evidence established that there was carnal intercourse to find the commission of offence under Section 377 of IPC.

24. Thus from the oral evidence of PW1, the ingredients to bring home an offence punishable under Section 377 of IPC is fully made out and thus the prosecution succeeded in establishing the said offence. Therefore, the said finding entered into by the Additional Sessions Judge is only to be confirmed.

25. It is argued by the learned counsel for the accused/appellant that in order to bring home an offence under Section 450 IPC, house trespass shall be



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in order to commit an offence punishable with imprisonment, on the premise that the prosecution failed to prove the ingredients to constitute an offence under Section 377 of IPC. But as already found, the prosecution succeeded in proving commission of offence under Section 377 of IPC by the accused. It is vivid that for unnatural offences also the maximum punishment is imprisonment for life as such offence under Section 450 of IPC would attract into the facts of this case. Therefore, this contention also would not yield.

26. Coming to Section 354 of IPC, assault or use of criminal force to any woman intending to outrage or knowing it to be likely that he will thereby outrage her modesty. The evidence of PW1 satisfies the said requirements. Therefore, the conviction entered by the Special Court for Sections 354, 377 and 450 IPC is liable to be confirmed.

27. As regards to the delay in lodging the FIS and consequential registration of FIR are concerned, PW1 and



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PW2 categorically justified the reasons for the delay and the same are found to be acceptable in cases where sexual assault against a minor is the subtractum of the prosecution case. Thus the contentions raised by the learned counsel for the accused/appellant to unsettle the conviction imposed by the learned Sessions Court is found to be untenable.

28. Coming to the sentence, for the offence punishable under Section 377 of IPC the Sessions Court imposed sentence of imprisonment for 7 years and for the offence under Section 354 of IPC, rigorous imprisonment for two years, and for the offence under Section 450 IPC, rigorous imprisonment of four years and also payment of fine. Considering the request made by the learned counsel for the appellant, I am inclined to modify the substantive sentence for the offence punishable under Section 377 of IPC as rigorous imprisonment for a period of five years while maintaining all other sentences imposed by the Additional Sessions Judge as confirmed.



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29. In the result, this appeal stands allowed in part by confirming the conviction and modifying the sentence as indicated above.

30. The order granting suspension of sentence and bail to the accused and the bail bond executed by the accused/appellant stand cancelled. The appellant/accused is directed to surrender before the Additional Sessions Court, Palakkad, forthwith to undergo the modified sentence. On failure to do so, the Additional Sessions Court is directed to execute the sentence without fail.

The Registry is directed to forward a copy of this judgment to the 1<sup>st</sup> Additional Sessions Court, Palakkad, for information and compliance without fail.

Sd/-

**A. BADHARUDEEN  
JUDGE**