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Crl.Appeal No.545/2025

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

TUESDAY, THE 1ST DAY OF SEPTEMBER 2026 / 10TH BHADRA, 1948

CRL.A NO. 545 OF 2025

CRIME NO.728/2015 OF Ramankary Police Station, Alappuzha

AGAINST THE JUDGMENT DATED 22.02.2025 IN SC NO.280 OF 2016 OF
SPECIAL COURT FOR TRIAL OF OFFENCES RELATING TO ATROCITIES AGAINST
WOMEN AND CHILDREN INCLUDING POCSO CASES (ADDL.SESIONS COURT-I),
ALAPPUZHA

APPELLANT/ACCUSED

REJI
AGED 47 YEARS
S/O MANIYAN, KALLUPARAMBIL VEEDU, KUNNAMKARY MURI,
VELIYANADU PANCHAYATH, ALAPPUZHA DISTRICT, PIN -
689590.

BY ADVS.
SRI.S.SHANAVAS KHAN
SMT.S.INDU
SHRI.GOVIND H. NAIR

RESPONDENT/STATE:

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - 682031.

PUBLIC PROSECUTOR SRI M A SHIHAB

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD 11.08.2026,
THE COURT ON 01.09.2026 DELIVERED THE FOLLOWING:



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“C.R”***A. BADHARUDEEN, J.******Crl.Appeal No.545 of 2025******Dated this the 1st day of September, 2026******J U D G M E N T***

The sole accused in S.C.No.280/2016 on the files of the Special Court under the Protection of Children from Sexual Offences Act [‘POCSO Act’ for short hereinafter], Alappuzha, has preferred this appeal assailing the judgment dated 22.02.2025 in the said case.

2. Heard the learned counsel for the appellant and the learned Public Prosecutor appearing for the prosecution. Perused the verdict under challenge and the evidence available.

3. Here the prosecution case is that the accused subjected the victim, aged 17 years, by dragging her to the courtyard of her house and tying her hands towards the root of the jack fruit tree standing in the courtyard. The specific allegation is that then the accused had inserted his penis into her vagina and done aggravated sexual assault on her, and



thereby committed the offences punishable under Section 342 and 376 of the Indian Penal Code ('IPC' for short) and under Section 4(1) r/w 3(a) of the POCSO Act, by the appellant/accused.

4. The learned Special Judge, on completing the pre-trial formalities, recorded evidence. PW1 to PW12 were examined and Exts.P1 to P11 were marked on the side of the prosecution. On the side of defense, during cross examination of PW5, PW1 and PW12, Exts.D1 to D7 contradictions were marked. Thereafter, the learned Special Judge, on meticulous analysis of the evidence, found that the appellant/accused committed the offences punishable under Sections 376, 376(2)(n), 376(2)(f) of IPC and under Section 4(1) r/w 3(a) of the POCSO Act and he was sentenced to undergo simple imprisonment for ten years and to pay fine of Rs.50,000/- and in default of payment of fine, to undergo simple imprisonment for a further period of six months.

5. The learned counsel for the appellant argued that the appellant/accused in this case had been falsely implicated in this crime without support of any cogent materials. According to him, even though the occurrence alleged by the prosecution was on 17.11.2014, FIS was



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given only on 25.12.2015, that too, after registration of another crime on 24.12.2015, viz., Crime No.725/2015, (copy of the FIR in the said crime was marked as Ext.D4 and final report got marked as Ext.D6) against the appellant/accused for assaulting the father of the victim; as an afterthought, to put the appellant/accused behind the bars. According to the learned counsel for the appellant/accused, the fundamental facts regarding sexual assault failed to be proved by the prosecution and credible evidence in this regard also not adduced. According to him, in Ext.P6 scene mahazar, there is no mention regarding a jack fruit tree, where PW1 was tied before the commission of sexual assault. He also submitted that the delay in lodging the FIR had not at all been properly explained. According to him, Crime No.725/2015 as per Ext.D4 and Ext.D6, ended in compromise, which led to Ext.D7 judgment in C.C.No.144/2016. On these grounds, the learned counsel for the appellant/accused prayed for interference in the verdict impugned, to set aside the same and to record acquittal of the accused.

6. Whereas the learned Public Prosecutor zealously opposed the contentions raised by the learned counsel for the



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appellant/accused and submitted that the evidence of PW1 supported by other evidence, including that of PW8, the sister of the father of PW1, satisfactorily established the ingredients for the offence punishable under Section 4(1) r/w 3(a) of the POCSO Act. He also submitted that the medical evidence would also support sexual assault as against PW1. Thus the learned Public Prosecutor pressed for confirming the verdict impugned.

7. In view of the rival contentions, the points arise for consideration are:

(i) Whether the Special Court erred in holding that the accused committed the offence punishable under Section 4(1) r/w 3(a) of the POCSO Act?

(ii) Is it necessary to interfere with the impugned judgment in any manner?

(iii) The order to be passed?

Point Nos.(i) to (iii)

8. Here in order to prove the age of PW1 (victim) as on the date of occurrence was below 18 years, PW2 retired Principal of Government Higher Secondary School, Kidangara, where PW1 was a



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student for Plus One-Plus Two course during 2015-2017, was examined and Ext.P3, the certificate issued by her showing the date of birth of PW1 as 08.12.1998 prepared on the basis of Plus One admission register and her SSLC book and Ext.P3(a), the abstract of admission register, showing the date of birth, were tendered in evidence. PW1 also deposed her date of birth as 08.12.1998. In fact, the status of PW1 as that of a child, as defined under Section 2(1)(d) of the POCSO Act, is not disputed, rather the prosecution successfully proved the same.

9. As regards to the occurrence, the crucial evidence is that of PW1, the victim. According to her, the occurrence was while she was studying in Plus one Course in the Government Higher Secondary School, Kidangara. She deposed that during the time of occurrence, she had stayed along with her father, elder and younger brothers. She identified the accused in this case by name Reji @ Appappi @ Kochukochu at the dock. PW1 further deposed that while she had been studying for Plus Two Course, there was festival in a nearby temple and her father and siblings went to see the program in connection with the festival. At the time of occurrence, her mother and she were at the house and at 10 p.m, she heard



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a knock on the door and she opened the same, expecting her father, but she found the accused outside. Then the accused caught hold of her and brought out. Then the accused removed her dress and put a cloth on the floor and laid her. Thereafter he had taken a shawl and tied her hands to a nearby jack fruit tree. Then he removed her dress and inserted his penis into her vagina. She felt pain and she cried. But her mother did not notice the overt acts as she went to sleep after taking medicines. According to her, the accused continued the same for some time, while so, her father was found returning from the Church by carrying a torch light. On seeing the light, the accused left the place and the occurrence was on 17.11.2014. According to her, thereafter, she herself untied her hands and stood up. Thereafter she did not disclose the occurrence to anyone at the house as she was afraid of the same, so that the father would make quarrel. She deposed further that thereafter on two occasions also the accused repeated the sexual assault. Again the appellant/accused met her, while she was going to the college and spoke about the same and she informed the same to her father that she was disturbed by the accused. Then the father asked the same and there



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occurred a scuffle in between them. She also informed the disturbance from the accused to her father's sister and she also warned the accused in this regard. According to her, police registered a case in connection with the repeated sexual molestation at the instance of the accused. She admitted Ext.P1, FIS given by her to the police and Ext.P2, 164 statement given by her before the Magistrate in connection with this crime. During cross examination, PW1 admitted that she had love affair with the accused and also she admitted that the song in Ext.D2 was written by her. In fact, Ext.D2 was dated 04.05.2016, as pointed out by the learned Public Prosecutor. Ext.D3, the next page of Ext.D2 also shown to PW1 would suggest that "I love you" was written by her. But she denied the same. It was suggested that the victim asked the accused to come out and when the accused was not ready to accompany her, this case was foisted.

10. In this case apart from the evidence of PW1, prosecution examined PW8, PW6, PW7 and PW11.

11. PW8 Ponnamma is the father's sister of PW1. She deposed that PW1 is the daughter of her brother Ponnappan and her brother and



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his family were residing in a rented house. The mother of the survivor was alive during the time of occurrence of the crime but she died later. According to her, on a day of 2016, PW1 was found in a depressive mood and on enquiry, PW1 told her about the sexual exploitation by a neighbour named Reji. Soon PW1 was taken to the Hospital and she also accompanied PW1. PW1 narrated the incidents to the doctor in her presence. It was then she came to know about the rape committed by the accused on PW1. PW1 was born on 08.12.1998. The father of PW1 was assaulted by the accused when he questioned about the incident. She also deposed about intervention of the police in this occurrence.

12. Dr.Deepika K.V, the Senior Resident Medical Officer at the Alappuzha Medical College Hospital gave evidence as PW6 that at 02.00 p.m on 26.12.2015, she had examined PW1 in this case, who was brought with history of alleged sexual assault. PW1 told the doctor about the history of forceful sexual intercourse by a neighbour Reji (the accused). She narrated history of penetration and repeated intercourse at her residence done by the accused after holding her breasts by the accused. The doctor deposed as reported in Ext.P7 that 'P/V admits 1



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finger loose'. The doctor opined that there was possibility of sexual intercourse and she had admitted issuance of Ext.P7 Certificate in this regard. The doctor also deposed that PW1 was brought before her by Ponnamma(PW8).

13. The Medical Officer at the Department of Forensic Medicine at Alappuzha, Dr.Anilkumar, got examined as PW7. He deposed that while he was working at the Medical College Hospital, he had conducted potency examination of the accused and he had issued Ext.P-8 Certificate stating that “there is nothing to suggest that the accused is incapable of performing sexual acts”.

14. PW11, the Station House Officer of Ramankary police station, given evidence that he had registered Ext.P-9 FIR on 25.12.2015 based on the FIS given by PW1. Further he deposed that he had issued requisition to the concerned Magistrate for recording the statement of the survivor. He had identified by Ext.P10 report given by him narrating the name and address of the accused.

15. PW11 Investigating Officer deposed about the investigation he conducted. He deposed about preparation of Ext.P6 Scene



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Mahazar. PW5, a witness to Ext.P6 Scene Mahazar, had identified his signature therein and he supported the prosecution case. He deposed further that there was reference as to a root found on the courtyard of the house in the scene of occurrence. This root project open in 'V' shape. PW3 gave evidence as Village Officer of Velianadu Village that, on 14.03.2016, he had visited the scene of occurrence and prepared Ext.P4 scene plan. According to him, the south-western corner of the house and courtyard on the west were the scene of occurrence. PW4 was the Secretary of Velianadu Grama Panchayath, who prepared and issued Ext.P5 Ownership Certificate, deposed that the place of occurrence was the house, owned by the father of PW1. He also deposed that Ext.P5 ownership certificate was prepared on verification of the Assessment Register maintained at the Panchayath.

16. The investigation of this case was proceeded by PW12 Umeshkumar and he deposed about the investigation he had conducted, without any ambiguity.

17. In this case, Ext.P1 FIS, given by the victim was recorded by PW9 Sreedevi, Sub Inspector of Police, Vanitha Cell,



Alappuzha, and she was accompanied by one Senior Civil Police Officer by name Sreelatha, and she had written the FIS. PW10, the Judicial First Class Magistrate-I, Alappuzha, deposed that as on 14.01.2016, she had recorded the statement of PW1 under Section 164 of the Code of Criminal Procedure ('Cr.P.C' for short). She identified the same as Ext.P2 and she deposed that the contents therein were recorded by her.

18. The crucial question arises for consideration is whether the story of false implication, as argued by the learned counsel for the appellant/accused, has legs to stand or else, the learned Special Judge is right in finding commission of offence punishable under Section 4(1) r/w 3(a) of the POCSO Act by the accused.

19. As regards to the contention raised by the learned for the appellant/accused that the appellant/accused was falsely implicated in this case, after the accused assaulted the father of the victim, which led to registration of Ext.D4 FIR as on 24.12.2015 and which ended in Ext.D6 final report, it is relevant to note that the sexual assault, as per the prosecution case and as spoken by PW1, was on 17.11.2014. Thereafter, the accused assaulted the father of the victim and for which Ext.D4 FIR



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was registered on 24.12.2015 and thereafter on 25.12.2015 Ext.P9 FIR in this occurrence was registered. In this connection, it is very pertinent to observe that the evidence available would show that the accused assaulted the father of the victim, when the father questioned about the sexual assault at the instance of the accused which occurred on 17.11.2014. Thus assault at the instance of the accused on the father of the victim was generated in the above manner. Even though subsequently the said case was compromised, that by itself is not a reason to find that the accused had been falsely implicated in this crime, as contended. Similar is the position regarding the contention raised by the learned counsel for the appellant/accused that the fundamental facts regarding sexual assault were failed to be proved and that there was no credible evidence in this regard, since the prosecution has a specific case imbibed on a strong foundation as regards to the repeated aggravated sexual assaults committed by the accused on the victim. The specific case of the prosecution is that PW1 was subjected to aggravated sexual assault on 17.11.2014 after tying her both hands on a jack fruit tree nearby. It is true that in the scene mahazar, Ext.P6, presence of jack fruit tree, as such could not be found. In this connection, PW1 had given evidence during cross examination that, after the occurrence on 17.11.2014, some trees were cut and



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removed. This aspect to be fortified by the evidence of PW11 along with Ext.P6. In Ext.P6, the presence of a root projected upon in 'V' shape found on the courtyard, ie. at the place of occurrence. Therefore, the absence of description regarding the presence of jack fruit tree in Ext.P6 mahazar is not a reason to disbelieve the prosecution case. Consequently this contention raised by the learned counsel for the appellant is found against.

20. It is true that a love relationship in between the accused and PW1 could be seen from the evidence. When the victim is a minor, love relationship or even consensual sex would have no relevance. Therefore, this aspect also would not help the appellant/accused to get out of the prosecution. To sum up, it is held that the contentions raised by the learned counsel for the appellant/accused to unsustain the verdict impugned lack merits.

21. On re-appreciation of the evidence adduced by the prosecution, it could be gathered that the evidence of PW1 is reliable and is of sterling quality, and the same can be acted upon to find the commission of the offences found by the learned Special Judge and there



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is no reason to hold that the accused was falsely implicated in this case. Thus the conviction imposed by the learned Special Judge is liable to be confirmed.

22. Coming to the sentence, the Special Court imposed the minimum punishment provided for the above offences and in such circumstance, no reduction in sentence also practically possible. In view of the matter, the sentence is also to be confirmed.

23. In the result, the Appeal fails and is accordingly dismissed. The conviction and sentence imposed by the Special Court are confirmed. As a sequel thereof, the order suspending sentence and granting bail to the accused stands cancelled and the bail bond also stands cancelled.

Registry is directed to forward a copy of this judgment to the Special Court for information.

*Sd/-****A. BADHARUDEEN, JUDGE****rtr/*