



**IN THE I ADDITIONAL SESSIONS COURT / SPECIAL COURT UND
PoCSO ACT AND CHILDREN'S ACT, THODUPUZHA**

Present: Smt. ASH K. BAL, I ADDL. SESSIONS JUDGE / SPECIAL JUDGE

Tuesday the 29th day of September, 2026/ 7th day of Aswina, 1948

SESSIONS CASE No. 502/2019

(CP No. 52/2018 of JFCM, Devikulam)

(Crime No. 283/2014 of Marayoor Police Station)

Complainant : State of Kerala, represented by
Inspector of Police, Marayoor Police Station.

By Adv. Sri. Rajesh P S,
Addl. Public Prosecutor, Thodupuzha.

Accused : Rose Mary @ Kuttiyakka, W/o. Kurippu Swamy,
aged 36/2014, Residence in Ward No.XIII/37, Marayoor
Grama Panchayath, Parapetty Bhagom,
Pulikkaavayal Kara, Marayoor Village

Adv. Sri. John Joseph

Charge : U/s. 302 of IPC

Plea : Not Guilty

Finding : Guilty

Sentence : The convict is sentenced to undergo imprisonment
for life and to pay fine of ₹50,000/- (Rupees fifty
thousand only), in default, the convict shall undergo
rigorous imprisonment for one (1) year for committing
the offence of culpable homicide amounting to murder
made punishable u/s. 302 of IPC.

Trial : 07/03/2026, 24/04/2026, 05/05/2026, 06/05/2026,
07/05/2026, 26/05/2026, 11/06/2026, 23/07/2026,
04/08/2026

Hearing : 23/09/2026

Judgment : 29/09/2026

TABULAR FORM

Serial No. : Sessions Case No. 502/2019

Name of Police station and : Crime No.283/2014 of
crime number of offence Marayoor Police Station.

Name and designation of
Committing Magistrate : Sri. C.Ubaidulla Judicial First Class
Magistrate, Devikulam.

DESCRIPTION OF THE ACCUSED

Sl. No.	Name	Father's/ Husband's Name	Occ upat ion	Reli gion	Residence	Age
1.	Rose Mary @ Kuttiyakka	W/o. Kurippu Swamy,			Residence in Ward No. XIII/37, Marayoor Grama Panchayath, Parapetty Bhagom, Pulikkaavayal Kara, Marayoor Village	36/14

DATE OF

Occurrence : 13/05/2014

Complaint : 13/05/2014

Apprehension : 19/05/2014

Release on bail : 05/06/2015

Commitment	:	23/09/2019
Commencement of trial	:	17/07/2025
Commencement of Evidence	:	07/03/2026
Close of trial	:	04/08/2026
Sentence or order	:	29/09/2026
Service of copy of Judgment or finding on accused	:	29/09/2026
Explanation for delay	:	No delay
Period of detention undergone during Investigation, enquiry or trial for the purpose of 428 Cr.P.C.	:	381 days.

J U D G M E N T

Accused stands indicted by Inspector of Police, Marayoor in Crime No. 283/2014, alleging offence under Section 302 IPC.

2. Prosecution case is that accused who is living separately from her husband for the last several years gave birth to a male child secretly , and with an intention and premeditation to commit murder of that child throttled the child by pressing around its neck and kept the child in a plastic cover after wrapping in a piece of bedsheet, in the cattle shed near to the house of the accused with door number MGP XIII/ 37 in Marayoor Village, Pulikkaravayal Kara, and the child, though given

treatment, could not survive and died due to the seriousness of injuries sustained to the neck at 04:00 p.m. on 13.05.2014 and thereby the accused has committed the offence.

3. Intimation regarding the incident was given to the police by CW1, a neighbour of the accused and on the basis of his statement, CW31 has registered the FIR. Thereafter, CW32 and 33 have conducted the investigation . After completing the investigation, CW33 has filed the final report before JFCM, Devikulam.

4. Learned Magistrate took cognizance, and in response to the summons issued, accused who was released on bail during crime stage has appeared before that Court. After complying all legal formalities and mandatory requirements, case was committed to the Sessions Court as per order in CP No. 52/2018. After assigning SC number, case was made over to this Court for trial and disposal.

5. Accused appeared before Court on issuing process and after ascertaining the service of notice and after enquiry charge was framed against the accused for the offence under Section 302 IPC and when the

charge was read over and explained to the accused she pleaded not guilty.

6. Thereafter from the side of prosecution PWs 1 to 19 were examined and Exhibits P1 to P22 were marked. There was no scope for acquittal at that stage. Accused was questioned under Section 313(1)(b) CrPC. She has denied all the incriminating circumstances revealed against her and stated that case is fabricated against her. Case was posted for defence evidence, but accused has not adduced any evidence in defence.

7. Points raised for consideration are:

1. Whether the accused gave birth to a baby boy as alleged?
2. Whether the death of the baby boy was culpable homicide. ?
3. Whether the accused has committed murder of that child ?
4. What, if any, is the offence proved against the accused?
5. Sentence and punishment ?

8. **Points No.1 to 4:** All these points can be considered together for brevity and for the sake of convenience. This is a case of alleged maternal infanticide or filicide. It is alleged that the accused, who is the mother of the infant, has intentionally killed the child who was born in her

illicit relationship especially when she was staying separated from her husband for the last several years. As per the case of prosecution, the new born child was seen wrapped in a piece of bedsheet and kept in the cattle shed near to the house of the accused. On getting information regarding the incident, CW1 neighbour of the accused, who was also the then ward member has given intimation to the police. FIS given by him was marked as Exhibit P1. PW1 has deposed that he has given an additional statement also. He is an attestor to the scene mahazar prepared in this case. PW1 has identified his signature in the scene mahazar and it was marked as Exhibit P2. He has further deposed that information regarding the incident was given to him by a boy named Surya who told him that an infant child is seen kept near the bathroom or cattle shed of the house of the accused. Accordingly he along with his wife have gone to there and saw the child in front of the house near to the house of the accused. By that time people were seen gathered there. They took the child, removed the cloth in which the child was wrapped. Child was having breath. By that time health people also reached there. They took the child to the hospital. It was a male child and they have seen the child on 13.05.2014 at about 10:00 or 10:15 a.m. PW1 further

stated that the physical condition of the accused was not normal and she was very weak. So, the health people have taken Rosemary/ accused also to the hospital, PW1 has further stated that they were not aware about the pregnancy of the accused as she used to wear gown and also a shirt above it.

9. Kanthalloor Panchayat ward member examined as PW2 has deposed that she knew the accused whose house is in Marayoor Panchayath and that on 13.05.2014 , she got information that a new born child found abandoned in the cattle shed near to the house of the accused is brought to PHC at Marayoor. On examination of the child by the doctor, he has noticed severe injuries and accordingly child was referred to higher centre. Accordingly the child was taken to Adimaly and she also accompanied the child in the ambulance along with the staff of Marayoor CHC. Since doctor was not available at Taluk Hospital, Adimaly, the child was taken to Morningstar Hospital. Though treatment was given, child has developed breathing difficulty and succumbed to the injuries at 04:00 p.m. on that date itself .

10. PW3 is an attestor to the inquest report prepared by the police and the inquest report was marked as Exhibit P3 .

11. Assistant Director, Serology, FSL Thiruvananthapuram, who was examined as PW4, has deposed that on 02.07.2014 he has received a parcel in connection with Crime No. 283/2014 of Marayoor Police Station and the parcel contained 3 sealed packets. The seals were intact and tallied with the Specimen seal impression forwarded from court. Item No. 1 contained 2 pieces of bedsheet with dirty brown blood stains on it. Item No. 2. contained fluid blood in EDTA vial collected at the time of postmortem examination on the body of the child and Item No. 3 is the fluid blood in 2 plastic vials collected from the accused. As per the version of PW4, the items were examined subject to modern scientific techniques and found that Item No. 1 and 3 contained human blood, belonged to Group A, and Item No. 2 contained human blood. Then 2 unsealed packets in Item No. 2 and 3 were forwarded internally to Biology Division for laboratory examination, as requested in the forwarding note. The report of examination was marked as Exhibit P4.

12. Assistant Director, DNA State Forensic Science Lab, Tiruvananthapuram was examined as PW5. He has deposed that he received the parcel internally forwarded from Director of Serology of FSL in connection with Crime No. 283/2014 of Marayoor Police Station and

the parcel contained 2 unsealed packets. There were 2 items. Item No. 2 was sample blood of new born baby / son of Rosemary in EDTA vial and Item No. 3 sample blood of Rosemary in EDTA vial. Both items were examined using standard scientific techniques and has given the opinion that the mother Rosemary to whom the blood sample in Item No. 3 belongs is the biological mother of the deceased child / son of Rosemary to whom the blood sample in Item No. 2 belongs. The report submitted by him was marked as Exhibit P5.

13. Civil Police Officer attached to Marayoor Police Station during 2014 examined as PW6 has deposed that he has witnessed the preparation of mahazar for the seizure of blood sample of the new born child and affixed his signature in the mahazar. He has identified the signature in the mahazar and it was marked as Exhibit P6. He is also an attestor to the seizure mahazar prepared at the time of seizure of the blood sample of the accused on 25.05.2014 and the mahazar was marked as Exhibit P7.

14. PW7 is the doctor who treated the child at Morningstar Hospital, Adimaly. He deposed that on 13.05.2014, he examined the new born baby of Rosemary, one day old, who was brought to casualty by the

police at 01:45 p.m. Child was admitted in NICU and has given supportive treatments. At 02:30 p.m., the baby developed respiratory issues and could not survive and his death was declared at 03:30 p.m. He opined that the death was due to respiratory failure and suspected intracranial haemorrhage. The treatment certificate issued by him was marked as Exhibit P8.

15. PW9 has deposed that while working as CPO Marayoor Police Station, he has conducted the Body bandavas duty of the deceased child and the material objects like blood samples collected and handed over to him by the doctor who conducted the postmortem examination, was entrusted with the Investigating Officer.

16. PW10 has deposed that on 12.02.2015 while working as Village Officer, Marayoor, as per the requisition of the Investigating Officer in this case, he has prepared the scene plan which was marked as Exhibit P10.

17. The Marayoor Grama Panchayath Secretary, who has issued the ownership certificate relating to the building bearing number XIII/ 37 was examined as PW11 and certificate was marked as Exhibit P11.

18. PW12 has deposed that she was entrusted with the surveillance duty of the accused who was admitted in the Adimaly hospital. She was discharged on 19.05.2014 and the blood sample collected from the accused was entrusted with her from the hospital and she has produced it before the Investigating Officer.

19. PW13 has deposed that on 13.05.2014 while working as Additional Sub Inspector of Police, Marayoor Police Station, he has recorded the Exhibit P1 statement of PW1 and on the basis of his statement, he has registered the FIR under Section 174 CrPC and the FIR was marked as Exhibit P12. According to him, he has arranged body bandvas duty of the deceased child, conducted inquest and prepared Exhibit P3 inquest report. After postmortem examination, he has recorded the statement of the doctor and also recorded the statement of witnesses. He has given an express report to the superior officers on revealing commission of offence U/S 315 and 304(A) IPC and forwarded the file to Sub Inspector of Police, Munnar.

20. PW14 has deposed that while working as gynecologist in Taluk Headquarters Hospital at Adimaly, she examined Rosemary, accused herein on 17.05.2014 at 02:00 p.m., who was brought by the police. On

examination, she was on postpartum status and had delivered within 6 weeks. Her uterus was well contracted and retracted and after giving necessary treatment she was discharged on 19.05.2014. She was in a complete healthy situation. The treatment certificate issued by PW14 on 26.06.2014 was marked as Exhibit P13 through her. She has given the opinion that uterus was contracted and normally she would have delivered at least 100 hours back.

21. The Circle Inspector of Police, Munnar, who has conducted the investigation in this case was examined as PW15. He has deposed that, as part of investigation, he has inspected the place of incident and prepared Exhibit P2 scene mahazar. The blood sample collected by the doctor, at the time of postmortem examination of the infant child, was produced before him by CPO Sajeev / PW9 and he has seized the same by preparing Exhibit P6 seizure mahazer. He has recorded the statement of witnesses including the doctors who has given treatment to the infant child at PHC, Marayoor, Adimaly Morningstar Hospital etc. and collected the treatment records. As part of investigation, he has collected the discharge certificate of the accused from Taluk Hospital, Adimaly. PW15 has arrested the accused and at the time of arrest he has prepared

arrest memo, inspection memo, arrest notice etc which were marked as Exhibit P14 series. As per his requisition blood sample of the accused was collected by doctor and the sample produced before him by WCPO Naseema (PW12) was taken in custody as per Exhibit P7 seizure mahazar. Thereafter he has given Exhibit P15 report showing the full name and address of the accused and also filed Exhibit P16 report to delete Section 174 CrPC and to add Section 315 IPC. He has collected the postmortem examination report and the material objects collected were produced before Court by including in Exhibit P17 series property list. He has submitted the forwarding note for examination of the material objects and the copy of forwarding note was marked as Exhibit P18. He would depose that as per the postmortem certificate, the cause of death was the blunt injury to neck. PW15 has handed over the investigation to CW33, who was examined as PW18.

22. Doctor at PHC, Marayoor, where the child was given initial treatment, was examined as PW16. He has deposed that on 13.05.2014, while working as Assistant Surgeon at PHC, Marayoor, he has examined an unknown newborn male baby found abandoned in a cow shed by local people and was brought by the police officials, field staff of PHC,

etc. On examination, it was a full-term baby with breathing difficulty. Umbilical cord was found cut and tied with a thread. Weight was 2.3 kilograms. He has given the details of treatment given and according to him, after giving primary treatment, the baby was referred to Taluk Hospital, Adimaly, for expert management. He further stated that he has given instruction to transport the baby under warm condition with Oxygen Support. The certificate issued by him was marked as Exhibit P19. He would further stated that on the very same day he has examined Rosemary, accused herein aged 37 years and issued the treatment certificate. She was brought by SI of Police, Marayoor on 13.05.2014 at 01:00 p.m. On examination, she gave the history that she was unmarried and LMP was 3 days back and denied the history of parturition. On general examination, uterus was contracted and palpable per abdomen about 12 to 14 week size. On pressing discharge was coming from the uterine cavity and the area was tender and swollen, relaxed, bleeding was present, first degree perennial tear was present, cervical lips were swollen and soft .Necessary treatment including suturing was done.

23. PW17 has deposed that she is residing near to the house of the accused and her mother. On 13.05.2014 at about 09:00 p.m. she

saw a gathering in front of the house of the accused and on enquiry somebody told that a newborn child was found near the cowshed . They enquired the matter with the accused, but she denied that it is her child. The ward member has informed the matter to the police. Another neighbor has cut the umbilical code and with the help people who reached there , they took the child to the hospital. When police came and enquired with the accused she informed them that she has not done any wrong and why they are questioning her. When the accused came out, her dress was full of blood and with the assistance of the neighbours, police have taken the accused to the hospital. PW17 has stated that the child was kept in a plastic cover and tied with a thread. The accused is a divorcee and was living separately in that house for about three to three and half years.

24. PW18 has continued the investigation conducted by PW15. He has deposed that he took charge of investigation on 06.07.2018. The report filed by PW15 to delete Section 174 CrPC and to add S,315 IPC was marked as Exhibit P21 through him. Later he has given report to delete 315 IPC and to add 302 IPC and that report was marked as Exhibit P16. He would depose that as per the DNA report, accused is the

biological mother of the victim child and after being satisfied the same he has completed the investigation and filed the final report before court.

25. Mother of the accused was examined as PW19. She was 85 years of age and her examination was done online through Mobile e-seva Kendra of Idukki district. She has not supported the prosecution, but stated that during the relevant period she was residing with the accused and the husband of accused abandoned her about 8 years back. According to PW19, she was unaware about the pregnancy of accused and later she got information about the same from the people in the locality. PW19 further stated that she has gone to the hospital and visited the accused and the contradiction in her statement that she has noticed the presence of blood stains in the bedsheet, dress of the accused, etc. was marked as Exhibit P22.

26. As per the case of prosecution, a boy named Surya, aged 16 years, residing near to the house of the accused, has seen the infant abandoned in the cattle shed near to the house of the accused, and the child was seen wrapped in a bedsheet and placed on a plastic cover. He informed the matter to PW1, who along with his wife have rushed to the spot and according to PW1, he has seen the newborn child in the

courtyard in between the cattleshed and bathroom of the house of the accused. Prosecution was initiated on the basis of information given by PW1 to the police.

27. The above-mentioned Surya is cited as CW2, but he was not examined as a witness before court. It is reported that he is not available and his presence could not be procured by the prosecution. At this juncture learned counsel appearing for the accused would argue that several criminal cases are pending against Surya including KAPPA proceedings. But it is to be noted that the incident alleged in the case was happened in the year 2014 and CW2 was only 16 years at that time. Steps were taken for examination of CW2 only in 2026.

28. PW1 has categorically deposed that CW2 came running to his house and informed him that a new born baby is seen placed beneath the roof of the cowshed near to the house of the accused. He along with his wife have gone to the spot and saw the child in the courtyard near to the house of the accused. Testimony of PW1, PW17 and the social worker examined as PW2 would show that the newborn baby was immediately shifted to the hospital and has given necessary medical aid. Initially, child was treated at CHC, Adimaly by PW16 from where referred

to Taluk Hospital, Adimaly. Ext P19 would show the initial treatment given to the baby by PW16. As doctor was not available at THQ Adimaly, child was shifted to Morningstar Hospital, where PW7 has treated the child. It could be gathered from the testimony of PW7 and Exhibit P8 that child was brought to the Morning star hospital at 01:45 p.m. and was admitted in NICU. Subsequently, child developed respiratory issues and death was declared at 03:30 p.m. on that day.

29. Testimony of PW1 and 17 are sufficient to substantiate the case of prosecution that newborn baby was seen at about 09:00 a.m. on 13.05.2014 and the umbilical cord of the child was cut and tied after PW17 reached the spot. According to PW17 when she saw the child, it was alive and was in a plastic cover tied with plastic thread. PW17 has categorically stated that accused was there in that house and when she saw the accused, her nightie was full of blood and she denied having done anything. It is evident from the testimony of witnesses that after the child was taken to the hospital, the accused was also taken to the hospital by the health people as her condition was not satisfactory.

30. Newborn child as well as the accused were initially treated on 13.05.2014 at the PHC, Marayoor by PW16. The doctor examined as

PW16 has categorically stated that the child was a full-term baby with a breathing difficulty, and the umbilical Cord was cut and tied with a thread. Blood stained nasal discharge was present and she has given the details of the treatment. She would depose that after giving primary treatment, the baby was referred to the Taluk Hospital for expert management. After that the doctor has examined the accused herein at about 01:00 p.m. on 13.05.2014 and noticed the evidence of parturition. She has noticed the symptoms of parturition and also first degree perennial tear. She has done the suturing of the perennial tear and thereafter, she was referred to the Taluk Headquarters Hospital, Adimaly, for expert management. Exhibit P19 and P20 certificates issued by PW16 are sufficient to show that accused has recently delivered a child and also the lethargic condition of child .

31. Evidence tendered by PW8, doctor who has conducted the postmortem examination would clearly show that the baby was born alive and in Exhibit P9 postmortem examination report he has given the opinion that the death was due to the blunt force injury to the neck. He has further stated that the injuries were not possible in a normal vaginal delivery and also not possible in a fall. Hence the oral testimony of PW8

and Exhibit P9 are sufficient to rule out the possibility of natural or accidental death during the child birth and is in support of the case of prosecution that due to the Physical blunt force applied to the neck of the child, it suffered severe injury, which resulted in the death.

32. After registration of the case, the accused herein was examined by PW14, the gynecologist, Taluk Headquarters Hospital, Adimaly, on 17.05.2014 at 02:00 p.m. The doctor has noted that the accused was of postpartum status and was delivered within 6 weeks prior to the date of examination . She has given the opinion that usually the accused would have delivered at least 100 hours back. PW12 was on surveillance duty when the accused was admitted in the hospital and at the time of discharge on 19.05.2014 , blood sample collected from the accused was preserved and handed over to her and the same was entrusted with the Investigating Officer. In cross-examination, PW12 has categorically stated that on that date itself she has handed over the blood sample to the investigating officer.

33. In cross examination, PW14 has categorically stated that she could not notice any symptoms of postpartum depression for the accused and that if she had any such issue, she would have noticed it as

the accused has availed inpatient treatment in that hospital for about one week.

34. At the time of postmortem examination, PW8 has collected the blood sample of the deceased for DNA profiling and according to him, he has handed over the blood sample to the investigating officer through the charge police officer. Investigating Officer has seized the blood sample of the deceased child as per Exhibit P6 mahazar. As per the testimony of PW6, the blood sample of the accused was also seized by the Investigating Officer in his presence as per Exhibit P7 mahazar.

35. Assistant Director Serology, FSL, Tiruvananthapuram, examined as PW4 has received the samples involved in this case and her testimony would show that seals were intact and tallied with the specimen seal impression forwarded from JFCM, Devikulam. As per the requisition in the forwarding note, blood sample kept in EDTA vial collected at the time of postmortem examination of the deceased child marked as Item No. 2 and item no. 3 in the packet, blood sample collected from the accused etc after examination in the Serology Division were forwarded internally to the Biology Division of the Laboratory as per the request in the forwarding note for DNA profiling.

36. PW5 has conducted the examination in the biology division and it is clearly mentioned in the Exhibit P5 report that Rosemary, to whom the blood sample in Item No. 3 belongs is the biological mother of the deceased child son of Rosemary to whom the blood sample in Item No. 2 belongs. Though the learned counsel for the accused has advanced an argument regarding the delay in reaching the sample before the lab for examination, in view of the evidence tendered by PW4 that the samples were reached the lab without any tampering in sealed condition and that the seals were tallying with the samples provided from the court, it is only to be hold that the so-called delay has no relevance at all.

37. Collection of blood samples of the newborn and the accused, seizure of the same by the Investigating Officer, forwarding the blood samples for examination in the State Forensic Science Lab, etc. are properly proved by the examination of PW8, PW14, PW6, PW15, PW18. and by marking Exhibit P6, P7 ,P9,P13, P18. As mentioned above, Exhibit P4 and P5 reports are sufficient to safely conclude that accused Rosemary has given birth to deceased child within hours prior to

13.05.2014 on which date the child was found in the house premises of the accused.

38. Section 106 of Indian Evidence Act says that if any fact, especially within the knowledge of any person, the burden of proving that fact is on that person. The word especially means facts that are eminently or exceptionally within the knowledge of that person. It is designed to make certain exceptional cases in which it would be impossible or at any rate in proportionately difficult for the prosecution to establish the facts which are especially within the knowledge of the accused and which he can prove without difficulty or inconvenience. The ordinary rule that applies to criminal trials where the onus lies on the prosecution to prove the guilt of the accused is not in any way modified by the rule of facts embodied in Section 106 of the Evidence Act. Section 106 of the Evidence Act is an exception to Section 101 of the Evidence Act. Section 101, illustration (A) lays down the general rule that in a criminal case the burden of proof is on the prosecution and Section 106 is certainly not intended to relieve it of that entire onus, on the contrary, it is designed to meet certain exceptional cases in which it would be impossible or at any rate inappropriately difficult for the prosecution to

establish the fact, especially with the knowledge of the accused and which he can prove without difficulty or inconvenience **(Shajan M A Vs. State of Kerala 2025 KHC 19)**. When it is proved beyond reasonable doubt that deceased baby was born to the accused, it is for her to give the explanation for the injury suffered by the child which resulted in its death and also the circumstances in which she was parted within the possession of the child. At this juncture, the conduct of the accused after the incident has much relevance. It could be gathered from the testimony of PW1, PW14, 17 etc. that after the incident, the accused has denied having any knowledge about the infant found in her house premises . She never revealed the factum of her parturition and even at the time of 313 questioning, accused has categorically denied having any involvement in the case and stated that the case is fabricated against her.

39. Proved facts in the present case established the requisite intention or knowledge necessary to constitute the offence of murder under Section 302 IPC. Premeditation is evident. Prosecution has established a complete chain of circumstances that excludes every hypothesis except the guilt of the accused. Basic and fundamental

decision on circumstantial evidence is in **Hanumanth V State of Maharashtra.(1952 SCR 1091)** Hon'ble Apex Court in the celebrated judgment in Sharad Birdhichand Vs State of Maharashtra (1984 (4) SCC116) set down the golden rule in a case based on circumstantial evidence, It is to be proved by the prosecution. that chain of evidence is complete. Circumstances relied upon by the prosecution should be conclusive in nature. Fact established should be consistent only with the hypothesis of the guilt of the accused. Circumstances relied upon should only be consistent with the guilt of the accused and should expose every possible hypothesis except the one to be proved.

40. Here in the case, the material evidence and circumstances bring out by the prosecution points towards the guilt of the accused only and are sufficient to establish the case of prosecution.

41. From the evidence tendered by material witnesses, especially PW19, the mother of the accused, it is evident that the accused was abandoned by her husband for about 8 years back and was living separately. In the said circumstance, when the child was born , she might have done the act due to the fear of the society. Even then the act

done by the accused is nothing but sheer murder. So the motive of the accused is also evident from the circumstances of the case.

42. In *State of Kerala v. Ammini and others* AIR 1988 KERALA 1 , Honourable High Court held that when there is fairly credible testimony existing, mere doubts or probabilities cannot be foundation of acquittal of accused. The court has followed the note of caution given by the Supreme Court in ***Khem Koran v. State of U.P* AIR 1974 SC 1567** neither mere probabilities, nor remote probabilities, nor mere doubts which are not reasonable, can, without danger to the administration of justice, be the foundation of the acquittal of an accused person if there is otherwise fairly credible testimony. In India, infanticide is included in murder. It is therefore incumbent upon the court to apply the law cautiously in case of infanticide in the interest of justice.

43. At the time of cross-examination of PW14, the gynecologist attached to Taluk Hospital, Adimaly, learned counsel for the accused, has put suggestions regarding the chance of a person to cause hurt to the child who has postpartum depression and attempted to bring out in evidence that accused was having postpartum depression. But PW17 has categorically denied that suggestion and stated that as the accused

was undergoing inpatient treatment, she would have noticed the same in case she was facing any such issue. Apart from putting such questions with the suggestions, accused has not adduced any further evidence which points towards the abnormal mental condition, if any, of the accused at the time of the incident.

44. Here in this case, accused never advanced an argument that act allegedly committed by the accused will come within the purview of culpable homicide, not amounting to murder. Even then, it is incumbent upon the court to evaluate the circumstances to distinguish the same. It is the settled law that whenever a court is confronted with the question whether offence is murder or culpable homicide not amounting to murder, on the facts of the case, it would be convenient to approach the problem in 3 stages. The said 3 stages are explained. As per the case of prosecution accused is alleged to have committed the offence punishable under Section 302 IPC. Therefore, the question that arose for consideration is whether the offence disclosed by the facts and circumstances established by the prosecution against the accused is murder or culpable homicide not amounting to murder, in **State of Andrapradesh V Raja Varappu Punnaya (1976 (4) SCC 382)** ,

followed by Honourable High court of Kerala in **Rajan K V State of Keala (2022 KHC 810) and Shaju V State of Kerala K S.** etc it is held that when the court is confronted with the question whether the offences proved amounts to commission of offence not amounting to murder on the files of the case, it would be convenient to approach the problem in 3 stages. The question to be considered at the first stage would be whether the accused has done an act by doing which he has caused the death of another. Proof of such a casual connection between the act of the accused and the death leads to the second stage for considering whether that act of the accused amount to culpable homicide as defined under Section 299 IPC. If the answer to the question is prima facie found in the affirmative, the stage of considering the operation of Section 300 IPC is reached. This is the stage at which the court should determine whether the facts Proved by the prosecution bring the case within the ambit of any of the 4 clauses of the definition of murder contained in Section 300 IPC. If the answer to this question is in the Negative, the offence would be culpable homicide not amounting to murder punishable under the first or second part of 304 IPC depending respectively on whether the second or third clause of 299 IPC applicable. If this question

is found in the positive, but the case comes within any of the exceptions enumerated under Section 300 IPC, the offence would still be culpable homicide not amounting to murder punishable under 1st Part of Section 304 IPC .

Section 300 IPC says that culpable homicide is murder if, the act by which the death is caused is done with the intention of causing death or

secondly - if it is done with the intention of causing such bodily injury as the offender knows to be likely to cause death of the person to whom the harm is caused or

thirdly - if it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course to cause death or

fourthly, - if the person committing the act knows that it is so imminently dangerous that it must in all probability cause death or such body injury as is likely to cause death and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

45. Here in this case, the facts proved by the prosecution brings the case within the ambit of 4 clause of definition of murder in Section 300 IPC and not come within the exceptions enumerated under Section 300 IPC.

In the light of available evidence and circumstances I find no hesitation to conclude that the deceased child was born to the accused and she with an intention and premeditation to commit murder of the child has applied force around its neck and caused serious injuries which resulted in the death of the infant.

On evaluating the entire evidence and circumstances of the case, I found that accused has committed the offence under Section 302 IPC and convicted there under .

So, the prosecution has certainly succeeded in proving the offence charged against the accused and the point is hence found in favour of the prosecution.

46. **Point No.5:**

In the result, the accused is found guilty of and convicted for offences punishable u/s. 302 of IPC. Obviously, this is not a fit case in which the convict could be dealt under the provisions of Probation of Offenders Act. The convict deserves to be sentenced. Both sides shall be heard on the question of sentence.

Dictated to the confidential assistant, transcribed and typed by her and corrected and pronounced by me in open Court on this the 28th day of September 2026.

ASH K. BAL
I Additional Sessions Judge/ Special Judge

Convict was heard on question of sentence. She has applied for pardon and stated that her mother aged 85 years and is alone in the house. There is nobody else to look after her. Learned counsel for the convict, advanced an argument regarding the present mental condition of the accused and would submit that from her very appearance it is evident that she is not of normal mental status. But it is to be noted that his argument is not based on any documents or other materials. He has not cared to produce even a single document which would points towards the so-called mental status of the convict. At the time of interacting with the convict to elicit facts, at the time of hearing on question of sentence, she has given reasonable answers and there is absolutely nothing to substantiate the submission made by the learned counsel appearing for the convict. It is to be noted that during the course of trial or not even at the time of examination under Section 313 CrPC, convict or her counsel raised such a contention. For pronouncing sentence adjourned to 29.09.2026. Remanded till 29/09/2026.

Dictated to the confidential assistant, transcribed and typed by her and corrected and pronounced by me in open Court on this the 28th day of September 2026.

Sd/-
ASH K. BAL
I Additional Sessions Judge/ Special Judge

29.09.2026

Convict is produced.

In the result, **the convict is sentenced to undergo imprisonment for life and to pay fine of ₹50,000/- (Rupees fifty thousand only), in default, the convict shall undergo rigorous imprisonment for one (1) year for committing the offence of culpable homicide amounting to murder made punishable u/s. 302 of IPC.**

Rule 131 of the Criminal Rules of Practice mandates that in all cases where women are convicted for the murder of their infant children, a formal reference must be made to the Government.

In State of **Kerala V Salini (2010(2) KLT 117** Hon'ble High Court of Kerala held that the object behind Rule 131 of the rules is to alert the Government to consider without delay, the exercise of its powers of remission in the case of a woman convicted of infanticide of her child, the murder committed by her leaves the Court with no alternative but to impose one of the two sentences provided for the offence of murder once she is found guilty and convicted. However, the punishment has to be tempered with mercy, especially in the case of such helpless woman,

who is often a victim of exploitation. The Court cannot impose a lesser sentence than what is provided under Section 302 IPC in the case of murder and that being so, Rule 131 of the Rules framed by the High Court mandates the Sessions Judge to alert the Government of the conviction and sentence imposed in the case of infanticide, where the indicted is the mother of the child murdered with relevant records, so that the Government may consider, without delay, the remission of sentence, invoking its power to remit the sentence.

Forward a copy of the judgment with records to the Government.

Dictated to the confidential assistant, transcribed and typed by her and corrected and pronounced by me in open Court on this the 29th day of September 2026.

Sd/-
ASH K. BAL
I Additional Sessions Judge/ Special Judge

APPENDIX**PROSECUTION WITNESS:**

Rank	Name	Whethereye witness, Police Witness, Expert Witness, Medical Witness, Other witness
<u>PW1/CW1</u> 07/03/2026	Ravichandran	Other Witness
<u>PW2/CW7</u> 24/04/2026	Shelvi	Other witness
<u>PW3/CW11</u> 24/04/2026	Kalidas	Other witness
<u>PW4/CW25</u> 24/04/2026	Sunitha V B	Expert witness
<u>PW5/CW26</u> 24/04/2026	Sreevidya K V	Expert witness
<u>PW6/CW19</u> 05/05/2026	Santhosh B	Police witness
<u>PW7/CW28</u> 06/05/2026	Dr. Ramesh C V	Medical witness
<u>PW8/CW30</u> 06/05/2026	Dr. Jameskutty B K	Medical witness
<u>PW9/CW21</u> 06/05/2026	Sajeev K I	Police witness
<u>PW10/CW23</u> 06/05/2026	Anilkumar P	Official witness
<u>PW11/CW24</u> 06/05/2026	A P Francis	Official witness
<u>PW12/CW22</u> 07/05/2026	Nazeema V P	Police witness
<u>PW13/CW31</u> 07/05/2026	K N Ramachandran	Police witness

<u>PW14/CW29</u> 26/05/2026	Dr. Rinu Anaz Rawther	Medical witness
<u>PW15/CW32</u> 26/05/2026	Shanihan A R	Police witness
<u>PW16/CW27</u> 26/05/2026	Dr. Sreeja Raj	Medical witness
<u>PW17/CW4</u> 11/06/2026	Mariyamma	Other witness
<u>PW18/CW33</u> 23/07/2026	Sam Jose	Police witness
<u>PW19/CW10</u> 04/08/2026	Mariyamma	Police witness

PROSECUTION EXHIBITS:

Sl.No.	Exhibits Number	Description
1.	P1/PW1	F.I.S. dated 13/05/2014
2.	P2/PW1	Scene Mahazar dated 15/05/2014
3.	P3/PW3	Inquest report dated 14/05/2014
4.	P4/PW4	FSL report dated 24/12/2016
5.	P5/PW5	FSL report (DNA) dated 30/01/2016
6.	P6/PW6	Seizure Mahazar dated 15/05/2014
7.	P7/PW6	Seizure Mahazar dated 20/05/2014
8.	P8/PW7	Treatement Certificate dated 14/05/2014
9.	P9/PW8	Postmortem Certificate dated 14/05/2014
10.	P10/PW10	Scene plan
11.	P11/PW11	Ownership certificate dated 16/03/2015

12.	P12/PW13	FIR dated 13/05/2014
13.	P13/PW14	Treatment Certificate dated 26/06/2014
14.	P14(series)/PW15	Arrest Memo, Inspection Memo, Arrest Notice dated 19/05/2014
15.	P15/PW15	Address report dated 20/05/2014
16.	P16/PW15	Section reduction report dated 06/07/2018
17.	P17(series)/PW15	Property list dated 21/05/2014
18.	P18/PW15	Forwarding note dated 11/06/2014
19.	P19/PW16	Treatment Certificate dated 16/05/2014
20.	P20/PW16	Treatment Certificate dated 16/05/2014
21.	P21/PW18	Section alteration report daed 20/05/2014
22.	P22/PW19	Marked portion of Statement of CW10 dated 15/05/2014

DEFENCE WITNESS : Nil

DEFENCE EXHIBITS : Nil

MATERIAL OBJECTS : Nil

COURT WITNESS : Nil

COURT EXHIBITS : Nil

Id/-

I Additional Sessions Judge / Special Judge

//True Copy//

(By Order)

Sheristadar

Copy of Judgment
in

S.C. 502/2019

Dated : 29/09/2026

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