



2026:KER:63013

Crl.Appeal No.1694/2023 : 1 :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

FRIDAY, THE 14TH DAY OF AUGUST 2026 / 23RD SRAVANA, 1948

CRL.A NO. 1694 OF 2023

CRIME NO.74/2020 OF Pathanamthitta Police Station, Pathanamthitta

AGAINST THE JUDGMENT DATED 18.10.2023 IN SC NO.287 OF 2021 OF
SPECIAL COURT UNDER THE POCSO ACT (ADDITIONAL DISTRICT
COURT) PATHANAMTHITTA

APPELLANT/ACCUSED:

XXXXXXXXXX
XXXXXXXXXX XXXXXXXXXXXX

BY ADVS.
SHRI.JOHN K.GEORGE
SRI.MANU RAMACHANDRAN
SRI.M.KIRANLAL
SRI.R.RAJESH (VARKALA)
SHRI.SAMEER M NAIR
SMT.SAILAKSHMI MENON

RESPONDENT/STATE:

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

PUBLIC PROSECUTOR SRI SAJEEV P K

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 23.07.2026,
THE COURT ON 14.08.2026 DELIVERED THE FOLLOWING:



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“C.R”***A. BADHARUDEEN, J.******Crl.Appeal No.1694 of 2023******Dated this the 14th day of August, 2026******J U D G M E N T***

The sole accused in S.C.No.287/2021 on the files of the Special Court under the Protection of Children from Sexual Offences Act [‘POCSO Act’ for short hereinafter], Pathanamthitta, has preferred this appeal assailing the judgment dated 18.10.2023 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 committed penetrative sexual assault on PW1, daughter of PW6, on different dates starting from the last months of 2014 to March, 2018 at their residence in Pathanamthitta Municipality and threatened the victim with dire



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consequences in the event of disclosure of the same. Predicated on this, the prosecution alleges commission of offences punishable under Sections 376, 376(2)(n), 376(2)(f) and 506(i) of the Indian Penal Code ('IPC' for short) and under Sections 4 r/w 3, 6 r/w 5(1), 6 r/w 5(n) of the POCSO Act, by the appellant/accused.

4. The learned Special Judge, on completing the pre-trial formalities, recorded evidence. PW1 to PW14 were examined and Exts.P1 to P22 were marked on the side of the prosecution. On the side of defence, during cross examination of the prosecution witnesses, Exts.D1 to D6 contradictions were marked. Thereafter, the learned Special Judge evaluated the evidence and found that the appellant/accused committed the offences punishable under Sections 376, 376(2)(n), 376(2)(f) of IPC and under Sections 4 r/w 3, 6 r/w 5(1), 6 r/w 5(n) of the POCSO Act and accordingly he was sentenced as under:

“In the result, the accused is sentenced to undergo:

(a) *Rigorous imprisonment for a period of forty years and to pay fine of Rs.1,00,000/- in default of payment to undergo rigorous imprisonment for 12 months u/s.6 r/w 5(n) of PoCSO Act.*

(2) *Rigorous imprisonment for a period of twenty*



years and to pay fine of Rs.1,00,000/- in default of payment to undergo rigorous imprisonment for 12 months u/s.6 r/w 5(l) of PoCSO Act.”

5. While assailing the verdict, the learned counsel for the appellant argued that even though the occurrence was in between 2014 and 2018, Ext.P1 FIS of the victim, who was examined as PW1, was recorded on 13.01.2020 when she had completed 19 years. According to the learned counsel for the appellant/accused, in the instant case, the accused is none other than the stepfather of the victim and the second husband of PW6, the mother of PW1. It is pointed out by the learned counsel for the appellant that PW6 deposed that she had stopped talking with the accused in the month of July, 2019 and she had returned to home country during December, 2019. It was thereafter as on 13.01.2020, repeated acts of sexual molestation during the period between 2014 and 2018 were informed to the police and the police registered the present crime. It is pointed out by the learned counsel for the appellant/accused further that PW1 admitted that while she was studying in Plus One/Plus Two course, she had a lover by name, Vishnu and she used to make chats with him and the accused used to take screenshots of those chats and forward the same to her mother PW6, as the accused had linked his mobile phone with the mobile phone of PW1, so that the messages forwarded and received in



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PW1's mobile phone would get into the mobile phone of the accused. Further she deposed that Pappa (the accused) was an expert in using computers. When the accused repeatedly informed the chats to PW6, the mother of PW1, PW6 intervened and scolded her. It is also pointed out that during cross examination, PW1 admitted that her love relationship with Vishnu had collapsed as her mother came to know about the same and she had sorrow in this regard and it was so happened, as the accused informed the same to her mother though she did not bear any animosity towards the accused in that regard.

6. It is also submitted that even though PW1 deposed that she had no opportunity to disclose the occurrence prior to 13.01.2020, as deposed by PW6, during April-May, 2019 she had taken PW1 and her son to Kuwait and all of them stayed in Kuwait for one month in a happy mood and it was before joining the course for Fashion Designing course. Then also, PW1 did not disclose any such occurrence to PW6. According to the learned counsel for the appellant/accused, this is a false case registered as an afterthought when the relationship between PW6 and the accused had broken down in July, 2019, and it was thereafter, apart from



lodging Ext.P1, PW6 filed many cases before the Family Court against the accused and Exts.D1 to D6, the copies of the said proceedings proved through PW6, are given emphasis in this regard. Therefore, this case failed to be proved and in such view of the matter, the entire prosecution is a fallacy and the accused would deserve acquittal, holding so.

7. The learned Public Prosecutor zealously opposed the contentions raised by the learned counsel for the appellant/accused and submitted that the evidence of PW1 as to repeated acts of sexual molestation during the period 2014-2018 is established by the prosecution though the evidence of PW1, supported by other evidence, including medical evidence. Therefore, the false implication story built up by the learned counsel for the appellant/accused would not sustain. Otherwise, the verdict impugned is liable to be confirmed.

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

(i) Whether the Special Court is right in holding that the accused committed the offence punishable under Section 376 of IPC?

(ii) Whether the Special Court went wrong in holding that



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the accused committed the offence punishable under Section 376(2)(n) of IPC?

(iii) Whether the Special Court is justified in holding that the accused committed the offence punishable under Section 376(2)(f) of IPC?

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

(v) Whether the Special Court is right in holding that the accused committed the offence punishable under Section 6 r/w 5(1) of the POCSO Act?

(vi) Whether the Special Court erred in holding that the accused committed the offence punishable under Section 6 r/w 5(n) of the POCSO Act?

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

(viii) The order to be passed?

Point Nos.(i) to (viii)

9. Here the crucial witness for the prosecution is PW1,



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supported by PW6, her mother, apart from PW3, Dr.Sainudeen, PW2 Dr.Aneesh.T Eapen and other witnesses.

10. PW1 deposed in tune with the prosecution cse. According to her, the period of occurrence was in between 2014 and 2018 and during 2014, PW1 was studying in the 8th standard. PW1 deposed further that during last month of 2014, on a second Saturday Pappa (the accused) brought her from hostel to the house and she was taken on the evening of Friday. Then Pappa tried to lay her on the bed since only one bed room was available at the house and also he continued the occurrence during 2018 though she did not remember the date, month, etc.

11. Prosecution relied on the evidence of PW4, the Registrar, Births and Deaths, Pandalam Municipality along with Ext.P4, the extract of Birth Register to prove the date of birth of PW1 as 08.01.2001 and to establish that PW1 was a minor during the period of occurrence. PW1 victim and PW6 also asserted that PW1 was born on 08.01.2001 at Chitra Hospital in the first marriage of PW6 with one Thomas Varghese. In fact, the status of PW1 as 'child' , defined under Section 2(1)(d) of the POCSO Act is not disputed, though she attained majority as on 13.01.2000, when



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she had lodged Ext.P1 FIS.

12. Coming to the evidence of PW1, she deposed that her mother had worked in Kuwait for 6 years and her father and mother got divorced and mother returned to the home country in the year 2020. Her mother married twice and she is the daughter born to her mother in the first marriage and her father's name is Thomas Varghese. The said marriage was divorced and she identified the accused Shiju George as the second husband of her mother. According to her, she used to call the accused as 'Pappa' and the accused married her mother, while she was studying in the 5th standard. She had studied in the 8th standard at St.Thomas High School, Iruvally, Thiruvalla, and she used to go to school from Bethany hostel and she used to go to home during second Saturdays and accordingly she would reach the house on Friday evening and would return by Monday morning. Further she used to come during Christmas, Onam and annual vacation holidays and other holidays except other Saturdays and Sundays. While she was studying in 8th standard, her mother was abroad and the accused used to pick her from the hostel to the house and they resided in a building situated behind General Hospital, Pathanamthitta in Doctors lane,



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on rent. According to her, during her stay, her younger brother by name Eanos in the wedlock between her mother and the accused would also join her. Her version is that in between 2014 and 2018, she faced unbearable occurrence from her Pappa (accused). According to her, during the last months of 2014, she was taken from hostel on a Friday to stay at the house to spend second Saturday and Sunday and on the said day, the accused used to lay her on the bed and there was only one bed room therein. She used to lay on the settee placed in the hall. According to her, on that day, the accused attempted to put his penis into her vagina after laying her on the bed forcefully.

13. She deposed further that her younger brother Eanos, aged 3 years at the time of occurrence, would sleep earlier. She testified that she was sexually molested at 10 p.m by putting his penis into her private part. Though she resisted, the attempt was failed. She could not disclose the occurrence during the relevant time as the accused threatened her that if she would disclose the same, her mother would be killed. She also deposed that the first marriage of her mother was divorced at the intervention of the accused. According to her, she thought that if she



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would disclose the same, this marriage of her mother would also be dissolved. Therefore, she did not disclose the same to avoid spoiling of her mother's life. She also deposed that while she was studying in Plus One/Plus Two course in Pathanamthitta Higher Secondary School, she stayed at St.Mary's hostel, Pathanamthitta and she used to visit the house during holidays as threatened by her father. During the said period, there were acts of aggravated sexual assault at the instance of the accused and the last occurrence was during 2018 and she did not remember either the months or the dates. While she was studying for Plus One/Plus Two course her younger brother Eanos was at the mother's sister's house in Punalur and he used to stay and go to school from there. According to her, her mother is a cancer patient. Her version further is that while she was studying for Plus One/Plus Two course, she used to make chats with Vishnu, her lover, and Pappa (accused) used to take screenshots of the chats and forward the same to her mother as he had linked his mobile phone with the mobile phone of the victim, so that he could also see the incoming and outgoing chats of her phone and he was an expert in computer.

14. Her further version is that she had closed the relationship



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with Vishnu as warned by her mother. She further deposed that, similarly the mother had warned Vishnu and that the relationship could not be continued. She further deposed that she had intensive love towards Vishnu and the said relationship had collapsed as it was known by her mother as intimated by the accused, though she denied that she had no animosity towards the accused on this premise. Though she denied any dispute between her mother and the accused, she conceded that as per the residence order of the learned Chief Judicial Magistrate, Pathanamthitta, in M.C.No.68/2021, they stayed in the house at Thadiyoor for a week and the said case was filed by her mother. Later the court stayed that order, subsequently cancelled the order. She denied the filing of suit against the accused by PW6. According to her, in Ext.P2 she did not disclose anything about the sexual molestation by the accused and the allegation therein was that the accused disturbed her and it was so stated because she considered the accused to be in the position of her father. She also deposed that she was sexually molested till March, 2018 and that was also not disclosed in Ext.P2. When it was suggested that, between March 2018 and September 2019, until she went to Kollam, she had, on several



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occasions, travelled with the accused and resided along with her brother at the houses in Thadiyoor and Pathanamthitta, she admitted that she had resided only at Thadiyoor.

15. The next crucial witness in this case is PW6, the mother of PW1. PW6 supported the version given by PW1 admitting that PW1 was the daughter born to her in her earlier marriage with Thomas Varghese. She also deposed the date of birth of PW1, as deposed by PW1. During cross-examination, her version was that she had stopped talking to the accused during June–July, 2019 and returned home in December 2019. According to her, even before she came to know of the allegations in the present case, she was on inimical terms with the accused. She also deposed that she had not spoken to the accused before lodging the FIS on 13.01.2020. At the same time, she deposed later that when Bindu informed this occurrence to her, she telephoned the accused and enquired whether the allegations were true. She deposed by admitting filing of Exts.D1 to D6 proceedings. She also deposed that she had no interest in the love affair of PW1 with Vishnu and according to her, the relationship between PW1 and Vishnu had collapsed because of the



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interference of the accused and for which PW1 was scolded by her.

16. PW2 examined in this case is Dr.Anish T.Eapen, who examined the accused and issued Ext.P3 potency certificate suggesting that, “there is nothing to suggest that the above person is incapable of performing sexual activity.” This aspect is not in dispute.

17. PW3 Dr.P.M.Sainudhin Rawther deposed that during 2019-2020 he had resided in Doctors Lane in a house by name ‘Shines Meppurath’ at the ground floor, behind the General Hospital, Pathanamthitta. The same was a two storeyed building and he stayed at ground floor and he had divided the upstairs portion into two and one portion was given to the accused and the other portion was given to one Rajesh, and the accused had resided there for 10 years. He also deposed that till then, the rent deed in the name of the accused had been continuing. PW3 deposed further that initially the accused along with his wife and 2 children had resided there and thereafter the wife went abroad and the building was owned by himself and his wife.

18. In this case Ext.P1 statement given by PW1 was recorded by PW7, the Sub Inspector of Police, Pathanamthitta Women



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Helpline as directed by S.H.O, Pathanamthitta Police Station and she supported the same.

19. According to PW13, the investigating officer, based on Ext.P1 statement of PW1 recorded by PW7, PW8 Asharaf, SI of police registered the present crime. PW7, Sub Inspector of police attached to Vanitha help line, Pathanamthitta testified that she had recorded Ext.P1 statement of PW1 at the office of Pathanamthitta Vanitha help line and she produced the same before the SHO, Pathanamthitta, PW13. Admittedly while giving Ext.P1 statement, PW1 has attained majority. PW7 would depose that she had recorded the statement of PW1 under the direction of PW13, who was the SHO, Pathanamthitta at the relevant time though the Vanitha help line was under DYSP, Pathanamthitta.

20. The case advanced on the part of the accused is that, at 04.00 PM on 13.01.2020, PW13 informed the accused to reach the police station. When the accused reached there, PW13 demanded to pay Rs.64 lakh to PW6. But the accused denied to pay the said amount, and on this premise he was implicated in this case. According to PW13, this crime was registered recording Ext.P1 FIS given by PW1 before PW8, and



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thereafter, the accused was arrested at 02.20 PM on 14.01.2020 by preparing Exts.P15 to P17 and by issuing intimation regarding his arrest to the brother of the accused Shibu George. His evidence would show further that the accused was taken to the police station and kept him under surveillance on the date of his arrest. PW1 and PW6 were not available in the police station at the relevant time. So on 14th January 2020 after identifying the accused, his arrest was recorded by preparing Exts.P15 to P17 arrest memo, inspection memo and custody memo.

21. PW9 examined in this case is Doctor Sheebadas. She had given evidence supporting Ext.P8 certificate issued by her after examination of PW1. According to her, the history narrated by the survivor was repeated sexual assault by her stepfather in between 2015 and January, 2019. Her finding are as under:

“Hymen was torn at 4’o clock to 8’o clock position old. Urine pregnancy test was negative. I have collected vaginal smear, swab, nail clipping, pubic hair sample, scalp sample of the survivor for examination.” She opined that the finding are consistent with the history of alleged sexual assault. During cross examination, the doctor stated that she was not



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interrogated by the Investigating Officer.

22. PW8, examined in this case, was the Sub Inspector of Police, Pathanamthitta Police Station, as on 13.01.2020. According to him, PW7 recorded Ext.P1 statement of PW1 and produced the same before him, on the basis of which he had registered Crime No.74/2020 of Pathanamthitta Police Station for the offences punishable under Section 376(2)(g) of the IPC, Section 10 read with Sections 9(l) and 9(n) of the POCSO Act, and Section 75 of the Juvenile Justice Act. He identified Ext.P6 as the said FIR. Subsequently, on examining the FIS and the FIR, it was found that Section 10 read with Sections 9(l) and 9(n) of the POCSO Act were wrongly added. Accordingly, the said offences were deleted and Section 6 read with Sections 5(l) and 5(n) of the POCSO Act was incorporated as Ext.P7 report. He deposed that as per Ext.P1 FIS, PW1 had given statement that she was subjected to sexual assault during the last months of 2014 till March, 2018 though she did not disclose the actual date of occurrence.

23. PW10 is a crucial witness examined on the side of the prosecution. According to her, she was a resident of Uliyakkovilil in



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Kollam district and her residence was nearby the institution where fashion designing had been imparting, by name “Image”. She deposed that she knew PW1 and she did not know PW6. Then she deposed that she knew PW6 as the mother of PW1 and she had talked with her through telephone. She also deposed that the authorities of “Image” college brought 3 students including PW1 to stay at her house as paying guests. Accordingly, PW1 stayed at her house from 2019 July to November last, 2019. She denied the suggestion that PW1 resided till December, 2019. She also deposed that PW6 telephoned her and enquired about PW1. She denied that she had given statement to the police. She also denied that she did not give any counselling to the students. At the same time, she deposed that she used to involve in the problems of the students and used to advise them. She had specifically deposed that PW1 had never stated to her regarding any sexual assault by her stepfather (the accused) and similarly PW6 also had not called her with request to give special attention to PW1. According to her, she did not know the accused and she saw the accused for the first time before the court. She also denied the suggestion regarding calling of PW1’s sister to her phone. During cross examination she deposed that



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Rs.5,000/- per month as cash for each student had been given from the college for food and accommodation. When she became ill, the college authorities shifted those 3 students to Kailas hostel.

24. PW11 is the Village Officer, Pathanamthitta, who prepared Ext.P10 scene mahazar, as directed by the Pathanamthitta police and he supported the version of the accused regarding his residence. PW12 examined in this case is the Grade Assistant Sub Inspector of Police of Pathanamthitta Police Station during 14.01.2020. He deposed that, while working so, he signed Ext.P11 mahazar as a witness, under which the Inspector of Police obtained custody of the specimen collected by the doctor during the potency examination of the accused. He further deposed that he had signed Ext.P12 mahazar when the Inspector of Police obtained custody of the specimen collected from PW1 during her medical examination. PW13 is the Investigating Officer, and he deposed regarding the investigation conducted by him.

25. In this case, it is discernible that, as per the evidence of PW1 she was molested by the accused, who is none other than her stepfather and also the second husband of her mother, in between 2014 and



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2018. According to her, on a second Saturday during the last months of 2014, the accused brought her from hostel and sexually molested. She deposed further that the accused molested her lastly during 2018. She also conceded that while giving statement to the doctor(PW9), she stated that the accused molested her between 2015 and 2019 and it was so said due to tension. PW9 also deposed that PW1 had given statement regarding molestation during 2015-2019, January. Regarding period of molestation, PW1 had inconsistent versions and she did not speak about any molestation specifically on any dates. At the same time, PW1 had given evidence that when she had given statement to the Magistrate, she stated that her stepfather disturbed her and she did not state anything more. According to her, what was intended by disturbance was putting of the private part of the stepfather on her private part.

26. While adverting to the controversy involved in this case, it is apposite to refer the circumstances led to enactment of the POCSO Act, 2012, as could be found from the preamble of the Statute. It has been stated that Article 15(3) of the Constitution, *inter alia*, empowers the State to make special provisions for children. Further, the Government



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of India acceded on the 11th December, 1992 to the Convention on the Rights of the Child, adopted by the General Assembly of the United Nations, which had prescribed a set of standards to be followed by all State parties in securing the best interests of the child and therefore with intention to prevent -

(a) the inducement or coercion of a child to engage in any unlawful sexual activity;

(b) the exploitative use of children in prostitution or other unlawful sexual practices;

(c) the exploitative use of children in pornographic performances and materials.

Since sexual exploitation and sexual abuse of children are heinous crimes, that need to be effectively addressed, the said enactment was brought into force. The legislative intent in this regard is appreciated. However, one could notice that the provisions of the POCSO Act have been misused by a section of people to wreak vengeance and to get scores and illegal gain. The prime area where one could find false implication of innocent persons/persons in POCSO cases is when there is matrimonial discord in between two spouses. Particularly



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when the wife is in loggerheads with her husband, the wife not only files litigation before the Family Court as well as the Magistrate court concerned for getting the reliefs from the said courts, in order to put the husband under stress and fear and also to avoid custody of child to be given to the husband, false allegations of sexual molestation by the father against his on child and stepfathers against the child born to their second wives etc. could be noticed. False implication of innocent persons in POCSO Act offences is not uncommon on other circumstances and is not exhaustive, as pointed out. Therefore, the courts have a duty to look into the evidence in each and every case with an element of insight in mind, to ascertain whether there is any likelihood of false implication could be found from the evidence available, particularly when false implication is the prime contention raised by the accused to get acquittal.

27. Here the evidence discussed as that of PW1 would reveal that, the accused, being her stepfather and a computer expert, connected PW1's mobile phone to his own mobile phone, accessed the chats of PW1 and her lover Vishnu, and as a responsible guardian he had forwarded the same to her mother with a view to save PW1 from Vishnu, in a situation



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where PW1 belongs to Christian and Vishnu belongs to Hindu community. PW1 deposed that it was the accused who, in fact, was behind the collapse of the relationship at the intervention of her mother. Though she deposed that she had no animosity to the accused, the evidence tendered by her would show that she had the feeling of discontent regarding collapse of her relationship with Vishnu. In this connection, it is further noted that when PW6, the mother of PW1, was examined, she also stated that she had stopped talking to the accused by the end of June-July, 2019. Thereafter she had returned to her home country in December, 2019. Until then, she had no intention of lodging any complaint and it was only on 13.01.2020 that Ext.P1 was lodged for the first time, which led to the registration of the present crime. Even though the evidence of PW1 is that her stepfather had sexually molested her in between 2014 and 2018, her explanation that she had no occasion to disclose the incidents during that period, the same cannot be believed without a pinch of salt. She could very well have informed the same to the school authorities or any other responsible person or her friends about the alleged repeated incidents and she could have very well avoided visiting the house of the accused, so



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as to prevent the commission of the crime or repetition of the same. In this connection, it is very pertinent to note PW10's hostility also, as she had denied any disclosure by PW1 regarding the occurrences to her. It is true that a minor of tender age may not possess the courage to resist or may be reluctant to disclose such incidents out of fear. Even then, it is the admitted case of PW6 that she had taken PW1 and her son to Kuwait and all of them stayed in Kuwait for one month in a cheerful mood and it was before joining the course for Fashion Designing course by PW1. Then also, PW1 did not disclose any such occurrence to PW6. If really there occurred the sexual assault during the period 2014 and 2018, as stated by the victim, she had the best opportunity to tell this matter to PW6, her mother, when the accused was absent for a period of 30 days. Not only she failed to disclose the same to her mother, but she also did not show any signs of discomfort. Thus it appears that some discord in between PW6 and the accused regarding construction of the two houses and their rights thereof had arisen much earlier and this would find support from the evidence given by PW6 that she had stopped talking to the accused by the end of June or July, 2019. Thereafter she reached home country during 2019 and



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it was thereafter on 13.01.2020 this crime was registered and she had filed Exts.D1 to D6 cases in quick succession against the accused. It is true that those cases were filed after registration of Ext.P1 FIS on 13.01.2020. Reading the circumstances as a whole, as discussed herein above, where PW1 had inconsistent versions regarding the period of molestation and also failure to disclose the actual overt acts of sexual molestation before the Magistrate, the prosecution case is coupled with many doubts, and in such a case, it is not safe to hold that the prosecution succeeded in proving guilt of the accused beyond reasonable doubts. Even though the medical examination of the victim showed signs of sexual intercourse, the same could not be treated as corroborative piece of evidence to justify the overt acts at the instance of the accused, since, admittedly, PW1 had maintained a relationship with one Vishnu and in such way also, there is likelihood of signs of sexual intercourse. Therefore, the possibility of false implication to wreak vengeance against the accused by PW6 through PW1, as an afterthought, in the facts and circumstances of the case, cannot be ruled out and the same creates strong suspicion on the prosecution evidence. When prosecution evidence is found to be riddled with serious doubts, the



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benefit of doubt must definitely go to the accused. If so, this Court is of the view that the learned Special Judge went wrong in finding commission of the offences punishable under Sections 376, 376(2)(n), 376(2)(f) of the IPC and under Sections 4 r/w 3, 6 r/w 5(1), 6 r/w 5(n) of the POCSO Act by the appellant/accused and the said conviction and sentence are liable to be interfered.

28. In the result,

(i) This appeal is allowed;

(ii) Conviction and sentence imposed against the appellant/accused are set aside.

(iii) He is set at liberty forthwith. Additional Sessions Judge, Pathanamthitta is directed to issue release order of the appellant/accused forthwith since he has been continuing in jail for a period of about 3 years starting from 18.10.2023, including pre detention from 14.01.2020 to 13.02.2020.

Registry is directed to forward a copy of this judgment to the Additional Sessions Judge, Pathanamthitta, and the Superintendent of the



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prison concerned, for information and immediate release of the
appellant/accused.

Sd/-

A. BADHARUDEEN, JUDGE

rtr/



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APPENDIX OF CRL.A NO. 1694 OF 2023

APPELLANT'S ANNEXURES

Annexure A1 COPY OF THE ORDER DATED 05.04.2024

**Exhibit P1 THE TRUE COPY OF THE MEDICAL CERTIFICATE
DATED 30/07/2025**