

VERDICTUM.IN

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

Wednesday, the 8th day of June 2022 / 18th Jyaishta, 1944

BAIL APPL. NO. 3273 OF 2022

CRIME NO.123/2022 OF Ottapalam Police Station, Palakkad

PETITIONER/ACCUSED:

ANOOP, AGED 23 YEARS, SON OF CHAMI, VARIYATHPARAMBIL
HOUSE, CHUNANGAD (P.O), AMBALAPPARA, PALAKKAD DISTRICT, PIN - 679511

RESPONDENTS/STATE:

1. STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031
2. ADDL.R2 STATE OF KERALA, REPRESENTED BY THE SECRETARY DEPARTMENT OF EDUCATION, THIRUVANANTHAPURAM.
3. ADDL.R3 CENTRAL BOARD OF SECONDARY EDUCATION, REPRESENTED BY ITS DIRECTOR-GENERAL, NEW DELHI.
4. ADDL.R4 KERALA STATE LEGAL SERVICES AUTHORITY, MEMBER SECRETARY, HIGH COURT OF KERALA, ERNAKULAM,

ADDL RESPONDENTS 2-4 ARE SUO MOTU IMPLEADED AS PER ORDER DATED 08/06/2022.

This Bail application again coming on for orders on 8/06/2022 upon perusing the application and this court's order dated 19/05/2022 in B.A.NO.3273/2022 and upon hearing the arguments of MR NIREESH MATHEW, Advocate for the petitioner and PUBLIC PROSECUTOR for the R1, Adv.PARVATHY MENON for the Victim Rights Center, Adv. S.Nirmal, Standing Counsel for Addl.R2(B/O), and this court passed the following:

BECHU KURIAN THOMAS, J.

B.A. No.3273 of 2022

Dated this the 8th day of June, 2022

ORDER

This Court is witnessing an alarming rise in the number of sexual offences being committed on school children. In many cases, the perpetrators of the crime are either students or persons young in age, and the alleged crime-a result of relationships that went beyond platonic love.

2. Young children, irrespective of gender, indulge in such acts, unmindful of the drastic consequences that await them. The amendments brought into the Indian Penal Code, 1860 and the enactment of the Protection of Children from Sexual Offences Act, 2012, envisage very harsh consequences for such offensive acts. Unfortunately, the statute does not distinguish between the conservative concept of the term rape and the sexual interactions arising out of pure affection and biological changes. The statutes do not contemplate the biological inquisitiveness of adolescence and treat all 'intrusions' on bodily autonomy, whether by consent or otherwise, as rape for certain age group of victims.

3. Unmindful of the consequences, teenagers and adolescents indulge in sexual relationships. By the time they realise the consequences, it would be too late in the day. A meaningful life could

practically be snuffed out by an immature or negligent act arising out of human curiosity or biological cravings, which Psychologists regard as natural. However, the statutory diktat, on the scope and purport of the terms sexual assault, aggravated sexual assault and penetrative sexual assault apart from minimum punishments are most often, unknown to the students and youths.

4. Though we harp upon the resplendent legal maxim '*ignorantia juris non excusat*', (Ignorance of law is not an excuse), the real purpose of the amendments brought in to section 376 IPC and the enactment of the POCSO Act are manifold. Punishment of the offender is only one while prevention is another. The latter purpose will be achieved only if consciousness and awareness of its provisions are created from the schools itself. The curriculum must of necessity prescribe sessions/classes on the provisions of the POCSO Act as well as the amendments brought into section 376 of IPC. The educational machinery of the State has fallen woefully short in imparting the required awareness to the young children about the heinous crimes and its consequences.

5. Time has come for this Court to step in to explore the possibilities of methods in which the awareness can be created. To enable the State Government to come up with suggestions for imparting the aforementioned awareness, this Court in exercise of the powers under Article 226 of the Constitution of India, suo moto

implead the three parties as additional respondents to this bail application with the intent to issue directions for paving the way for better awareness on the statutes concerned in schools in Kerala. Therefore the following are impleaded:

- “(a) State of Kerala
represented by the Secretary Department of
Education, Thiruvananthapuram.
- (b) Central Board of Secondary Education,
Represented by its Director-General,
New Delhi
- (c) Kerala State Legal Services Authority,
Member Secretary, High Court of Kerala,
Ernakulam”

The learned Public Prosecutor/Government Pleader shall get instructions from the additional respondent(a). Adv.S.Nirmal, learned Standing Counsel for CBSE takes notice. Registry is directed to serve copy of this order on all additional respondents.

Post on 31.08.2022.

Sd/-

**BECHU KURIAN THOMAS
JUDGE**

vps