

IN THE COURT OF SESSIONS JUDGE, MANJERI  
Present:- Sri. N.J. Jose, M.A., LL.B., Sessions Judge

Monday, the 2<sup>nd</sup> day of June, 2014

**SESSIONS CASE No.55/2012**

(C.P.No.83/2011 of Judicial First Class Magistrate's Court,  
Nilambur). CPC Act.

Complainant : State : Represented by the  
Detective Inspector, Crime Branch  
CID, HHW-III, Kozhikode.

Name of the accused : A1 - Father K.G. Joseph @  
Father Habeeb,  
S/o Gee Varghese Yohannan,  
Moundthamoor, Dayara,  
Pathanapuram.

A2 - Sister Sindhu George @ Abi,  
D/o George, Amalayil Veedu,  
Nannar (PO), Thiruvalla,  
Pathanamthitta Dt.

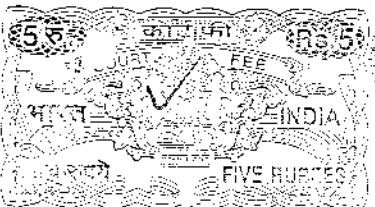
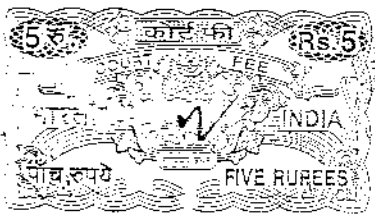
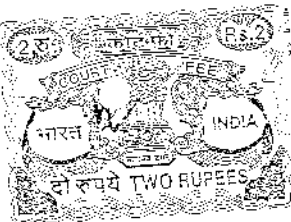
A3 - Mercy John, D/o John,  
Chembamala Puthanpurayil(H),  
Kezhakombu (PO),  
Kuthattukulam,  
Muvattupuzha Taluk.

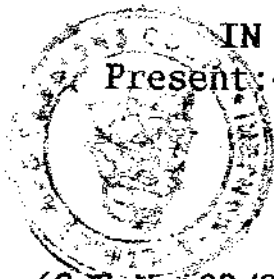
Charges : Under Sections 354, 109 r/w Section  
34 of IPC.

Plea of the accused : A1 to A3 - Not guilty.

Finding of the Judge : A1 to A3 - Not guilty.

Sentence or Order : The accused are found not guilty of  
the offences punishable under  
Sections 354, 109 r/w Section 34 of  
IPC and they are acquitted of the  
offences under Section 232 of





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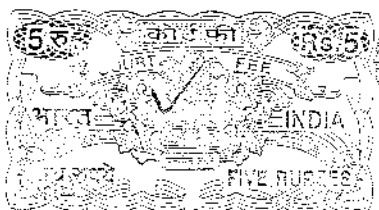
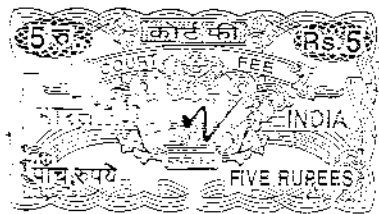
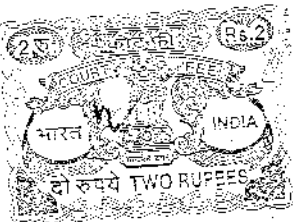
A3 - Mercy John, D/o John,  
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Charges : Under Sections 354, 109 r/w Section  
34 of IPC.

Plea of the accused : A1 to A3 - Not guilty.

Finding of the Judge : A1 to A3 - Not guilty.

Sentence or Order : The accused are found not guilty of  
the offences punishable under  
Sections 354, 109 r/w Section 34 of  
IPC and they are acquitted of the  
offences under Section 232 of



Cr.P.C. The bail bonds executed by the accused stand cancelled and the accused are set at liberty.

No. of Crime and name of Police Station : Crime No.236/CR/PKD/2009 of CBCID, HHW-III, Kozhikode.

Prosecution conducted by: Sri. Anas Varikkodan, Public Prosecutor, Manjeri.

Accused defended by : A1 by Adv. Sri.P.V. Hari and Sri. P.G. Mathew, A2 & A3 by Adv. Sri. Pramodh P.C and Sri. S. Bijilal.

Final Report received from the Detective Inspector, Crime Branch CID, HHW-III, Kozhikode.

This Sessions Case having been finally heard on 30/5/2014, the court on 2/6/2014, passed the following:

### J U D G M E N T

The accused 3 in number have been charge sheeted by the Detective Inspector, Crime Branch CID, HHW-III, Kozhikode in Crime No.236/CR/PKD/2009 for offences punishable under Sections 354, 109 r/w section 34 of IPC.

2. The prosecution case is that the first accused had outraged the modesty of a 14 year old girl who is CW2 by

holding on her breast and kissing her and the accused numbers 2 and 3 had aided and instigated the first accused to commit the crime and thereby they committed the aforesaid offences.

3. The case was committed to this court by the Judicial First Class Magistrate, Nilambur. When the accused entered appearance before this court, after preliminary hearing, charge for the offences punishable under Sections 354, 109 r/w section 34 of IPC was framed, read over and explained to the accused. They pleaded not guilty and claimed trial.

4. Thereafter, PWs.1 to 11 were examined and Exts.P1 to P14 were marked on the side of prosecution.

5. On the close of the evidence of the prosecution, the accused were questioned under Section 313 of Cr.P.C. All the accused have stated that they are innocent in the matter.

6. Heard the learned Public Prosecutor and the learned defence counsel under Section 232 Cr.P.C.

7. The point that arises for determination is:

"Whether the accused is entitled for an acquittal under Section 232 Cr.P.C.?"

8. The Point :- As earlier pointed out, the prosecution case is that the first accused had outraged the modesty of PW1 while she was studying in the Pothukallu Catholic High

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Secondary School in 2009 and while she was staying in the school hostel and that the other accused had aided and instigated the first accused to commit the crime.

9. PW1 has given evidence that the first accused has not committed no wrong and he did not outrage her modesty. The other accused have also done nothing. She denied almost all the statements in the F.I. Statement which was marked as Ext.P1. She also denied material averments in the statement recorded under Section 161 of Cr.P.C. The other occurrence witnesses PWs.2 to 7 also turned hostile to the prosecution. According to them, they have not seen any incident in which PW1 was sexually abused by the first accused. There is no incriminating in the evidence of any other witness. Thus there is absolutely no evidence to connect the accused with the alleged crime. So I find that there is no meaning in proceeding further with case.

10. As there is absolutely no evidence against the accused. I hold that the accused are entitled for an acquittal under Section 232 Cr.P.C.

In the result, the accused are found not guilty of the offences punishable under Sections 354, 109 r/w section 34 of IPC and hence they are acquitted of the said offences under

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Section 232 of Cr.P.C. The bail bonds executed by the accused stand cancelled and the accused set at liberty.

Dictated to the Confidential Assistant, transcribed by her, corrected by me and pronounced in open court on this the 2<sup>nd</sup> day of June, 2014.

Sessions Judge.

**APPENDIX:**

**WITNESSES EXAMINED ON THE SIDE OF THE PROSECUTION:**

PW1	-	Anju.
PW2	-	Thankachan.
PW3	-	Ashly.
PW4	-	Rajimol.
PW5	-	Bini.
PW6	-	Pritty Baby.
PW7	-	Shini.
PW8	-	K.M. Babu.
PW9	-	Shaju P.B.
PW10	-	K.K. Aji.
PW11	-	Prithvirajan.

EXHIBITS MARKED ON THE SIDE OF THE PROSECUTION:-

P1	3/11/09	First Information Statement.
P1(a)	3/11/09	First Information Report.
P2	--	Portion of 161 Statement proved by PW1.
P2(a)	--	Portion of 161 Statement proved by PW1.
P3	10/12/09	161 statement proved by PW3.
P4	--	161 statement proved by PW4.
P5	24/11/09	161 statement proved by PW5.
P6	--	161 statement proved by PW6.
P7	23/11/09	161 statement proved by PW7.
P8	9/11/09	Scene Mahazar.
P9	20/7/10	Ownership Certificate.
P10	8/6/10	Seizure Mahazar of Admission Register.
P11	8/6/10	Seizure Mahazar of Attendance Register.
P12	4/3/10	Report to add name and address of A1 in FIR.
P13	--	Report to add names and addresses of A2 & A3 and to add Section 109 of IPC.
P14	--	Report to add Section.

WITNESSES EXAMINED ON THE SIDE OF THE DEFENCE:- NIL.EXHIBITS MARKED ON THE SIDE OF THE DEFENCE:- NIL.MATERIAL OBJECTS MARKED:- NIL.

Sessions Judge

1	Serial No.	Sessions Case No.55/2012.
2	Name of Police Station and Crime No. of the Offence	Crime No.236/CR/PKD/2009 of CBCID, HHW-III, Kozhikode.
DESCRIPTION OF THE ACCUSED		
3	Name	A1 - Father K.G.Joseph @ Father Habeeb. A2 - Sister Sindhu George @ Abi. A3 - Mercy John
4	Father's name	A1 - Gee Varghese Yohannan A2 - George A3 - John
5	Occupation	A1 - Teacher (Rtd) A2 - Teacher A3 - Teacher
6	Residence	A1 - Edakkara A2 - Thiruvalla A3 - Koothattukulam
7	Age	A1 - 65/2013 A2 - 40/2013 A3 - 43/2013
DATE OF		
8	Occurrence	One day before the Onam in 2009.
9	Complaint	7/1/2012
10	Apprehension	A1 - 4/3/2010 A2 - 24/1/2011 A3 - 24/1/2011
11	Release on bail	A1 to A3 - 27/10/2011
12	Commitment	31/12/2011
13	Commencement of trial	24/6/2013
14	Close of trial	28/5/2014
15	Sentence or Order	2/6/2014
16	Service of copy of judgment or order to accused	
17	Explanation for delay	

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Sessions Judge

Typed by:- Rugmini

Compared by:-

1. Leadugeta
2. Rugmini

Copy ready on:

Date of Application:

Free copy issued on:

Fair Judgment in S.C.No.55/2012

Dated: 2-6-2014.

True Protocol Copy

Sys  
Fair Copy Superintendent/c

1. Name of Court	DISTRICT 3 SESSIONS COURT MANJERL
2. Year and number of the Case or other Proceedings	SC. 55/2012
3. Name of the applicant	Adv. Pramadhi PC
4. Number and date of the application	758/14 27/6/14
5. Date of Calling for Stamps	4/7/14
6. Date of Production of Stamps	3/7/14
7. Date of Calling for Adsl. Stamps	3/7/14
8. Date of Production of Adsl. Stamps	3/7/14
9. Date when copy made ready to receive the copy	7/7/14
10. Date notified for appearance	7/7/14
11. Date when copy was delivered	9/7/14

Fair Copy Superintendent