

Victim vs the State of Kerala,

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Court : Kerala

Decided On : Feb-24-2022

Judge : Honourable Mr.Justice K.Vinod Chandran,Honourable Mr.Justice C. Jayachandran

Appeal No. : CRA(V)/19/2020

Appellant : Victim

Respondent : The State of Kerala,

Judgement :

C.R.

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN & THE HONOURABLE MR.JUSTICE C. JAYACHANDRAN THURSDAY, THE 24TH DAY OF FEBRUARY 2022 / 5TH PHALGUNA, 1943 CRA(V) NO. 19 OF 2020 AGAINST THE ORDER/JUDGMENT DATED 27.2.2020 IN SC 314/2017 OF ADDITIONAL SESSIONS COURT-I (SPECIAL COURT UNDER POCSO ACT), PATHANAMTHITTA APPELLANT/VICTIM/DE-FACTO COMPLAINANT: XXXXXX BY ADVS. MANU RAMACHANDRAN M.KIRANLAL R.RAJESH (VARKALA) T.S.SARATH SAMEER M NAIR RESPONDENTS/COMPLAINANT

STATE & ACCUSED NOS.1 & 2: 1 THE STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM-682031. 2 THE STATION HOUSE OFFICER, POLICE STATION OF PANDALAM, PATHANAMTHITTA DISTRICT-689501. 3 GEEVARGHESE @ PAPPACHAN, AGED 60 YEARS, S/O M.O.DANIYEL, MUDAYKAMANNIL VEEDU, PARANTHAL, PERUMBILICKAL MURI, PANDALAM THEKKEKARA VILLAGE, PATHANAMTHITTA DISTRICT-689501. -2- 4 SURESH KUMAR, AGED 41 YEARS S/O KARUNAKARAN NAIR, JAYALEKSHMI VILASAM, KURAMBALA, KURAMBALA MURI, KURAMBALA VILLAGE, PATHANAMTHITTA DISTRICT- 689501. BY ADVS. ADVOCATE GENERAL OFFICE KERALA SRI.S.SAROJ MOHAN FOR R3 & R4 SRI.V.SETHUNATH FOR R3 & R4 SMT.AMBIKA DEVI S, SPL.G.P. (ATROCITIES AGAINST WOMEN AND CHILDREN AND WELFARE OF W AND C)(GP-38) OTHER PRESENT: SMT.S.AMBIKADEVI, SPECIAL GP FOR ATROCITIES AGAINST WOMAN AND CHILD THIS CRL.A BY DEFACTO COMPLAINANT/VICTIM HAVING COME UP FOR ADMISSION ON 24.02.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -3- C.R. K.VINOD CHANDRAN & C.JAYACHANDRAN, JJ. ----- Crl.Appeal (V) No.19 of 2020 ----- Dated this the 24th day of February, 2022

J U D G M E N T

Jayachandran, J.

1. Spousal discord inflated to personal vendetta

is disastrous, if minor daughter is made a sword against the father, accusing a tabooed depravity is the sheet anchor of the appellant's arguments in this appeal, filed under the Proviso to Section 372, Cr.P.C.

2. This victim appeal is directed against the

judgment of the Additional Sessions Court No.I

(Special Court), Pathanamthitta in S.C.No.314/2017 dated 27.2.2020, as per which, the accused persons - father of the victim and his friend - were found not guilty of offences under Section 376, read with Section 34 of the Penal Code and Section 4, read with Sections 3, 6 & 5 of the Protection of Children from Sexual Offences (POCSO) Act.

-4- The prosecution case:-

3. The accused persons committed rape, sexual assault and penetrative sexual assault on the minor daughter of the first accused several times

during December, 2015 and February, 2016 by caressing her breasts, fingering her vagina and by doing cunnilingus at A1's bedroom in House No.304 of Ward No. XIV, Paranthal, Thekkekara Village, Pandalam, thus committing the offences under Section 376, read with Section 34 of the Penal Code and Section 4, read with Sections 3, 6 & 5 of the Protection of Children from Sexual Offences (POCSO) Act.

4. The prosecution paraded 11 witnesses, through whom Exts.P1 to P15 were marked. After examination under Section 313 Cr.P.C, DW1 and DW2 were examined as defence witness; Exts.D1 to D3 were marked.

5. On an analysis of the facts and evidence, the learned Sessions Judge disbelieved PW1/victim and -5-

found that the medical evidence does not support the prosecution allegations. The learned Sessions Judge also found that the accused persons were falsely implicated at the instance of the victim's mother to wreak personal vengeance. On such findings, the Special Court acquitted the accused and went one step further, directing registration of a case against mother of the victim under Section 22 of the POCSO Act. Appellant's arguments

6. The primary point canvassed by Adv.Manu Ramachandran, learned counsel for the appellant/victim, is that the learned Special Judge failed to appreciate the

presumption under

Section 29 of the POCSO Act in acquitting the accused. Section 29 casts a reverse burden on an accused prosecuted for offences under Sections 3, 5, 7 and 9 of the Act to prove that he had not committed the offences alleged. This mandatory presumption has not been rebutted by the accused by adducing satisfactory evidence. Learned counsel -6- then canvassed that the Sessions Court grievously erred in disbelieving PW1, a minor girl, who was molested by her own father and his friend. PW1 gave a realistic account of the circumstances under which she was molested by the accused persons and there exists nothing inherent in her

evidence to disbelieve her, submits

showing penetration is of no impact. Similarly, the evidence tendered by the twin sister of the victim - examined as DW2 - is no reason to disbelieve PW1, since DW2 was admittedly residing along with and in the custody of the first accused and it is only natural that she would not vouch against her father. It should have been noticed by the Sessions Court that no daughter would come forward with an allegation of a sexual nature against her father, unless the same is true. It was further contended that insofar as the offence of rape under Section 376 is concerned, as also, in the case of cognate offences under Sections 3 -7- to 6 of the POCSO Act, it is well within the limits of law to rest a conviction on the sole testimony of the victim. The judgment impugned is contrary to the hypothesis of the guilt established by satisfactory evidence and therefore, perverse, liable to be overturned is the final submission of the appellant/victim. Arguments of respondents/accused:-

7. Learned counsel for respondents/accused argued in complete support of the impugned judgment and submitted that acquittal of the accused persons is the only possible conclusion based on the evidence

on record. Learned counsel submitted that the evidence of PW1 is not believable, in view of the omissions and contradictions. It was pointed out that in the F.I.S, the main aggressor is A2/the father's friend, whereas, in the evidence before Court,

the role has been interchanged, propounding A1/father as the main aggressor. Similarly, there is no allegation of fellatio as against any of the

accused persons in the F.I.S. However, in the -8- Court, PW1 developed her version to allege fellatio against both A1 and A2. It could thus be seen that the evidence of PW1/victim is wholly unsafe to rest a conviction, more so when the same is not corroborated in its material particulars by the evidence adduced by other witnesses. Learned counsel then submitted that medical evidence adduced vide Ext.P3 medical certificate issued by PW2/doctor does not support the prosecution case at all. It has been certified by PW2 that the hymen was intact and that there was no indication of any vaginal or anal penetration. Another aspect highlighted by learned counsel is the history recorded in Ext.P3 medical certificate, where it

is pertinent to note that name of A1 is not specified as the assailant. Instead, the assailant is referred to as a 38 year old male. Learned counsel thereafter invited our attention to the circumstances, which led to filing of Ext.P1 F.I.S on 14.10.2016. Ext.D1 F.I.R was registered against the first accused for offence u/s. 324 I.P.C on the basis of the statement given by his wife on

-9- 9.3.2016. The evidence would clearly demonstrate that A1 and his wife were highly inimical to each other and that several complaints were preferred against A1. It is in culmination of the same that Ext.P1 F.I.S has been caused to be lodged by the child on 14.6.2016, which itself would affect the inherent trustworthiness of the prosecution version. There is a delay of almost 1 years in lodging the F.I.S, as taken note of in Ext.P3 medical certificate. The falsity of the prosecution case is fully revealed from the fact that the alleged incident of sexual assault was not spoken to by PW1/victim either to her mother/CW1, or to her twin sister/DW2, which conduct is strange and unnatural. Another aspect pointed out by the learned counsel for the accused/respondents is that the prosecution has neither cited, nor examined the victim's mother as

a witness, which casts suspicion

-10- evidence tendered by DW2-the twin sister of PW1/victim-who deposed that this complaint has been orchestrated at the instance of their mother

and grandmother, who are seriously inimical to their A1. DW2 would categorically state that no assault, sexual or otherwise, was made against her by her father, or for that matter, by A2. Learned counsel then submitted that the presumption under Section 29 of the POCSO Act will not come to the rescue of the prosecution, unless and until the

foundational facts constituting the shift as held in David v. State of Kerala [2020

(4) KHC 717]. Finally, learned counsel submitted

that the direction in the impugned judgment to register a case under Section 22 of the POCSO Act is well nigh maintainable and very much required, in view of the rampant abuse of the provisions of the POCSO Act, even as against the father of the minor child. On such premise, learned counsel seeks to sustain the judgment as such. -11-

8. Before addressing the facts and evidence, we

will first address the scope, limitation and the principles governing an appeal against acquittal. The High Court has the power to reconsider the whole issue, reappraise the evidence, and come to its own conclusion and findings in place of the findings recorded by the trial Court, if the said findings are against the weight of the evidence on record, or in other words, perverse. In reversing the finding of acquittal, the High Court had to

keep in view the fact that the presumption of innocence stands fortified and strengthened by the

order of acquittal passed in his favour by the

trial Court. If the High Court, on a fresh scrutiny and reappraisal of the evidence and other material on record, is of the opinion that there is another view which can

be reasonably taken, then the view which favours the accused should be adopted. The High Court has also to keep in mind that the trial Court had the advantage of looking at the demeanor of witnesses and observing their conduct in the Court especially in the witness-

-12- box. The High Court has also to keep in mind that even at that stage, the accused was entitled to benefit of doubt. Unless the High Court arrives at a definite conclusion that the findings recorded by trial Court are perverse, it would not substitute its own view on a totally different perspective. The appellate Court in considering the appeal against judgment of acquittal is to interfere only when there are compelling and substantial reasons for doing so. [See in this regard: (1) Sheo Swarup v. King Emperor [AIR 1944 PC 227], (2) Noor Khan v. State of Rajasthan [AIR 1964 SC 286], (3) Khedu Mohton & Ors v. State of Bihar [(1970) 2 SCC 450], (4) C.Antony v. K.G.Raghavan Nair [(2003) 1 SCC 1], (5) Ramanand Yadav v. Prabhu Nath Jha [AIR 2004 SC 1053], (6) Chandrappa v. State of Karnataka [(2007) 4 SCC 415] and (7) Syed Peda Aowalia v. Public Prosecutor [AIR 2008 SC 2573]].

9. We will consider the prosecution evidence now. Ext.P1 is the F.I.S preferred by the victim, aged -13- 10 years, on 14.10.2016. In the F.I.S, the version of the victim/PW1 was that during the Christmas holidays, when the victim was studying in the 4 th standard, her father/A1 would take her to his room, make her lie on his cot and remove all her clothes. The first accused will examine and touch her eyes and body, as if he is checking the temperature. On the next day, a friend of the first accused came and after making her lie on the cot, he pressed and licked her breasts. Besides he

inserted his finger to her vagina and did cunnilingus thereon. When the victim opposed and cried loudly, her father/A1 tied her hands and legs to the cot by using a yellow coloured rope. Her father remained a spectator and if she cried, a towel was inserted in her mouth and secured with a tape over her lips. In the F.I.S, PW1 alleges that her father also used to do the same acts, as

done by the second accused. However, while tendering evidence before the court, it appears that the lead role has been interchanged, wherein, -14-

the main perpetrator is the father/A1. In evidence, PW1 would state that she could not go to school for almost nine months due to stomach pain. While so, on one day, when PW1 was alone in the house, A2 came there, whereupon A1/father took her to his room, made her lie in the cot and removed her clothes in the presence of A2/Suresh, who came to the room. He (A1) caressed her breasts. When she raised voice, the sounds were stifled again with a towel and tape. A1 then inserted his finger into her vagina and licked there. Similar acts were done by the second accused as well, is the version of PW1 while giving evidence.

10. While tendering evidence before the court, PW1 specifically deposed that her father/A1, as also, A2 had done fellatio on her. However, this

allegation is not seen referred to in Ext.P1 F.I.S. This omission amounts to contradiction, in as much as, the same is with respect to a material aspect of the crime, throwing serious suspicion on the version of PW1. -15-

11. Another aspect which impels us to disbelieve the version of PW1 is her strange and unnatural conduct in not disclosing the incident either to her mother or to her twin sister. According to

PW1, she told the incident to the brother and mother of her father. Her father's brother scolded her and called her a liar. Her father's mother told the incident to her father, whereupon the victim's father/A1 threatened her that her mother will be exterminated, if she divulges the incident to anybody else. Curiously, the incident is not reported to her own mother and twin sister, when admittedly, both of whom were living along with

the victim at the relevant time. PW1/victim thereafter disclosed the matter to her mother's mother, who, in turn, informed her mother, whereupon Ext.P1 F.I.S was preferred. We find the conduct to be quite strange and improbable, rendering it difficult to believe the same.

12. Yet another aspect pertains to the delay in

lodging Ext.P1 F.I.S and registering the F.I.R. -16- The victim/PW1 would not state any specific date or month on which she was molested by the accused. Ext.P1

F.I.S was given on 14.10.2016 when the victim was studying in the 5th standard. She specifically states that the incident took place while she was studying in the 4th standard, during Christmas holidays, which takes us to December,

2015. Reckoned therefrom, there is a delay of almost 10 months in lodging the F.I.S. In Ext.P1 F.I.S, the victim would state that the molestation continued till February, 2016. Thus, there is a

delay of eight months, reckoned from the last month on which the victim was allegedly molested. As per Ext.P3 medical certificate, the incident occurred 1 years back. The victim's explanation for delay is that she was threatened by her father/A1 that her mother will be done away with, if the matter is divulged to anybody. All the same, PW1 mustered courage to disclose the matter to her paternal grandmother, her father's brother and thereafter, to her maternal grandmother. We -17-

find the said explanation unsatisfactory. In the F.I.S, the version is that the incident took place during Christmas holidays, while the victim was studying in 4th standard. However, while tendering evidence before the court, PW1 would state that she could not go to school for nine months due to stomach pain and while so, on one day, the second

accused came and the incident took place. The witness does not refer to the time/period during which she could not go to school. As already

indicated, we find it strange and unbelievable that the incident was not spoken to by the victim even to her twin sister, or, for that matter, her mother. The above referred facts, coupled with the circumstances in which the victim's mother lodged Ext.D1 F.I.R against her father for offence under Section 324, followed by the instant F.I.S by the

child, would dissuade us from accepting the explanation for the delayed registration of the F.I.R. -18-

13. We will now discuss the medical evidence. On the basis of the allegation that both the children were molested by the accused, PW1 and her twin

sister (DW2) were subjected to medical examination. Ext.P3 is the certificate issued in respect of PW1, the alleged victim. The doctor was examined as PW2. She deposed that she could not find any injury on the genital part or any other external injury. No injury was found on the vagina and there was no evidence of penetration.

14. We perused Ext.P3 medical certificate. It is in the prescribed format for medico-legal examination of survivor of sexual offences and,

therefore, several parameters re

examination is either 'no injury noted' or 'nil'. Ultimately, the Doctor opines in Ext.P3 medical

certificate that there is no evidence

-19- medical evidence does not support the prosecution

version in any manner, whatsoever.

accused/father is not referred as the assailant, while recording the history. What is stated is the history of handling the breast and genitalia with fingers by 'a 38 year old male'. A further history is seen recorded as the assailant touching the lips of the child with his penis. The possible logical inference is that the assailant was not the victim's father, in which case, the reference would not have been to a 38 year old male.

15. Again, the evidence tendered by DW2, the twin

sister of the victim/PW1, is quite re

(A1) and her mother (CW1) were in inimical terms and that her mother filed 5-6 cases against her father. She would depose that Ext.P1 F.I.S was given 8 months after PW1 was taken by her mother. -20- The following evidence adduced by DW2 is quite relevant. DW2 asked her sister/PW1 about the incident, whereupon the latter told the former that the case was filed as instructed by their mother (CW1) and grandmother. PW1 also told her

that the false case can be withdrawn, if A1 conveys a landed property in favour of her mother (CW1). Further, DW2 should live along with the mother and that A1 should give Rs.25,000/- per month towards maintenance. DW2 would specifically

deny any assault, sexual or otherwise, against her. She also spoke about the divorce case pending between the mother and father, which, of course, is subsequent to Ext.P1 F.I.S. The above version of DW2 is not shaken at all in cross examination. As a matter of fact, the version of DW2 as regards filing of false case and the conditions referred above for withdrawing the same was not challenged at all in cross examination. We do take notice

that DW2 was so enthused to speak against her mother and in favour of her father. However, we are of the opinion that she would not support an -21- attempt to hush up sexual molestation, if any, meted out against her twin sister by her father. We also cannot rule out the possibility of a false case being foisted against A1 at the instance of her mother and grandmother, as suggested by DW2. This version of DW2 in fact cuts at the root of the prosecution case.

16. One another aspect to be pointed out is that the victim's mother was not offered as a witness by the prosecution. Ultimately, she was examined as a court witness (CW1 - erroneously referred to

as CW3 in the deposition sheet). According to CW1/mother, the incident of molestation was first told by PW1 to the mother of CW1, which version is inconsistent with that of PW1, who deposed that she told the incident first to the mother of A1 and then to the brother of A1. CW1 would state that she was assaulted by her husband/A1 and a case was registered for offence under Section 324 of the Penal Code. CW1 had never seen the second accused as on the date of examination. Curiously,

-22- CW1 pleads ignorance of why PW1 suffered stomach pain, which prevented her from going to school for 8-9 months. In cross examination, CW1 would state

that her daughter/PW1 is inimical with her father/A1. There was a quarrel between them about the user of mobile phone by PW1 and A1 applied nettle leaves on her

body. A1 used to quarrel with CW1 frequently. CW1 preferred another complaint in the year 2015, when the sister of first accused assaulted her. In cross, she would admit that she preferred three complaints against her husband/A1,

over and in addition to Ext.P1 F.I.S. One important aspect spoken to by CW1 is that she saw the first accused catching hold of the breasts of PW1/victim in the bathroom. However, CW1 is silent as to when she saw it, or as to what action she took thereafter. Ext.D2 and D3 are the complaints preferred by CW1 against the first accused.

17. As already indicated, withholding a crucial witness by the prosecution would cast suspicion on the prosecution case. Coupled with this, ample -23-

evidence have been adduced to show the animosity between CW1/wife and A1/husband. CW1 would admit the pendency of various complaints and proceedings between them. It is thereafter that Ext.P1 FIS was preferred by PW1, the minor child. CW1's silence over the incident where she allegedly saw A1 caressing the breasts of her daughter is something incomprehensible. The over all conduct cast serious suspicion as regards the genuineness of the prosecution case.

18. This Court found that PW1 is not a witness of sterling quality, in the touchstone of the dictum

laid down by the Hon'ble Supreme Court in Rai Sandeep V State [AIR 2012 SC 3157]. Therefore, it is unsafe to rely upon her solitary testimony to rest a conviction in respect of serious offences, as canvassed in the instant case. PW1 is a child witness. No corroborating evidence is forthcoming to support the version of PW1. An important omission regarding commission of fellatio in Ext.P1 FIS, the inherent disbelief arising from -24- the inconsistent version of PW1 in the FIS and the evidence before the Court, absence of medical

evidence, absence of father's name in Ext.P3 medical certificate as the assailant, the version of DW2 about the falsity of the prosecution case as spoken to her by PW1, the strange conduct of PW1 in not divulging the incident to her mother or

twin sister, delay in lodging the FIS, all lead to the irresistible conclusion that the prosecution failed to prove the guilt as against the accused persons beyond reasonable doubt.

19. Before parting with the judgment, we will also deal with the appellant's contention based on Section 29 of the POCSO Act. Section 29 is extracted herein below:

29. Presumption as to certain offences.- Where a person is prosecuted for committing or abetting or attempting to commit any offence under sections 3, 5, 7 and section 9 of this Act, the Special Court shall presume, that such person has committed or abetted or attempted to commit the offence, as the case may be unless the contrary is proved. -

25-

20. It is the submission of the learned counsel for the appellant based on Section 29 of the Act

that reverse burden is cast on the accused to prove that they have not committed the offences under Sections 3, 5, 7 and 9 of the Act, the only precondition being that the accused is prosecuted for committing or abetting or attempting to commit any of the offences above referred. According to the learned counsel, the accused persons herein

failed to discharge the reverse burden and therefore, they are liable to be convicted for the offences alleged. We cannot accept the above contention of the learned counsel. The argument, if accepted on its face value, is pregnant with the peril of accepting every prosecution charge, where offences under Sections 3, 5, 7 and 9 of the

Act are canvassed, irrespective of i

accused in a criminal trial and puts the onus on the accused to rebut the presumption and establish -26- his innocence. However, this presumption will operate only if the foundation to the prosecution case is laid by leading legally

admissible evidence. The statutory presumption under Section 29 cannot be understood to mean that in every case when a person is prosecuted for the specified offences, the prosecution version should be taken as gospel truth. The presumption will not mitigate the primary duty of the prosecution to establish the foundational facts constituting the offence,

which duty is static on the shoulders of the prosecution. Once the same is done, the burden shifts to the accused by virtue of Section 29 of the Act to prove that he had not committed or abetted or attempted to commit the offence, as the case may be. Our conclusions afore referred are in accord with the following judgments of the Hon'ble

Supreme Court, where presumption under various statutes have been analysed and interpreted: (1) K.Veeraswami v. Union of India [(1991) 3 SCC 655],

(2) State of Maharashtra v. Wasudeo Ramachandra Kaidalwar [(1981) 3 SCC 199], (3) Noor Aga v. -27-

State of Punjab [(2008) 16 SCC 417], (4) Kumar Exports v. Sharma Carpets [(2009) 2 SCC 513], (5) Abdul Rashid Ibrahim Mansuri v. State of Gujarat [(2000) 2 SCC 513], (6) Chandran & Others v. State of Kerala and Others [AIR 2011 SC 1594], (7) Naresh Kumar v. State of Himachal Pradesh [AIR 2017 SC 3859] and (8) Gangadhar @ Gangaram v. State of Madhya Pradesh [AIR 2020 SC 3656]. These decisions were taken note of and discussed by a learned Single Judge of this Court in Justin @ Renjith & Another v. Union of India [ILR 2020 (4) Ker 679]. To the same effect is the judgment of another learned Single Judge of this Court in David v. State of Kerala [2020 (4) KHC 717 : 2020 CrLJ 3995]. We, therefore, reject the said contention of the appellant on the legal premise. On factual premise also, we find that the accused persons have rebutted the presumption under Section 29 by virtue of the evidence and circumstances already discussed, which were given due weightage in confirming the impugned judgment. -28-

21. Even while we confirm the judgment impugned,

insofar as acquittal of the accused persons are concerned, we are of the opinion that the direction of the learned Sessions Judge to register a case against the mother of the victim

(CW1) under Section 22 of the POCSO Act is not strictly warranted. We find that it is only a mere possibility that the mother would have

instigated/orchestrated the filing of the complaint. Such doubt in our minds could enable the accused being conferred with the benefit of doubt, but it falls short of the standard required to initiate a prosecution. Therefore, it may not be apposite to direct registration of a crime as against the mother, which entails serious consequences. Secondly, we also note that the aggrieved person, namely father/A1, has not come forward with a complaint to register a case against his wife and to conduct an investigation. Instead, crime was directed to be registered suo motu by the learned Sessions Judge, which -29- according to us, is unwarranted in the given facts. Thirdly, we take note of Section 22(2) of the POCSO Act, which deals with a complaint preferred by a child, as has been done in the instant case. The Section specifically exonerates a child from being proceeded against under S.22. Section 22(3) deals with a case where a false complaint is preferred or a false information is provided against a child, so as to victimise him/her in any of the offences under the Act. Our collective conscience does not permit us to approve such a drastic step against the mother, since we are not convinced that such false complaint was given at her instance, knowing it to be false, so as to victimise the child. A mere doubt or a possibility may not justify such an action. We, therefore, set aside the said direction of the learned Sessions Judge to the District Police Chief to register a case against the mother u/s. 22 of the Act. We further invoke the power under Section 482, Cr.P.C to quash the F.I.R, if any, registered pursuant to the -30- direction of the learned Sessions Judge. To that extent, this Victim Appeal is allowed.

22. In the circumstances, Crl.A (V) No.19/2020 is allowed in part to the extent indicated above, but confirming the judgment of acquittal of both the accused persons. Sd/- K.VINOD CHANDRAN JUDGE Sd/- C.JAYACHANDRAN JUDGE jg