

## Afsal Vs State Of Kerala

**Court:** High Court Of Kerala

**Date of Decision:** Aug. 11, 2022

**Acts Referred:** Indian Penal Code, 1860 " Section 376(2)(n), 376(3), 450  
Protection of Children from Sexual Offences Act, 2012 " Section 3, 4(2), 5(l), 6(l), 33(5), 37

**Hon'ble Judges:** Dr Kauser Edappagath, J

**Bench:** Single Bench

**Advocate:** Biju Antony Aloor, K.P.Prasanth, Vishnu Dileep, Archana Suresh, Ullas U., T.V.Neema

**Final Decision:** Dismissed

### Judgement

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Dr. Kauser Edappagath, J

1. This transfer petition has been filed to transfer SC No.71/2021 on the files of the Fast Track Special Court, Perumbavoor (for short, the court

below) to any other court of competent jurisdiction in Ernakulam District.

2. The petitioner is the accused. He faces trial for the offences punishable under Sections 450, 376(2)(n), 376(3) of IPC and S.3 r/w 4(2) 5(l) r/w 6(l)

of the POCSO Act.

3. The trial of the case commenced. PW1 and PW2 were examined. The transfer has been sought on the ground that the court below was unfair

towards the petitioner while PW1 and PW2 were examined.

4. I have heard Sri.B.Aloor, the learned counsel for the petitioner and Smt.T.V.Neema, the learned Senior Public Prosecutor.

5. The learned counsel for the petitioner submitted that the petitioner apprehends that he will not get a fair trial if the case is tried and decided by the

court below. The learned counsel further submitted that the court below did not follow the procedures mandated under Sections 33(5) and 37 of the

POCSO Act. The learned counsel also submitted that the court below did not permit the counsel for the petitioner to cross-examine the witnesses

correctly and rather the court below was overenthusiastic in eliciting answers from the victim which were not even put by the prosecutor. The counsel

also pointed out that when PW2 was cross examined, the court below unnecessarily interfered in the examination.

6. The depositions of PW1 and PW2 have been produced and marked as Annexures 1 and 2. I went through the depositions meticulously. I find that all

the allegations levelled by the petitioner are unfounded. It is evident from the depositions that the court below has recorded all the relevant questions

and followed all the mandatory requirements of the POCSO Act. The allegations raised by the petitioner to transfer the case are vague in nature. I

find no substance in the transfer petition. Accordingly, it is dismissed.