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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE G.GIRISH

TUESDAY, THE 15TH DAY OF SEPTEMBER 2026 / 24TH BHADRA, 1948CRL.REV.PET NO. 998 OF 2026

CRIME NO.668/2026 OF Harippad Police Station, Alappuzha
AGAINST THE ORDER DATED 07.09.2026 IN FIR NO.668 OF 2026 OF
JUVENILE JUSTICE BOARD, ALAPPUZHA

REVISION PETITIONER/CHILD IN CONFLICT WITH LAW:

- 1 XXXXXXXXXX
 XXXXXXXXXX XXXXXXXXXXXX
- 2 XXXXXXXXXX
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- 3 XXXXXXXXXX
 XXXXXXXXXX XXXXXXXXXXXX

BY ADVS.
SRI.K.DHRUV KUMAR
SRI.K.SUDHINKUMAR
SRI.SHAKTHI PRAKASH
SHRI.HARIKRISHNAN M.S.

RESPONDENTS/STATE:

- 1 STATE OF KERALA
 REPRESENTED BY PUBLIC PROSECUTOR HIGH COURT OF KERALA,
 ERNAKULAM, PIN - 682031
- 2 CHILD WELFARE POLICE OFFICER
 HARIPAD POLICE STATION ALAPPUZHA, PIN - 690514



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BY ADVS.

SRI.ASAF ALI, DIRECTOR GENERAL OF PROSECUTION

SHRI.RASHEED C.NOORANAD, SPL.GOVERNMENT PLEADER

SMT.LALIZA.T.Y., SENIOR G.P.

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR
ADMISSION ON 15.09.2026, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

**ORDER**

The core issue involved in this Criminal Revision Petition is the legal sanctity of permitting the Special Juvenile Police Unit to have the presence of the Children-in-Conflict with Law (for short 'CCL') with them in the process of discovery of facts, in consequence of the information received from the CCL while being interviewed with the permission of the Juvenile Justice Board (for short 'JJB'). In plain words, the point is whether the procedure now being followed by the investigating agencies under the proviso to Section 23(2) of the Bharatiya Sakshya Adhiniyam, 2023 (for short 'BSA') (Section 27 of the Evidence Act), for the recovery of material objects could be made applicable to CCL, and if so, will it offend the safeguards envisaged under the Juvenile Justice Act, 2015, (for short 'JJ Act'), and the Rules framed thereunder, for the protection of CCL.

2. The allegation against the petitioners, who are CCL Nos.1 to 3 in Crime No.668/2026 of Harippad Police Station, is that they criminally trespassed into the residence of one Sivankutty Chettiyar in



the midnight of 15.08.2026 with the intention of killing that person, and strangled him to death by smothering with a bedsheet. Thereafter, CCL 1 to 3 are alleged to have committed theft of gold ornaments from the almirah of that house, and decamped. Child-in-conflict with law No.4, who is the granddaughter of the deceased, is alleged to have aided and abetted CCL Nos.1 to 3, to resort to the aforesaid crime.

3. The petitioners were apprehended on 18.08.2026 and ordered to be lodged in Observation Home. On 29.08.2026, the Investigating Officer filed an application for the release of the petitioners with him till 02.09.2026 for the collection of evidence. The presence of the petitioners was sought for the following purposes:

- i) To recover the gold ornaments which were allegedly stolen by CCL Nos.1 to 3.
- ii) To collect evidence from the place of occurrence.
- iii) To recover the sim card used by the CCLs in connection with the commission of the crime.
- iv) To recover the dress worn by CCL Nos.1 to 3 at the time of commission of crime.



v) To recover the hand gloves used by CCL Nos.1 to 3 and to find out the place from where they purchased it.

vi) For the identification of the CCLs by the driver of the autorickshaw in which they had travelled shortly before the commission of the crime, and by other witnesses.

vii) To ascertain whether any other offenders had helped the CCLs in the commission of the crime.

viii) To obtain the details of the social media accounts and passwords of the CCLs.

ix) For taking the fingerprints of the CCLs.

4. In the above application of the Investigating Officer, the JJB passed an order on the same day. In the aforesaid order, the JJB observed that the details of any other accused involved, the details of the social media accounts and information about the purchase of gloves and its disposal, information with respect to the stolen gold ornaments, information as to the sim card, information about the dress worn by the CCLs at the time of crime, etc., could very well be obtained by the Special Juvenile Police Unit (for short 'SJPU'), by interviewing the children. Accordingly, the SJPU was directed to interview the children in



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a child friendly atmosphere at the premises of the Observation Home in the presence of the Legal Cum Probation Officer (for short 'LCPO'). The LCPO was directed to file a report before the JJB about the interview conducted by the SJPU. The fingerprints of the CCLs were permitted to be taken in the presence of the Superintendent of the Observation Home. The JJB further observed in the said order that the identification of the CCLs by the autorickshaw driver and the other witnesses could be done in the premises of the Observation Home in a child friendly atmosphere in the presence of a Magistrate. The decision on the request for taking the CCLs for recovery of the material objects was deferred pending the completion of the proposed interview. Accordingly, the interview was permitted to be conducted from 2:00 p.m to 4:45 p.m on 29.08.2026 with strict conditions to avoid any sort of embarrassment to the CCLs.

5. When the matter was again taken up for consideration by the JJB on 31.08.2026, the Investigating Officer sought extension of time for interviewing CCLs 1 to 3. The above request of the Investigating Officer was allowed by the JJB, and the time fixed for the interview of CCLs 1 to 3 was extended from 10:00 a.m to 1:00 p.m and



2:00 p.m to 5:00 p.m on 01.09.2026, with appropriate safeguards to protect the interests of the CCLs.

6. Thereafter, on 07.09.2026, the JJB passed the impugned order permitting escorted movement of CCLs 1 to 3 since the Investigating Officer found it necessary to have the presence of the above CCLs to gather further particulars regarding the incident on the basis of the information received from them during the course of interview. The Investigating Officer sought the presence of CCLs 1 to 3 due to the following reasons:

(a) CCL No.1 stated that the apparel he wore at the relevant time is kept under the cot in his room at his residence, and that he left the gloves near an EV charging station between Haripad and Haripad railway station.

(b) CCL No.2 stated that they purchased three sets of gloves and masks from a medical store situated between Haripad railway station and the KSRTC bus stand. He further stated that he knows the location and will point it out, and that he kept the gloves and masks in his pocket and threw them out while travelling on a train.



(c) CCL No.3 stated that the gold ornaments, spray, and hair gel were brought to his home in a side bag; that the spray and hair gel are kept in the almirah at his home; and that the apparel he wore at the time of occurrence, is kept in a cardboard box under the cot in his house.

(d) The CCL Nos.1 to 3 had entered a house under construction to conspire, and they could point out the location of that house.

7. Accordingly, the JJB imposed the following 13 safeguards to be taken care of by the authorities concerned while undertaking the escorted movement of the CCLs 1 to 3 for the purpose of collection of evidence:

i) The LCPO and the Child Welfare Officer (Observation Home) shall assist the children during movement, and the LCPO shall submit a report in that regard.

ii) The children shall not be physically or mentally tortured by the SJPU.

iii) Permission is granted strictly for the four purposes mentioned as (a) to (d) hereinabove.



iv) The CCLs shall not be taken together to any location, and adequate safeguards must be put in place to protect the privacy of the children.

v) The CCLs shall be transported in a vehicle other than Government vehicle, and Officers of the SJPU shall not wear uniforms, identifying tags or similar insignia during the escorted movement.

vi) The children shall not be exposed to the public, nor shall anyone be permitted to take their videos or photographs.

vii) Care must be taken to ensure that media reporters or persons involved in publishing news on social media are not permitted near the proceedings.

viii) It shall be the responsibility of the SJPU to protect the children from any potential physical or mental harassment or attacks from any person.

ix) The escorted movement must be conducted, to the maximum extent possible, away from public view.

x) Considering the nature of the case and the need to protect the privacy of the children, the date and time of escorted movement are not explicitly specified in the order. They will be communicated privately



to the petitioner, LCPO, Child Welfare Officer (Observation Home) and the counsel for the CCLs. All named parties are strictly prohibited from divulging these details.

xi) No media outlet shall disclose the identity of the children in conflict with law in any manner, during the entire proceedings before the JJB, as stipulated under Section 74 of the JJ Act.

xii) The children shall be provided with adequate refreshments and water during the transit.

xiii) A medical examination of each child by a qualified medical officer shall be conducted before the CCLs are removed from the Observation Home and upon their return to the Observation Home.

8. Heard the learned counsel for the revision petitioners, and the learned Director General of Prosecutions representing the State of Kerala.

9. At the very inception of the arguments, the learned counsel for the petitioners submitted that the JJB passed the impugned order without an application from the Investigating Officer, and thus it could be seen that the impugned order is inherently defective. There is absolutely no basis for the challenge in the above regard. It is to be



noted that in the application dated 29.08.2026 of the Investigating Officer, seeking the presence of the CCLs for the collection of evidence, the JJB passed three orders in succession over a period of 7 days. It was made clear in the first order dated 29.08.2026 that the request for taking the CCLs for the recovery of MOs will be considered after perusing the records of the interview permitted by that order. It was further directed in the aforesaid order that the matter will be taken up again on 31.08.2026 for considering the other requests. However, on 31.08.2026, the JJB had extended the time fixed for the interview of the CCLs upon the request of the Investigating Officer. In the said order also, the JJB made it clear that the matter shall again be taken up on 05.09.2026. It is after considering the results of the interview conducted upon the CCLs, that the JJB looked into the question whether the escorted movement of the CCLs is liable to be ordered for the collection of evidence, and accordingly, passed the impugned order on 07.09.2026. Thus, the argument that the impugned order was passed without an application from the part of the Investigating Officer, is totally unfounded.



10. Relying on the non-obstante clause of Section 1(4) of the JJ Act, the learned counsel for the petitioners argued that the procedures of investigation against a CCL shall be confined to the matters provided under the JJ Act, and that a procedure which is not contemplated under the JJ Act could not be adopted in the course of investigation of a crime against a CCL. It is thus pointed out that the recovery of material objects with the assistance of the accused, on the basis of the custodial interrogation of the accused, as provided under the proviso to Section 23(2) of the BSA (Section 27 of the Evidence Act) is a procedure alien to JJ Act, and hence the JJB ought not have passed the impugned order.

11. With regard to the above argument, it has to be stated that the non-obstante clause under Section 1(4) of the JJ Act cannot be interpreted in such a manner as to oust a procedure of law which was omitted to be included in the said Act. For the sake of convenience and easy reference, Section 1(4) of the JJ Act is extracted hereunder:

"1(4) Notwithstanding anything contained in any other law for the time being in force, the provisions of this Act shall apply to all matters concerning children in need of care and protection and children in conflict with law, including — (i) apprehension, detention, prosecution, penalty or imprisonment, rehabilitation and social



re-integration of children in conflict with law; (ii) procedures and decisions or orders relating to rehabilitation, adoption, re-integration, and restoration of children in need of care and protection. "

12. The net effect of the above provision is that if the JJ Act provides the provisions relating to any matter, including the provisions for the apprehension, detention, prosecution, penalty or imprisonment, rehabilitation and social integration of the CCL, and the procedures and decisions for orders relating to rehabilitation, adoption, reintegration and restoration of children in need of care and protection, then there would be no applicability for the provisions of law elsewhere in respect of the aforesaid matters. It is not possible to stretch the above provision of law to such an extent to derive a conclusion that a procedure of law which is not contemplated under the JJ Act, cannot be invoked in respect of the matters relating to CCLs. The pith and substance of the above said non obstante clause is that the principles of law embodied in the JJ Act for the care and protection of children, have to be applied on all matters relating to CCLs and children in need of care, irrespective of the fact whether such matters are covered by the JJ Act or not. Therefore, there is absolutely no bar in adopting a procedure of law not contemplated



under the JJ Act in respect of a matter relating to CCL if the cardinal principles of law enshrined in the said Act for the care and protection of children are strictly adhered to. In that view of the matter, the argument advanced by the learned counsel for the petitioners against the applicability of the procedures of law not contemplated under the JJ Act to CCLs, cannot be accepted.

13. The JJ Act creates a special procedural regime for a CCL. Section 10 of the JJ Act contemplates apprehension of the child and production before the JJB, but importantly provides that a child shall not be placed in a police lock-up or lodged in jail. The statutory scheme therefore does not abolish investigation; rather, it regulates how the child is to be dealt with during investigation. Where the offence is a heinous offence and the child is between 16 and 18 years, Section 15 of the JJ Act provides for the Board's preliminary assessment regarding:

- (i) the child's mental and physical capacity to commit the offence;*
- (ii) the child's ability to understand the consequences of the offence; and*
- (iii) the circumstances in which the offence was allegedly committed.*



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14. Thus, the JJ Act itself recognises that a child may be investigated for a serious/heinous offence and provides a special mechanism for dealing with such cases. There is no provision in the JJ Act which creates immunity from investigation merely because the accused is a child. Indeed, the Rules themselves contemplate investigation material being collected and placed before the Juvenile Justice Board. There is absolutely no bar in conducting investigation in accordance with the procedures of the Bharatiya Nagarik Suraksha Sanhita, 2023 and the BSA, into an offence committed by CCL, but the precaution to be taken is that the process of such investigation shall not infringe the safeguards contained in the JJ Act to protect the interest of CCL.

15. The request of the Investigating Officer seeking escorted movement of CCL 1 to 3 for the purpose of discovery of facts relating to the disposal and keeping of material objects related to the crime, is opposed by the learned counsel for the petitioners on two grounds. Firstly, it is contended that there is absolutely no scope of applicability of the proviso to Section 23(2) of the BSA since a CCL cannot be handed over to the custody of a Police Officer, and nor could there be a



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custodial interrogation under any circumstances. According to the petitioners, the bar contained in the proviso to Section 10 of the JJ Act, against placing a CCL in police lockup, or lodging in jail, makes it mandatory for the authorities concerned to reject requests for police custody of CCL. Thus, it is pointed out that the interview of CCL Nos.1 to 3 by the Investigating Officer at the premises of the Observation Home in the presence of LCPO, cannot be termed as a custodial interrogation within the meaning of the proviso to Section 23(2) of BSA. Secondly, it is argued that if escorted movement of the CCLs is permitted for the discovery of facts on the basis of the information received from their interview, it would virtually amount to handing over the CCLs to the custody of the Police Officer, which is forbidden by the JJ Act and the Rules made thereunder.

16. The argument advanced by the learned counsel for the petitioners in the above regard is not in consonance with the settled principles of law governing the scope and ambit of the term 'custody' contained in the proviso to Section 23(2) BSA and Section 27 of the Evidence Act. It is well-settled that a formal arrest and an absolute confinement of the accused to the bounds of the Police is not an



inevitable requirement of custody as contemplated in the aforesaid provisions of BSA and the Evidence Act. The term "accused" in Section 27 has been given a functional, not formalistic, interpretation. Courts have applied Section 27 to persons who are technically not yet charge-sheeted, persons in informal custody, and persons who are being questioned as suspects. The CCL, when apprehended for an offence and in the effective control of the SJPU or Investigating Officer, even at the time when he is interviewed with the permission of JJB, is functionally in a position analogous to an accused for the purposes of evidence law, even if the JJ Act avoids that label for its own reformatory purposes.

17. While dealing with the scope and meaning of the term 'custody' envisaged under Section 27 of the Evidence Act, it has been held by the Hon'ble Supreme Court in ***Dharam Deo Yadav v. State of U.P. [(2014) 5 SCC 509]***, as follows:

"22. *The expression "custody" which appears in Section 27 does not mean formal custody, which includes any kind of surveillance, restriction or restraint by the police. Even if the accused was not formally arrested at the time when the accused gave the information, the accused was, for all practical purposes, in the custody of the police. This Court in State of A.P. v. Gangula Satya*



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Murthy [(1997) 1 SCC 272 : 1997 SCC (Cri) 325] held that if the accused is within the ken of surveillance of the police during which his movements are restricted, then it can be regarded as custodial surveillance. Consequently, so much of information given by the accused in "custody", in consequence of which a fact is discovered, is admissible in evidence, whether such information amounts to a confession or not."

18. The aforesaid interpretation made by the Apex Court on the scope of the expression 'custody', has been followed by the Hon'ble Supreme Court very recently in **Rohit Jangde v. State of Chattisgarh [AIR 2026 SC 1095]**. Going by the meaning of 'custody' emulated by the Hon'ble Supreme Court in the aforesaid decisions, the interview of the CCLs conducted by the Investigating Officer has to be termed as a minimised and diluted form of custodial interrogation adopted in conformity with the principles of JJ Act to avoid any indignity or mental trauma upon the above children. In this context, it is pertinent to refer to Rule 8 (3)(v) of the Juvenile Justice (Care and Protection of Children) Model Rules, 2016, which reads as follows:

"3. The police officer apprehending a child alleged to be in conflict with law shall:

(i) xxx xxx xxx



(ii) xxx xxx xxx

(iii) xxx xxx xxx

(iv) xxx xxx xxx

(v) not compel the child to confess his guilt and he shall be interviewed only at the Special Juvenile Police Unit or at a child-friendly premises or at a child friendly corner in the police station, which does not give the feel of a police station or of being under custodial interrogation. The parent or guardian, may be present during the interview of the child by the police;

(vi) xxx xxx xxx

(vii) xxx xxx xxx"

A reading of the aforesaid provision of law would reveal that the interview of a child by the SJPU, even in a Police Station, is not prohibited if it is done at a child friendly corner of the Police Station, which does not give the feel of a Police Station, or of being under custodial interrogation. Thus, the precaution to be taken by the SJPU is that the children interviewed at the Police Station shall not have the feel of being subjected to custodial interrogation. Therefore, what the law prohibits is not the custodial interrogation of children as such, but the adverse impact a crude form of custodial interrogation might cause upon the minds of the children. That being so, the interview of the CCLs 1 to 3 conducted by the Investigating Officer at the Observation Home



in the presence of LCPO, has to be taken as the custodial interrogation conducted in strict conformity with the principles of JJ Act and the Rules framed thereunder to ensure that no adverse impact is caused upon the tender minds due to such interrogation. When viewed in the above perspective, the argument that the interview of the CCLs cannot be termed as custodial interrogation for the applicability of the proviso to Section 23(2) of BSA, is devoid of merit. It has to be stated here that the prohibition against placing the CCLs in police lockup and jail, contained in the proviso to Section 10 of JJ Act, would in no way interdict an interview conducted in child-friendly atmosphere, and the controlled and non-invasive escorted movement intended to be undertaken in the presence of LCPO and Child Welfare Officer. The second objection raised by the learned counsel for the petitioners against the escorted movement of the petitioners for the reason that it would virtually amount to handing them over to Police custody, is also unsustainable for the very same reason stated hereinabove about the precautions which the authorities concerned are bound to take to avoid indignity and mental trauma upon the children while being escorted by Police Officers for the purpose of the recovery of Material Objects.



Escorted movement of the CCLs is not a procedure unknown to the JJ Act and Rules. Section 95(2) and 95(3) of the JJ Act provides for escorted movement of the CCLs in connection with transfer of the CCLs from one JJB or Child Welfare Committee to another JJB or Child Welfare Committee. The same process could be adopted in the collection of evidence as well. The additional requirement ordered by the JJB to have the throughout presence of LCPO and Child Welfare Officer during the escorted movement of the CCLs, would rule out the apprehension of harassment or coercion on the part of the Investigating Officer. Therefore, the objections raised by the petitioners against their escorted movement ordered by the JJB, are totally unfounded.

19. The learned counsel for the petitioners argued that the escorted movement of the petitioners intended to be undertaken by the SJPU would, in effect, subject the petitioners to public gaze resulting in the revelation of their identity, and thereby violate the mandate of Section 74 of the JJ Act. According to the learned counsel, the above course of procedure would create a stigma portraying the petitioners as criminals even before the JJB undertakes the preliminary assessment



under Section 15 of the JJ Act as to the mental and physical capacity of the petitioners to commit the offence alleged. The above argument of the learned counsel for the petitioners also cannot be accepted since the apprehensions raised thereunder are, to a great extent, speculative and unfounded. It is true that the petitioners cannot be taken out of the Observation Home to the places concerned from where evidence is sought to be collected without being seen by any person. But, at the same time, the Police could take appropriate steps to avoid onlookers gathering at those places and viewing the procedures being undertaken with the presence of the CCLs. This does not mean that the procedures in the above regard are to be undertaken in a secret or clandestine manner. The authorities concerned are also not expected to undertake the process at odd hours to minimize the inconvenience that might be caused to the general public by imposing any restrictions. The escorted movement of the CCLs has to be done after sunrise and before sunset, but the days on which it is undertaken shall be preferred with due regard to avoid a crowded situation. As regards the precautions to be taken to avoid media attention and chances of social media activists assembling there, the JJB had issued strict directions in the order dated



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07.09.2026. The 13 conditions imposed by the JJB in the aforesaid order are sufficient to take care of the CCLs from being rendered objects of the gaze of onlookers, and thereby subjecting them to social stigma, as apprehended by the learned counsel for the petitioners. So also, the JJB had rightly taken the precaution to avoid publication of the date and time of escorted movement in advance to prevent the chances of persons assembling there to see the CCLs. Therefore, the argument advanced by the learned counsel for the petitioners in the above regard, is totally unsustainable.

20. In the light of the discussions aforesaid, I find no reason to interfere with the impugned order passed by the JJB.

In the result, the revision petition is hereby dismissed.

(sd/-)

G. GIRISH, JUDGE

jsr/DST