News



Bishop Franco Mulakkal of Jalandhar arrives at court in Kottayam, Kerala, on Nov 30, 2019, to stand trial in the rape of a nun. (M.A. Salam)



by Saji Thomas

Contributor

View Author Profile

Join the Conversation

Kochi, India — November 23, 2021

Share on BlueskyShare on FacebookShare on TwitterEmail to a friendPrint

After rigorous public charges of foul play and sabotage, Kerala's High Court in Kochi Nov. 20 overruled a move to transfer the trial judge from the high-profile case against a bishop in the alleged rapes of a nun.



Bishop Franco Mulakkal of Jalandhar arrives at court in Kottayam, Kerala, on Nov 30, 2019, to stand trial in the rape of a nun. (M.A. Salam)

Critics said the transfer of Judge G. Gopakumar, announced Nov. 12, would have stymied the completion of the three-year-old case against Bishop Franco Mulakkal of Jalandhar Diocese that oversees the accuser's convent.

Gopakumar, who heads the district trial court in Kottayam, was the first to reject the bishop's attempts to dismiss the case against him. Mulakkal's subsequent appeals to the appellate High Court and the Supreme Court in New Delhi were also denied. For months, trial proceedings have been closed to the public and news coverage is forbidden.

"The trial is in the final stage, and transfer of the judge at this stage is no doubt a body blow to the case. We are happy that the [state's] top court has considered our demand," Fr. Augustine Vattoly, said, calling the transfer timing abnormal. Vattoly, a priest in the Ernakulam-Angamaly Archdiocese, is a supporter of the survivor and five nuns who stay with her.

The Kerala government, with High Court approval, directed Gopakumar to take a new post in Thiruvananthapuram, the state capital, 90 miles south of Kottayam. The High Court's weekend order requires that Gopakumar complete the trial before a transfer can take effect.

The rape survivor and both her supporters and Mulakkal's had urged the court to keep Gopakumar in place to finish the rape trial.

A Supreme Court of India lawyer said that removing a judge partway through a rape trial is at odds with judicial directives and that "transferring him close to final argument of this internationally known case is not justified."

Bishop Mulakkal of Jalandhar in the northern Indian state of Punjab is on trial, accused of raping a former superior general of the Missionaries of Jesus, a diocesan congregation under his patronage.

The nun, in her complaint to the police, alleged that the prelate had raped her 13 times from 2014 to 2016 in the congregation's convent in Kuravilangad, a village under the Kottayam district.

A government official who declined to be named said the trial has reached a final stage, having completed the testimonies of close to 40 witnesses. A few police investigators in the case will give testimony and undergo cross-examination by the end of the month.

The case has 84 witnesses, including Cardinal George Alencherry, head of the Syro-Malabar Church, and a few other bishops, priests and nuns. The court dropped half of them, identifying their testimonies as identical to others already on record.

After the testimony ends, the court is expected to read out its findings to the accused and ask him to respond. The court will grant the accused the opportunity to put forth any special witnesses for examination. The prosecution and defense will then argue their cases and the court will give its verdict.



In this September 2018 file photo, Missionaries of Jesus and supporters stage a sit-in near the High Court of Kochi in the southwestern Indian state of Kerala, demanding the arrest of Bishop Franco Mulakkal of Jalandhar. (Saji Thomas)

“The court was conducting the trial regularly without any complaint from both sides. The judge's transfer when the court is about to give its verdict looks very fishy,” said Shaiju Antony, the current convener of Save Our Sisters.

Antony suspects that Catholic Church leaders influenced the judge's transfer to save the accused bishop. "They have taken the case as a prestige issue," with far-reaching consequences for the church, Antony told GSR.

A new judge in the case would have missed live testimony and be able to rely only on documents, he said. "This process will take several months. The rape victim and her five colleagues will be forced to remain in police protection until the verdict."

Antony also warned that the transfer was "a well-orchestrated conspiracy to delay the trial and make the survivor and companions lose their hope and be forced to

disintegrate."

The rape survivor and her supporters stay in the Kuravilangad convent.

They and Sr. Lissy Vadakkel, a member of the Franciscan Clarist Congregation and the first witness in the case, are under round-the-clock police protection following alleged threats from Mulakkal and his supporters.

Felix Pulludan, president of the Joint Christian Council that launched a public protest in September 2018 with Save Our Sisters to demand Mulakkal's arrest, said the judge was being transferred because the accused is expected to be convicted.

The protest that began Sept. 8, 2018, near the Kerala High Court in Kochi, led to Mulakkal's arrest two weeks later. The High Court released him on bail on Oct. 15, 2018.

"We had written to Kerala Chief Minister Pinarayi Vijayan and the judges of the Kerala High Court urging them to allow the judge to continue in the same court until the trial is completed," Pulludan told GSR.

"We are grateful to the High Court for considering our demand," he added.

The rape survivor also has reportedly written to the High Court's registrar general pleading to retain the judge until the trial is completed. She also had expressed her deep anguish over the judge's transfer.

Her spokesperson, Sr. Anupama Kelamangalath, refused to comment when contacted by GSR.

"If the trial goes uninterrupted, the court will pronounce its verdict in less than two months," Pulludan said.

Even Mulakkal's supporters want the judge to be retained until the final order.

"We want the judge to continue until the pronouncement of the order," P.P. Chacko, the bishop's brother-in-law and close supporter, told GSR.

Chacko dismissed the allegation that church leaders influenced the transfer, calling it "a blatant lie" that "stems from their fear of losing the case." He said he is sure Mulakkal will be exonerated.

The judge had banned media from reporting the trial proceedings, granting Mulakkal's March 2020 request. Only the victim, the defendant, their lawyers and police officers handling the case are allowed inside the court.

Advertisement

Riju Kanjookaran, a Save Our Sisters official, points out that judges are generally transferred during April and May. "This time, the government in consultation with the High Court transferred nine judges, with seven getting promotions. Judge Gopakumar is not promoted and his replacement has not been made," he told GSR.

He said the other judges were transferred "as part of a strategic move to shift Gopakumar to weaken the trial of the Mulakkal case."

Asked if the judge's transfer will affect the remaining trial, special public prosecutor Jithesh J. Babu told GSR, "I cannot make any comment about the trial as it is in-camera [closed to the public]."

Govind Yadav, a lawyer practicing in the Supreme Court of India, says the transfer goes against the top court's orders.

Several previous orders of the Supreme Court maintained that a judge who presides over a rape case trial should not be transferred unless serious charges are made against the judge.

"In this case, nobody has raised any question mark about the credibility of the judge. Therefore, transferring him close to final argument of this internationally known case is not justified," Yadav told GSR.

The Kerala government, he added, has not given a reason for the judge's transfer.

The top court insists that in a rape case a judge who examines the accuser, the accused and other witnesses should pronounce the verdict because he or she can observe their body language and conclude if they are lying or speaking the truth.

"During such a trial, the judge writes down on record if the rape survivor is weeping or profusely weeping, unable to speak, among other expressions that help understand the real picture," Yadav explained.

A successor who would see only the documents would not understand the survivor's pain, which could result in the miscarriage of justice, Yadav asserted.

This story appears in the **Bishop Mulakkal trial** feature series. View the full series.