News



A front view of the Additional District and Sessions Court in Kottayam, Kerala, India, where a not-guilty verdict was pronounced Jan. 14 in favor of Jalandhar Bishop Franco Mulakkal, accused of raping a nun multiple times (M.A. Salim)



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The recent acquittal of a Catholic bishop in the historic nun rape case is seen as a litmus test of the Indian Catholic Church's efforts to end clergy abuse.

The supporters of the acquitted prelate, Franco Mulakkal of Jalandhar, hail the verdict as the church's victory against enemies they say have used the case to attack the church in general and its insistence on celibacy despite the laws of nature.

The accuser's supporters and others view the acquittal as a deterrent for women religious to come forward and demand justice in cases of abuse by clergy.

The prosecution lawyers and the accuser's supporters are preparing to appeal the acquittal in the high court of Kerala, a southwestern Indian state, alleging that the verdict was a "travesty of justice" and "judicial impropriety" that exposed the underbelly of India's patriarchal system.

On the prosecution's move to appeal the verdict, C.S. Ajay, a lawyer on Mulakkal's defense team, says the appellate court is unlikely to reverse the order unless the prosecution can prove that the finding of the trial court is perverse. "I don’t think any such situation exists in this case," he told GSR, adding "unlike a convicted position, an acquitted accused is much stronger when it comes to appeal."

Meanwhile, several Christian women's groups, including nuns' forums, have expressed solidarity with the accuser and her supporters and pleaded with church leaders to reach out to them in sympathy.



Bishop Franco Mulakkal, flanked by relatives, including, at right, his brother-in-law P.P. Chacko, goes to his car parked inside the compound of the Additional District and Sessions Court in Kottayam, Kerala, India, where he was acquitted on Jan. 14 of charges of raping a nun. (M.A. Salim)

Bishop Mulakkal, the first Catholic bishop in India to be accused of rape, was acquitted Jan. 14 by a trial court judge in Kottayam town, who said the prosecution had failed to prove the prelate's guilt. The court also dismissed the testimonies of the accuser and 38 other prosecution witnesses, including a cardinal, two bishops, and several nuns and priests, as unreliable and contradictory.

The case began June 2018 when the accuser, a former superior general of the Missionaries of Jesus, a congregation under the Jalandhar diocese, filed a police case against Mulakkal alleging that he had subjected her to rape and other forms of sexual abuse multiple times from 2014 to 2016.

However, G. Gopakumar of Kottayam's Additional District and Sessions Court found it "not feasible to separate truth from falsehood, when grain and chaff are

inextricably mixed up. The only available course is to discard the evidence in toto," the judge said in his 289-page verdict.

"In the said circumstances, this court is unable to place reliance on the solitary testimony of rape victim and to hold the accused guilty of the offences charged against him. I accordingly acquit the accused of the offences," the judge wrote.

Gopakumar agreed with the defense contention and said, "The survivor cannot be regarded as a sterling witness. She had given inconsistent and mutually contradictory versions before various authorities." The court also criticized her for not providing her cellphone and computer disc that apparently had evidence against the bishop. She told the court she had discarded them.

However, some legal experts find the verdict faulty.



C. S. Ajay, center, a member of the legal defense team of Bishop Franco Mulakkal of Jalandhar, talks to reporters Jan. 14, 2022, about the acquittal of the prelate in the historic nun rape case by a trial court in Kottayam, Kerala. (Saji Thomas)

"I categorized it as a miscarriage and failure of justice, but the ramifications can be equated with a legal tsunami," warns Michael F. Saldanha, a former judge on the High Courts in Bombay and Karnataka who has followed the case from the beginning.

The bishop's acquittal has "evoked universal reaction of horror, repugnance, shock and fury globally," Saldanha told GSR in an email.

The facts of this case "are so repulsive that they have made a mockery of our justice dispensation system, but above all, are intolerable to any right-thinking human being," he added.

Saldanha recalled Mulakkal's attempts to get the case dismissed without going to trial. That petition was dismissed by the same trial court, saying the case had merit. This was upheld by appellate courts —Kerala High Court and the Supreme Court of India —when Mulakkal appealed.

Manu Sebastian, a lawyer, finds strange the trial court's admission of its inability to differentiate between "seed and chaff" from the testimonies of the accuser and other prosecution witnesses.

"It is the duty of the court to find out seed and chaff in the case, but it has failed to extract the element of truth and denied justice to the survivor," Sebastian said during a Jan. 22 webinar on the Mulakkal case organized by Forum of Religious for Justice and Peace, a group of progressive Catholic sisters, brothers and priests.

In the same webinar, Rebecca M. John, a criminal lawyer practicing in the Supreme Court, described the verdict as "a travesty," which "put the victim on trial instead of the accused." The verdict, she added, has "overturned the criminal law jurisprudence" and "completely disregarded the law of the land."

John also bemoaned that the trial court went about nitpicking and disbelieving the victim "in a way which is impermissible in law." The evidential value of a rape survivor, she explained, is different from other criminal cases and the court has failed to appreciate it, especially the fact that, as a superior in a diocesan congregation, the accuser was under a fiduciary relationship with the accused.

Both lawyers pointed out that the trial court ignored India's settled laws on rape cases. The Supreme Court and high courts of various states have convicted rape

defendants relying on the testimonies of the accusers, they explained.

The latest such verdict was Dec. 1, 2021, when the Supreme Court upheld the conviction of Phool Singh, a Madhya Pradesh man accused of rape, based on the testimonies of the survivor in the absence of a supportive medical certificate or other collaborative evidences.

The Supreme Court said that in a case of rape, no self-respecting woman would come forward just to make "a humiliating statement against her honor." It also warns courts not to overlook the "inherent bashfulness of the females and the tendency to conceal outrage of sexual aggression" while dealing with rape cases.

On the other hand, some church-backed publications, channels and social media platforms in Kerala have tried to discredit the accuser and her supporters and project Mulakkal as a victim of a conspiracy and revenge.

Kennedy Karimbinkalayil, a Mulakkal supporter, sees the acquittal as "a very crucial verdict in favor of the Catholic Church."

The Catholic layperson, frequently featured as a Mulakkal defender on television debates where he questioned the moral standing of the accuser and her supporting sisters, suspects "a very deep and well-orchestrated conspiracy" by the church's enemies to attack Catholic priests and nuns. Karimbinkalayil was charged in 2020 with defamation of the accuser and her supporters and has been released on bail.



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. Mulakkal is accused of raping a sister in their congregation. (Saji Thomas)

He questions the presence of Muslim women September 2018 when the accuser's companions and supporters staged a sit-in near the Kerala High Court demanding Mulakkal's arrest. "The same women were seen in a protest against the court verdict," alleges Karimbinkalayil, insinuating Islamic fundamentalists had a hand in the nun rape case.

He rejected the allegation that church leaders had influenced the court decision. "If they wanted to change the course of justice, they could have done it, but the fact is that none of the 39 prosecution witnesses had turned hostile during the trial," he told GSR over the phone. He asserted that the church had remained "totally neutral" in the case.

Kerala, where Muslims make up 26% and Christians 18% of the population, has seen the Catholic Church and some Muslim groups at loggerheads.

Some Muslims have recently filed a police case against a Catholic bishop who had accused unnamed groups of resorting to "narcotic jihad" and "love jihad" to destroy young Christians.

Julio Ribeiro, a former top police officer in Punjab, says the verdict was justified.

"A trial judge has to determine if the accused arraigned before his court is guilty of an offence punishable by law. He does not and cannot sit in moral judgment like most interested citizens are wont to do," Ribeiro asserts in his article, "Guilty of cardinal sin," on the website of The Tribune newspaper published from Chandigarh, the capital of Punjab.

The 92-year-old, who describes himself as a practicing Catholic, says a trial court has to judge if a law has been breached and not "adjudicate on charges of moral turpitude" of the bishop, which only the ecclesiastical courts in Rome should scrutinize.

Amid such diverse arguments, the Catholic Bishops' Conference of India, the church's public face, continues to keep its steady silence even after the verdict. The past three years have seen laity groups, women, including nuns, and civil society pressing the conference to act on the case based on its own guidelines to address sexual harassment in church institutions. Mulakkal had stepped aside from his pastoral duties on his own before he appeared for police questioning in Kerala in September 2018.

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However, another prominent church group broke its silence on the rape case to express solidarity with the accuser and her supporters and urge Cardinal Oswald Gracias, the head of the bishops' conference, to reach out to them "in whatever way possible, including financial, spiritual and psychological."

In its Jan. 20 letter to Gracias, the Conference of Religious India, the national body of religious sisters, brothers and priests, commends the "prophetic role" of the accuser's supporters, who raised their voice against "an unjust and appalling

system, within the Church."

The letter also pointed out that from the beginning of the case, the accuser and her companions were subjected to all kinds of innuendos and insults. Hardly any church authorities supported them, it added.

The verdict has upset those fighting clergy abuse in the Indian church.

"A dastardly verdict and a day of mourning for the church," Missionaries of Christ Jesus Sr. Noella de Souza told GSR soon after the verdict.

De Souza, a member of a team that in 2019 and 2020 surveyed women religious superiors on the clergy abuse issue in India, views the verdict as an example of the church conniving with the state "to suit its own purpose." The patriarchy has "pitched in for good measure" to get the favorable verdict, she adds.

De Souza stresses the need for women's groups and others to offer the accuser and her companions “our solidarity in every possible manner.” She also says no nun would cry "rape" without a compelling reason.

Observing that the accuser is a former superior general of a congregation, De Souza asserts, "Everyone is not voted in as superior general. It takes a person with much wisdom and balance to reach there." She vouches for the good conduct of the accuser, the longest-serving leader of her congregation.

The sister in the case served two terms as superior general of the Missionaries of Jesus, after which she was transferred to be superior at the Kuravilangad, Kerala, convent where she alleged the rapes began in 2014.

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