

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

WEDNESDAY, THE 21<sup>ST</sup> DAY OF MAY 2025 / 31ST VAISAKHA, 1947

CRL.REV.PET NO. 295 OF 2015

AGAINST THE COMMON ORDER DATED 09.01.2015 IN  
CRL.M.P.NOS.6047/2014 AND 6392/2014 IN SC NO.371 OF 2013 OF 1ST  
ADDITIONAL SESSIONS COURT, THALASSERY

REVISION PETITIONER/ACCUSED:

SANTHOSH KUMAR N.P.  
AGED 53 YEARS,  
S/O.AMBU, BUSINESS, 'RAMA NILAYAM', THANA,  
KANNUR DISTRICT.

BY ADVS.  
SRI.GEORGE MATHEWS  
SRI.M.REVIKRISHNAN  
SRI.T.T.RAKESH  
SRI.T.RAMESH BABU  
SRI.P.VIJAYA BHANU SR.  
SRI.VIPIN NARAYAN

RESPONDENTS/STATE & DEFACTO COMPLAINANT:

- 1 STATE-STATION HOUSE OFFICER,  
KADIRUR POLICE, TELlicherry, KANNUR DIST., REPRESENTED  
BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA.
- 2 XXX  
BY ADV ABHILASH A J  
BY PUBLIC PROSECUTOR SRI T.S.JIBU

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON  
04.04.2025, ALONG WITH CRL.MC.1221/2015, THE COURT ON 21.05.2025  
DELIVERED THE FOLLOWING:



Cr1.R.P.295/2015 &  
Cr1.M.C.No.1221/2015

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

WEDNESDAY, THE 21<sup>ST</sup> DAY OF MAY 2025 / 31ST VAISAKHA, 1947

CRL.MC NO. 1221 OF 2015

AGAINST THE ORDER IN CMP.NO.370/2015 IN SC NO.371 OF 2013 OF  
1ST ADDITIONAL SESSIONS COURT, THALASSERY ARISING OUT OF THE ORDER  
IN CMP NO.3452 OF 2011 OF ADDITIONAL CHIEF JUDICIAL  
MAGISTRATE, THALASSERY

PETITIONER/ACCUSED:

SANTHOSH KUMAR N.P., AGED 52 YEARS,  
S/O. AMBU, BUSINESS,  
RAMA NILAYAM, THANA, KANNUR DISTRICT.

BY ADVS.  
SRI.GRASHIOUS KURIAKOSE (SR.)  
SRI.GEORGE MATHEWS  
SRI.T.T.RAKESH  
SRI.T.RAMESH BABU

RESPONDENTS/COMPLAINANT:

- 1 STATE OF KERALA,  
STATION HOUSE OFFICER, KADIRUR POLICE, TELlichERY,  
KANNUR DISTRICT, REPRESENTED BY PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM.
- 2 RANI MALLIKA, AGED 54 YEARS  
D/O. (LATE) MANIYATH KUNHAMBU, MASTER MADATHIL HOUSE,  
P.O. PINARAYI, PIN -670 741.  
BY ADVS.  
SRI.K.K.DHEERENDRAKRISHNAN  
SRI.D.FEROZE  
SRI.S.RAJEEV  
SRI.T.P.SAJID  
SRI.V.VINAY

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON  
04.04.2025, ALONG WITH CRL.REV.PET.295/2015, THE COURT ON  
21.05.2025 PASSED THE FOLLOWING:



Crl.R.P.295/2015 &  
Crl.M.C.No.1221/2015

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**CR**

**COMMON ORDER**

Dated this the 21<sup>st</sup> day of May, 2025

Crl.R.P.No.295/2015 has been filed by the sole accused in S.C.No.371/2013 on the files of the I Additional Sessions Court, Thalassery, challenging common order in Crl.M.P.Nos.6047/2014 and 6392/2014 in the said case dated 9.1.2015. Respondents in the Crl.R.P. are the Station House Officer, Kadirur Police Station, Thalassery represented by the Public Prosecutor and the de facto complainant.

2. Crl.M.C.No.1221/2015 has been filed at the instance of the same accused. In this case, the petitioner seeks to set aside order in C.M.P.No.370/2015 in S.C.No.371/2013 dismissing the prayer for further investigation. Respondents in the Crl.M.C. are also same as that of the Crl.R.P.

3. Heard the learned senior counsel for the revision petitioner/petitioner and the learned Public Prosecutor. Also heard the learned counsel appearing for the 2<sup>nd</sup> respondent/de facto complainant, in detail.



4. The prosecution case was generated based on a private complaint lodged by the de facto complainant before the Additional Chief Judicial Magistrate Court, Thalassery alleging commission of offences punishable under Sections 420, 493, 494, 495 as well as 376 of the Indian Penal Code (for short, 'the IPC' hereinafter), by the petitioner. After investigation of the above complaint, as directed by the learned Magistrate, final report was filed alleging that the petitioner committed offences punishable under Sections 420, 493, 494, 495 as well as 376 of the IPC.

5. Earlier, the revision petitioner/petitioner approached this Court and filed Crl.M.C.No.5051/2013 to quash the proceedings and the said relief was disallowed and the Crl.M.C was disposed of with direction to the petitioner to file discharge petition before the trial court. Accordingly, the revision petitioner/petitioner filed two petitions viz., Crl.M.P.Nos.6047/2014 and 6392/2014, seeking discharge and by common order, dated 9.1.2015, the learned I Additional Sessions Judge dismissed both the petitions. C.M.P.No.370/2015 filed, seeking further investigation, also was dismissed by a separate order.

6. The allegation of the prosecution in terms of the



complaint raised by the de facto complainant is that, while the de facto complainant was residing along with one Divakaran, who was her former husband, after divorce from the said person, under compulsion of her relatives, the accused, being a regular visitor of the house of the de facto complainant, made acquaintance with her and offered her a peaceful married life, on the premise that he was a bachelor. Since the life of the de facto complainant along with Divakaran found to be unhappy, she went along with the accused to Mysore and conducted a ceremony of marriage in the year 1996. Thereafter, they cohabited as married couple till 2003 at various places and had repeated sexual intercourse and the de facto complainant believed that the accused really married her. Thereafter, the accused neglected her and the de facto complainant filed M.C.No.31/2008 before the Judicial First Class Magistrate Court-IV, Kozhikode under the Protection of Women from Domestic Violence Act, 2005 (for short, 'the DV Act' hereinafter), where the accused disclosed that he had previously married and had two children and accepting the said contention of the accused, M.C.No.31/2008 was dismissed, finding no act of domestic violence. Challenging the said order in M.C., the de facto complainant filed



Crl.Appeal and the same also was dismissed. Thus, the specific case of the de facto complainant is that, after suppressing earlier marriage of the accused, he had effected second marriage with the de facto complainant, thereby, the accused cheated the de facto complainant and had sexual intercourse with her based on the consent obtained as the outcome of an illegal marriage by means of fraud. The further case of the de facto complainant is that, thereby, the accused had cohabitation with the de facto complainant deceitfully inducing the belief of lawful marriage, and he had married the de facto complainant while his earlier marriage was subsisting. Thus, the specific allegation is that, the first marriage of the accused was concealed from the de facto complainant. Accordingly, in the final report, the prosecution alleges commission of the above offences by the accused.

7. The learned senior counsel for the revision petitioner/petitioner argued at length to convince this Court that a long cohabitation with full consent started in the year 1996 till 2003 would not come within the purview of offence under Section 376 of the IPC. It is submitted further that the offences dealt in Chapter XX of the IPC could not be investigated by the police and therefore, cognizance itself is



illegal. According to the learned Senior Counsel, as per Section 198(1) of the Code of Criminal Procedure (for short, 'the Cr.P.C.' hereinafter), no court shall take cognizance of offences punishable under Chapter XX of the IPC except upon a complaint made by some persons aggrieved by the offence. It is also argued that, in such view of the matter, the present complaint lodged by the complainant before the Magistrate alleging commission of offences punishable under Sections 493, 494 and 495 should not have been forwarded to the police for investigation. According to the learned Senior Counsel for the revision petitioner/petitioner, the de facto complainant was aware of the fact that the accused was a married person having children from the very beginning of the relationship with the de facto complainant and therefore, this is purely an extra marital relationship with consent and the same would not attract the offences alleged. It is also argued that in order to attract offences under Sections 493, 494 and 495 of the IPC, the de facto complainant should prove the existence of marriage between the accused and the de facto complainant. But, in the previous proceedings under the DV Act, she categorically admitted and deposed before the court that no documentary or oral evidence were there to prove the



marriage and also she did not know the name of the temple where the marriage was conducted. In summary, the learned senior counsel for the revision petitioner/petitioner argued that, in this matter, the available materials are insufficient to frame charge and try the accused. It is pointed out that in order to investigate as to whether there was second marriage in between the petitioner and the de facto complainant as alleged by de facto complainant, further investigation, as sought for in C.M.P.No.370/2015, is absolutely necessary. The learned senior counsel for the revision petitioner/petitioner relying on the judgment dated 6.12.2012 in W.P.(C).No.21529/2012 (**V.S.Achuthanandan v. State of Kerala and others**) strongly condemned the practice of investigating agencies in conducting investigation with preconceived notions to somehow implicate persons in public life in some false criminal case. The present case is a clear example of such practice. The learned senior counsel also argued that as per the decision of the Hon'ble Supreme Court in **Sakiri Vasu v. State of U.P.** reported in **[2008 (1) KLT 724 (SC)]**, the Court has got ample powers to order further investigation in the case. He further submitted that the decision in **Gulzar Ahmed Azmi and Another v. Union of India and**





**Others** reported in **[(2012) 10 SCC 731]** clarified the position that accused can seek further investigation in appropriate cases. In the present case it is highly necessary in the interest of justice that further investigation by an impartial and efficient officer to be conducted to bring out the whole truth of the matter.

8. Interference in the orders dismissing the plea of discharge and also the order rejecting further investigation, is strongly opposed by the learned counsel for the de facto complainant and she submitted that even though in the M.C. proceedings, while examining as CW1, the de facto complainant had given evidence that when the brother of the accused telephoned her in 1996, he told her that the accused was a married person and had two children, the further evidence of CW1 in M.C. proceedings is that when she pointed out the first marriage of the accused, the accused made her to believe that, the information given by his brother was false and he was not a married person. According to the learned counsel for the de facto complainant, since *prima facie*, the prosecution records would make out the offences alleged, trial of the matter is absolutely necessary and therefore, dismissal of the discharge petitions by the trial court and dismissal of petition seeking further



investigation by the trial court, are fully justifiable.

9. The learned Public Prosecutor also shared the contention raised by the de facto complainant and opposed the prayers.

10. While dismissing the discharge petitions based on the prosecution materials, the trial court observed that *prima facie*, the accused had suppressed the fact that he was a married person and obtained consent of CW1 to have sexual intercourse by practising fraud. Further, the accused was aware that he would not get consent of CW1 to have sexual intercourse with her without conduct of ceremony of marriage with her and made the de facto complainant to believe that she was the legally wedded wife of the accused and on believing such legal marriage, the de facto complainant had sexual intercourse and cohabitation with the accused. Therefore, the trial court found that the sexual intercourse is by obtaining consent on the basis of misconception of fact and therefore, offence under Section 376 would attract *prima facie*, warranting trial.

11. In the decision in **Sandeep G. v. State of Kerala** reported in [2024 KHC OnLine 586], this Court epitomized the parameters that would govern, when plea of discharge under Section 227



of the Cr.P.C. and framing of charge under Section 228 of the Cr.P.C. are to be addressed, referring the Apex Court verdicts on the point and the same are as under:

*(i) The trial Judge shall look into the materials collected by the investigating agency produced before the Court, to see, prima facie, whether those materials would induce suspicious circumstances against the accused, so as to frame a charge and such material would be taken into account for the purposes of framing the charge.*

*(ii) The trial Judge has to apply his judicial mind to the facts of the case, with reference to the materials produced by the prosecution, as may be necessary, to determine whether a case has been made out by the prosecution for trial on the basis of charge/final report.*

*(iii) Once the accused is able to demonstrate from the materials form part of the charge/final report at the stage of framing the charge which might drastically affect the very sustainability of the case, it is unfair to suggest that such material should not be considered or ignored by the court at this stage.*

*(iv) At the stage of considering an application for discharge the court must proceed on an assumption that the materials which have been brought on record by the*



*prosecution are true and evaluate said materials, in order to determine whether the facts emerging from the materials taken on its face value, disclose the existence of the ingredients necessary of the offence/s alleged.*

*(v) The defence of the accused not to be looked into at the stage when the accused seeks discharge. The expression "the record of the case" used in S.227 CrPC is to be understood as the documents and objects, if any, produced by the prosecution.*

*(vi) The primary consideration at the stage of framing of charge is the test of existence of a prima-facie case, and at this stage, the probative value of materials on record shall not be evaluated.*

*(vii) At the stage of framing of charge, the court has to form a presumptive opinion to the existence of factual ingredients constituting the offence alleged and it is not expected to go deep into probative value of the material on record and to check whether the material on record would certainly lead to conviction at the conclusion of trial.*

*(viii) In assessing this fact, it is not necessary for the court to enter into the pros and cons of the matter or into a weighing and balancing of evidence and probabilities, which are really the function of the trial Judge, after the trial.*



*(ix) At the time of framing charge, if there is suspicion which leads the Court to think that there is ground for presuming that the accused has committed an offence then it is not open to the Court to say that there is no sufficient ground for proceeding against the accused. In such case also charge needs to be framed to permit the prosecution to adduce evidence.*

*(x) If the evidence which the Prosecutor proposes to adduce to prove the guilt of the accused even if fully accepted before it is challenged in cross-examination or rebutted by the defence evidence, if any, cannot show that the accused committed the offence, then there will be no sufficient ground for proceeding with the trial.*

12. The question arises for consideration is;

(i) Whether the bar under Section 198(1) of Cr.P.C would apply when a complaint is lodged before the Magistrate alleging offences under Chapter XX of the IPC along with cognizable offences which exclude Chapter XX of IPC?

13. In this connection it has to be noted that as per Section 198(1) of Cr.P.C, cognizance of an offence punishable under Chapter XX of IPC is prohibited except upon a complaint made by some persons aggrieved by the offence. In the decision reported in **[2012 KHC**



**4189 : 2012(1) KLD 597 : 2012 (3) SCALE 594 : 2012 (2) KLT 415 : 2012 (6) SCC 353 : 2012 CriLJ 2234], Ushaben v. Kishorbhai Chunnilal Talpada & Ors.** the Apex Court considered a case where police investigated a crime registered, alleging commission of offences punishable under Sections 498A and 494 of IPC and held that no fetters could be put on the police preventing them from investigating a complaint which would allege offences punishable under Section 498A and under Section 494 of IPC. Here the prosecution case is that the 2<sup>nd</sup> respondent/defacto complainant lodged a private complaint before the Additional Chief Judicial Magistrate Court, Thalassery, alleging commission of offences punishable under Sections 420, 493, 494, 495 as well as 376 of the IPC by the petitioner herein. That is to say, apart from offences coming under Chapter XX of IPC, other cognizable offences were also alleged in the complaint. Acting on the complaint, the learned Magistrate forwarded the same to the police for investigation. Thereafter, final report was filed and the court took cognizance of the offences. Following the ratio in **Ushaben** (*supra*), the contention raised by the learned counsel for the revision petitioner that the cognizance in this matter is illegal as the same violated the mandate of



Section 198(1) of Cr.P.C is not sustainable.

14. In this case, the specific case of the de facto complainant is that while the de facto complainant was residing along with one Divakaran, who was her former husband, after divorce from the said person under compulsion of her relatives, the accused, being a regular visitor of the house of the de facto complainant, made acquaintance with her and offered her a peaceful married life, on making her to believe that he was a bachelor. Since the life of the de facto complainant along with Divakaran found to be unhappy, she went along with the accused to Mysore believing his version that he was a bachelor. Later, a ceremony of marriage was conducted in the year 1996. Thereafter, they cohabited as married couple till 2003 and resided at various places and had repeated sexual intercourse and the de facto complainant believed that the accused really married her. Thereafter, the accused neglected her. According to the de facto complainant, the de facto complainant went along with the accused to Mysore and there, the accused married her at Varasidhi Vinayaka Temple and lived at different places at Mysore as husband and wife and entered into sexual intercourse during that period. It is argued by the learned senior



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counsel for the revision petitioner/petitioner that in order to attract offences under Sections 493, 494 and 495 of the IPC, the second marriage should be proved. In this connection, it is held that proof of second marriage is during trial and not during pre-trial stage. Otherwise, the prosecution materials would show the allegation of marriage between the accused and the de facto complainant.

15. Going by the common order passed in Crl.M.P.No.6047/2014 and 6392/2014, the learned I Additional Sessions Judge, has given reliance on the materials available *prima facie* to see the second marriage at Varasidhi Vinayaka Temple between the accused and the de facto complainant. When there is sexual intercourse between a male and female with the consent of female, no offence under Section 376 of the IPC would attract. Explanation 2 to Section 375 of the IPC defines consent as an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act. At the same time, consent is obtained under misconception of fact that the accused legally married the de facto complainant being a person suitable to marry her without having any





previous marriage. Here, the admitted case of the accused otherwise as borne out from the proceedings in M.C.No.31/2008 is that, the accused at the time of marrying the de facto complainant, was a person already married and had two children. As observed by the trial court, the accused wanted to have sexual intercourse with the de facto complainant on the premise of marriage by practising fraud, since he was very well aware of the fact that he would not get the consent of the de facto complainant for sexual intercourse without marrying her. It is true that, as argued by the learned senior counsel for the revision petitioner/petitioner, the de facto complainant had continued the relationship for a long period of 6 years starting from 1996. But, according to the de facto complainant, the said cohabitation and sexual intercourse are on the strong belief that the accused is the legally wedded husband of the de facto complainant.

16. Here, as seen from paragraph No.14 of the common order in Crl.M.P.Nos.6047/2014 and 6392/2014, the trial court, after having discussed the prosecution materials in detail, held that there is *prima facie* material to frame charge against the accused and try the offences alleged against him and therefore, the discharge could not be



allowed. The discussion on the prosecution materials by the trial court could be gathered from paragraph No.8 of the common order in Crl.M.P.Nos.6047/2014 and 6392/2014 and the same is extracted as under:

*“8. A perusal of the records will reveal that crime was registered based on a private complaint filed by the complainant, who is CW1 before Addl.Chief Judicial Magistrate Court, Thalassery which was forwarded for investigation u/s.156(3) of Cr.P.C. In the complaint specific allegations are made against the accused regarding the offences alleged against him. Moreover, the Investigating Officer had recorded statement of the complainant as CW1 and she has given statement that the accused has represented to her that he is an unmarried person and he loves her and promised to marry her. Believing his words, she eloped with the accused to Mysore and there accused married her at Varasidhi Vinayaka temple at Mysore and lived at different places at Mysore as husband and wife and entered into sexual intercourse during that period. She has also given statement to the effect that she came to her family house situated at Eruvatty after the death of her mother in 2001 and stayed along with the accused in that house and accused has suppressed the fact that he is a married person having two children. She has further given evidence that when the accused ill treated her and deserted her, she filed MC.No.31/2009 before Judicial First Class*



*Magistrate Court, Kozhikode and in that proceedings the accused has denied the marriage between her and the accused and thereafter she has filed a complaint before Addl. Chief Judicial Magistrate Court, Thalassery. The Investigating Officer has also recorded the statement of the witnesses to prove the marriage between the accused and CW1 and also the fact that they had cohabited as husband and wife at Mysore. CW2 has given evidence that he had conducted marriage between the accused and CW1 at Sree Varasidhi Vinayaka temple situated at Ilwala, Mysore. Cws 3 to 10 had also given statement to the police that accused and complainant had lived at different places at Mysore as husband and wife and also at the family house of the complainant. The owner of the house which was taken on lease by the accused has also given statement that the accused has taken the house on lease and he had lived in that house along with CW1 as husband and wife. CW8 and 9 are the owners of houses situated at Krishnamoorthy Layout and Railway Layout which was taken on lease by the accused and they have given statement that the accused and CW1 had resided in those houses as husband and wife. The prosecution has also produced medical records seized from Bangalore Assisted Conception Centre Pvt. Ltd regarding the infertility treatment undergone by the accused and CW1 and it reveals that the accused is shown as the husband of CW1 in the medical records and accused has signed in the consent letter for conducting invitro fertilization and embryo transfer/gamete intra fallopian*



*transfer as husband of CW1 and the signature of the accused found in the consent letter was sent to Regional Forensic Laboratory and it is reported that the signature of the accused seen in the medical reports tallies with the specimen signature of the accused. CW3 and 4 has given statement that the accused and CW1 came to the family house of CW1 at Eruvatty in Kannur district and lived there as husband and wife for some days. The prosecution has also produced documents regarding the joint account maintained by the accused and CW1 at Post Office at Mysore. CW21 and 22 has given statement to the effect that Income Tax raid was conducted at the house taken on lease by the accused at Mysore and CW1 was present in that house at the time of Income Tax raid and she has signed in the inventory prepared at the time of Income Tax raid. So, there are sufficient materials to substantiate the allegations that the accused and CW1 got married at Mysore and they resided at different houses at Mysore and also at the family house of CW1 in Eruvatty. CW11 has given statement that the accused and CW11 got married on 11.05.1984 and it is subsisting even now and they are having two children. So there is prima facie material to prove the allegation that the accused was a married person and he had eloped with CW1 and got married at Mysore and cohabited with her as husband and wife and they had entered into sexual intercourse with each other and thereafter he had deserted her and there is prima facie material to substantiate the allegations that CW1 happened to go with the accused*



*believing the promise given by him to her that he will marry her and will provide a peaceful married life suppressing the fact that he has already married. Moreover, the available materials will also reveal that in order to make it appear that the accused had legally married CW1, he has taken CW1 to a temple and conducted ceremonies of a Hindu marriage. So, CW1 will be under a bona fide belief that she is legally wedded wife of accused and she consented to have sexual intercourse with accused under the bona fide belief that she is legally wedded wife of the accused. So, there are sufficient material to substantiate the allegations against the accused that he had obtained consent of CW1 for having sexual intercourse with her suppressing the fact that he is a married person and he is incompetent to marry CW1 and he had married CW1 during the subsistence of marriage with CW11 concealing that marriage and he had cohabited with CW1 deceitfully inducing a belief of lawful marriage and he had cheated CW1.”*

17. On reading paragraph No.8 above, it is emphatically clear that insofar as misrepresentation of the status of the accused as a bachelor, candid statement was given by CW1, the de facto complainant. That apart, CW11 given statement to the effect that the accused and CW11 got married on 11.5.1984. In addition to that, CW3 and CW4 given



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statements that CW1 came to the family house of CW1 at Eruvatty in Kannur District along with the accused as his husband and lived there for some days. CW1 also produced joint account maintained by the accused and CW1 at the Post Office, Mysore and CW21 and CW22 given statements to the effect that Income Tax raid was conducted at the house taken on lease by the accused at Mysore and CW1 signed in the inventory prepared at the time of Income Tax raid. Thus, this is a case wherein the finding of the trial court that *prima facie* the offences are made out for the reason stated in paragraph No.8, as extracted hereinabove, is only to be justified. Even though in the discharge petitions the materials of the prosecution alone need to be considered, in paragraph No.9 of the order, the trial court considered the proceedings in M.C.No.31/2008 (Number mistakenly shown as M.C.No.31/2009 instead of M.C.No.31/2008) as already mentioned hereinabove, though the same is unwarranted and not legally permissible.

18. In Crl.M.C.No.1221/2015, the petitioner seeks further investigation where the prosecution materials available were found to be sufficient to frame charge against the accused and go for trial. Thus, the said petition is only to be treated as an attempt to delay the trial further.



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It is to be noted that the revision petitioner/petitioner earlier filed Crl.M.C.No.5051/2013, to quash the entire proceedings, but this Court disposed of the same holding that quashment of the proceedings could not be considered, since the prosecution materials did not justify the same though the petitioner was directed to file a discharge petition. In such a case, there is no reason to hold that the trial court went wrong in dismissing C.M.P.No.370/2015 filed by the petitioner seeking further investigation, relying on the prosecution records negating the said plea. Therefore, no interference in the order impugned in Crl.M.C.No.1221/2015 is necessary. Therefore, both the petitions deserve dismissal.

Accordingly, Crl.M.C.No.1221/2015 and Crl.R.P.No.295/2015 are dismissed. Taking note of the fact that the prosecution proceedings initially started in the year 2011 and has been delayed for multiple reasons for a period of 14 years, there shall be a direction to the learned I Additional Sessions Judge to expedite the trial and finish the same, at any rate, within a period of 6 months from the date of receipt of a copy of this common order.



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Registry is directed to forward a copy of this order to the jurisdictional court, for information and further steps.

*Sd/-*

**A. BADHARUDEEN  
JUDGE**

Bb





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APPENDIX OF CRL.REV.PET 295/2015

**PETITIONER' s ANNEXURES**

- Annexure A1** TRUE COPY OF THE COMPLAINT (CMP NO.3452/2011) LEADING TO THE PRESENT CASE DATED 31.08.2011 FILED BEFORE ADDL.CHIEF JUDICIAL MAGISTRATE COURT, THALASSERY.
- Annexure A2** TRUE COPY OF THE COMPLAINT IN MC NO.31/2008 DATED MAY, 2008 FILED BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT IV, KOZHIKODE.
- Annexure A3** TRUE COPY OF THE ORDER DATED 31-08-2009 IN M.C. NO. 31/2009 OF THE COURT OF THE SPECIAL JUDICIAL FIRST CLASS MAGISTRATE (MARAD CASES), KOZHIKODE.
- Annexure A4** TRUE COPY OF THE JUDGEMENT DATED 09-03-2011 IN CRL. APPEAL NO. 591/2009 OF THE COURT OF THE III ADDITIONAL SESSIONS JUDGE, KOZHIKODE DIVISION.
- Annexure A5** TRUE COPY OF THE PETITION DATED 04-07-2011, PREFERRED IN CRL.R.P. NO. 1979/2011 BEFORE THIS HON'BLE HIGH COURT.
- Annexure A6** TRUE COPY OF THE COMPLAINT PREFERRED BY THE 1ST RESPONDENT DATED 21-12-2010, AS C.M.P. NO.5195/2010 BEFORE THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE, THALASSERY.



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APPENDIX OF CRL.M.C.NO.1221/2015

**PETITIONER' s ANNEXURES**

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|--------------------|--|
| <b>Annexure A1</b> | TRUE COPY OF THE COMPLAINT (CMP NO.3452/2011)<br>LEADING TO THE PRESENT CASE DATED 31.08.2011<br>FILED BEFORE ADDL.CHIEF JUDICIAL MAGISTRATE<br>COURT, THALASSERY. |
| <b>Annexure A2</b> | TRUE COPY OF THE COMPLAINT IN MC NO.31/2008<br>DATED MAY, 2008 FILED BEFORE THE JUDICIAL<br>FIRST CLASS MAGISTRATE COURT IV, KOZHIKODE.                            |
| <b>Annexure A3</b> | TRUE COPY OF THE ORDER DATED 29-01-2015 IN<br>C.M.P. NO. 370/2015 IN SC.NO.371/2013 OF THE<br>SESSION COURT, THALASSERY.   |
| <b>Annexure A4</b> | TRUE COPY OF THE JUDGEMENT DATED 09-03-2011<br>IN CRL. APPEAL NO. 591/2009 OF THE COURT OF<br>THE III ADDITIONAL SESSIONS JUDGE, KOZHIKODE<br>DIVISION.            |