



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE JOBIN SEBASTIAN

WEDNESDAY, THE 24TH DAY OF JUNE 2026 / 3RD ASHADHA, 1948

CRL.MC NO. 4095 OF 2026

CRIME NO.76/2026 OF Chathannoor Police Station, Kollam

PETITIONER/1ST ACCUSED:

SAVAN VASANTHAN, AGED 44 YEARS,
S/O. VASANTHAN, RESIDING AT 'SARANADH' THAR
ROAD, EDA CHOVVA PO, CHOVVA, KANNUR CITY,
KANNUR, PIN - 670005

BY ADVS.
SHRI.M.K.SUMOD
SMT.VIDYA M.K.
SMT.THUSHARA.K
SMT.MEERA S GOPAN
SHRI.SUDHIR NAMBIAR P. V.
SMT.REMA T.P.

RESPONDENTS/STATE:

- 1 STATION HOUSE OFFICER,
CHATHANNUR POLICE STATION CHATHANNUR,
KOLLAM, PIN - 691572
- 2 STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA ERNAKULAM,
PIN - 682031
- 3 SARANNYA, D/O SAILAJA, AGED 39 YEARS,
RESIDING AT 'SAILAJA BHAVAN',
DWANI, NEAR NAGARUKAVU BHADRADEVI TEMPLE,
ADHICHANALLOOR, KOLLAM, PIN - 691573



Crl.M.C.No.4095 of 2026

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BY ADVS.
SRI.K.K.DHEERENDRAKRISHNAN
SMT.N.P.ASHA
SHRI.P.SUJITH KUMAR
SRI.SAREENA GEORGE, SR PP

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 24.06.2026, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

**“C.R.”****ORDER**Dated this the 24th day of June, 2026

This Criminal Miscellaneous Case has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, "BNSS"), by the sole accused in Crime No. 76/2026 of Chathannur Police Station, registered alleging commission of offences punishable under Sections 69, 82, 89 and 115(2) of the Bharatiya Nyaya Sanhita, 2023 (for short, "BNS"). The petitioner seeks to quash the said FIR on the ground that, prior to its registration, the third respondent herein had filed a private complaint on the very same allegations, pursuant to which Crime No. 455/2025 was registered at Kannur Town Police Station.

2. The case of the petitioner, in brief, is as follows:

The petitioner is the sole accused in Crime No.76/2026 of Chathannur Police Station, registered alleging commission of offences punishable under Sections 69, 82, 89 and 115(2) of the BNS. According to the petitioner, in respect of the very same incident narrated in the First Information Statement (FIS) leading to the registration of the said crime, the de facto complainant had earlier approached the jurisdictional Magistrate by filing a private complaint. On receipt of the said complaint, the learned Magistrate forwarded the same to the police for investigation under Section 175(3) of the BNSS, pursuant to which Crime No. 455/2025 was registered at Kannur Town Police Station for



the offences punishable under Sections 318, 316(2), 336(2) and 340(2) read with Section 3(5) of the BNS. It is further averred that the allegations contained in the private complaint and those contained in the subsequent FIR registered at Chathannur Police Station arise out of the very same transaction and are identical. Therefore, according to the petitioner, the registration of a second FIR in respect of the same occurrence is legally impermissible. Hence, the FIR in Crime No. 76/2026 of Chathannur Police Station and all further proceedings pursuant thereto are liable to be quashed.

3. Heard Sri M.K. Sumod, the learned counsel appearing for the petitioner, Sri K.K. Dheerendrakrishnan, the learned counsel appearing for the 3rd respondent, and Smt. Sareena George, the learned Senior Public Prosecutor.

4. The learned counsel for the petitioner raised arguments reiterating the averments contained in the petition. Placing reliance on the decision in ***T.T Antony v. State of Kerala and others*** [(2001) 6 SCC 181], it was contended that the registration of a second FIR on the same set of facts, after an earlier FIR had already been registered at Kannur Town Police Station, is legally unsustainable. It was further submitted that, although the subsequent First Information Statement (FIS) furnishes a more elaborate narration of the incident disclosed in the earlier private complaint, the substratum of the allegations in both proceedings remains one and the same. It was, therefore, argued that the impugned FIR is liable to be quashed.

5. Per contra, the learned counsel appearing for the de facto complainant/3rd respondent submitted that the second FIR does not relate to the incidents referred to in



the earlier private complaint. According to the learned counsel, the transactions narrated in the private complaint and those forming the subject matter of the subsequent FIR are distinct and independent. It was further pointed out that, in the private complaint, the complainant had not specifically invoked Section 69 of the BNS along with the other penal provisions mentioned therein. According to the learned counsel, this clearly indicates that the private complaint was not intended to set the criminal law in motion in respect of the alleged sexual assault but was confined to offences relating to forgery and allied acts allegedly committed by the accused. Placing reliance on the decision in ***State of Rajasthan v. Surendra Singh Rathore*** [2025 SCC OnLine SC 358], the learned counsel submitted that a second FIR may be maintainable where, though arising from the same factual background, it encompasses a distinct transaction or a larger and different scope of investigation. According to the learned counsel, the ambit of the two FIRs in the present case is entirely different and, therefore, the second FIR is legally sustainable.

6. The learned Senior Public Prosecutor also supported the stand taken by the 3rd respondent. According to the learned Senior Public Prosecutor, the two FIRs relate to distinct incidents and, therefore, the registration of the subsequent FIR does not offend the settled principle prohibiting the registration of a second FIR.

7. While considering the rival submissions, it must first be noted that it is no longer *res integra* that the registration of a second FIR in respect of the same incident or transaction is impermissible in law. Therefore, the question that arises for consideration is whether the allegations contained in the earlier private complaint, which culminated in



the registration of Crime No. 455/2025 of Kannur Town Police Station, are identical or substantially similar to those contained in the subsequent FIS, which resulted in the registration of Crime No. 76/2026 of Chathannur Police Station.

8. In an attempt to answer the said question, this Court has carefully gone through the averments contained in the private complaint as well as the allegations contained in the subsequent FIS. A comparative reading of both documents makes it evident that, in substance, the de facto complainant alleges in both that she was induced to engage in sexual intercourse with the accused on the false representation that he would marry her. It is specifically alleged in both proceedings that the accused represented himself as a bachelor and promised to marry the de facto complainant, and that it was on the basis of such representation and promise that the de facto complainant consented to sexual intercourse. Thus, the foundational allegation that the accused had sexual intercourse with the de facto complainant on the basis of a false promise of marriage while concealing his existing marital status is clearly discernible both in the private complaint and in the subsequent FIS. It is true that the subsequent FIS contains a more elaborate narration of the events leading to the alleged occurrence. However, that by itself cannot obscure the fact that the essential factual ingredients constituting the offence punishable under Section 69 of the BNS had already been disclosed in the earlier private complaint.

9. It is true that, while specifying the penal provisions in the private complaint, the de facto complainant did not expressly mention Section 69 of the BNS. Nevertheless, the de facto complaint had specifically narrated the facts constituting an offence under



Section 69 of the BNS. Merely because the de facto complainant omitted to mention a particular penal provision, it cannot be held that the factual allegations constituting that offence ceased to exist. The applicability of a penal provision depends upon the factual allegations disclosed and not upon the correctness or completeness of the provisions cited by the de facto complainant. It is the duty of the investigating agency, as well as the Magistrate, to examine the factual allegations contained in the private complaint and determine the offences that are prima facie disclosed. An omission on the part of the de facto complainant to mention a particular penal provision cannot absolve the investigating agency of its obligation to invoke the appropriate provisions of law and to investigate where the factual allegations so warrant.

10. In the present case, the private complaint clearly disclosed the allegation that the accused had sexual intercourse with the de facto complainant on the false promise of marriage. Therefore, if the investigating agency omitted to incorporate Section 69 of the BNS while registering the FIR pursuant to the Magistrate's order under Section 175(3) of the BNSS, such omission cannot confer upon the de facto complainant the liberty to initiate a fresh criminal proceeding by lodging another FIR in respect of the very same transaction. The investigating agency was under a legal obligation to examine whether the facts disclosed in the private complaint constituted an offence punishable under Section 69 of the BNS. It is well settled that it is the substance of the allegations, and not the penal provisions quoted by the de facto complainant, that determines the nature of the offence and the scope of the investigation.



11. If the investigating agency failed to invoke Section 69 of the BNS or omitted to investigate that aspect adequately, the proper course available to the de facto complainant was to bring such omission to the notice of the jurisdictional Magistrate, who exercises supervisory jurisdiction over the investigation. Likewise, after the filing of the final report, if the de facto complainant was of the view that the investigation was incomplete or that any relevant penal provision had been omitted, it was always open to her to seek further investigation in accordance with law. Such omissions cannot justify the registration of a fresh FIR in respect of the very same transaction.

12. While dealing with the issue of registration of multiple FIRs in respect of the same occurrence, the Hon'ble Supreme Court in *Antony v. State of Kerala* [cited supra] observed as follows:

"A just balance between the fundamental rights of the citizens under Art.19 and 21 of the Constitution and the expansive power of the police to investigate a cognizable offence has to be struck by the Court. There cannot be any controversy that sub-s. (8) of S.173 Cr.P.C. empowers the police to make further investigation, obtain further evidence (both oral and documentary) and forward a further report or reports to the Magistrate. In Narang's case (supra), it was, however, observed that it would be appropriate to conduct further investigation with the permission of the Court. However, the sweeping power of investigation does not warrant subjecting a citizen each time to fresh investigation by the police in respect of the same incident, giving rise to one or more cognizable offences, consequent upon filing of successive FIRs whether before or after filing the final report under S.173(2) Cr.P.C. It would clearly be beyond the purview of S.154 and 156 Cr.P.C. nay, a case of abuse of the statutory power of investigation in a given case. In our view a case of fresh investigation based on the second or successive FIRs, not being a counter case, filed in connection with the same or connected cognizable offence alleged to have been committed in the course of the same transaction and in respect of which pursuant to the first FIR either investigation is underway or final report under S.173(2) has been forwarded to the Magistrate, may be a fit case for exercise of power under S.482 Cr.P.C. or under Art.226/227 of the Constitution."



13. In the said decision, the Supreme Court reiterated that the requirements of Section 154 of Cr.P.C. are satisfied only by the earliest or first information in regard to the commission of a cognizable offence. In respect of every subsequent information in respect of the same occurrence or incident, giving rise to one or more cognizable offences, no second FIR can be there, and consequently there cannot be any fresh investigation.

14. The correctness of the law laid down in *T.T. Antony v. State of Kerala* (supra) was subsequently considered by a three-Judge Bench of the Hon'ble Supreme Court in ***Upkar Singh v. Ved Prakash and Others*** [(2004) 13 SCC 292]. In the said decision, the Supreme Court did not dilute the ratio laid down in *T.T. Antony's* case. However, clarified that the decision in *T.T. Antony's* case will not preclude an aggrieved person from filing a counter case. But, what the Supreme Court held in *T.T. Antony's* case is that any further complaint by the same complainant or others against the same accused, subsequent to the registration of a case, is prohibited under the Code because an investigation in this regard would have already started and further complaint against the same accused will amount to an improvement of the facts mentioned in the original complaint, hence will be prohibited under Section 162 of the Code.

15. Moreover, the Supreme Court clarified that the prohibition of registration of a second FIR does not apply to a counter complaint by the accused in the first complaint or on his behalf alleging a different version of the said incident. The same view has been



reiterated by the Supreme Court in *State of Rajasthan v. Surendra Singh Rathore* [supra]. Shortly, the registration of a second FIR is permissible when the second FIR is a counter complaint or presents a rival version of a set of facts, in reference to which an earlier FIR already stands registered. Keeping in mind the above settled principles while reverting to the case at hand, it can be seen that even the 3rd respondent does not have a case that the subsequent FIR registered in this case is a counter case instituted at the instance of the aggrieved person. Therefore, the challenge raised on the registration of the subsequent FIR is legally sustainable.

16. As already noted, a careful reading of the private complaint reveals that the foundational facts constituting the offence punishable under Section 69 of the BNS were specifically mentioned therein. Although the police, while registering the FIR pursuant to the complaint forwarded by the learned Magistrate under Section 175(3) of the BNSS, omitted to incorporate Section 69 of the BNS, such omission does not dilute the fact that the factual allegations constituting the said offence had already been disclosed in the private complaint itself.

17. In the subsequent First Information Statement (FIS), the de facto complainant has merely furnished a more elaborate narration of the very same transaction. Therefore, in my considered view, the "test of sameness" evolved by the Hon'ble Supreme Court squarely applies to the facts of the present case. The subsequent FIR arises out of the very same transaction that formed the subject matter of the earlier private complaint, and both proceedings involve the same parties. The mere fact that the subsequent statement



which resulted in the registration of the second FIR contains a more detailed account of the earlier allegations cannot furnish a valid legal basis for the registration of a second FIR in respect of the same occurrence, particularly when the original private complaint had already disclosed the allegation that the accused had sexual intercourse with the de facto complainant on the false promise of marriage and concealing his marital status. Likewise, the criminal law cannot be set in motion afresh by lodging a second FIR in respect of the very same transaction merely because certain penal provisions were omitted or the investigation was found to be inadequate.

18. In the light of the foregoing discussion, I am of the considered view that the second FIR registered as Crime No. 76/2026 of Chathannur Police Station is legally unsustainable, as it relates to the very same transaction that had already culminated in the registration of Crime No. 455/2025 of Kannur Town Police Station.

Accordingly, this Criminal Miscellaneous Case is allowed. The FIR in Crime No. 76/2026 of Chathannur Police Station and all further proceedings pursuant thereto are hereby quashed.

Sd/-

JOBIN SEBASTIAN

JUDGE

VPK

APPENDIX OF CRL.MC NO. 4095 OF 2026

PETITIONER ANNEXURES

Annexure A1	THE CERTIFIED COPY OF THE FIR REGISTERED UNDER CRIME NO. 76/2026 OF THE 1ST RESPONDENT POLICE STATION AND THE FIS DATED 16/01/2026
Annexure A2	TRUE COPY OF THE PRIVATE COMPLAINT IN CMP NO. 1693/2025 OF THE JUDICIAL FIRST CLASS MAGISTRATE-I, KANNUR DATED 05/04/2025
Annexure A3	TRUE COPY OF FIR NO. 455/2025 REGISTERED BY THE KANNUR TOWN POLICE STATION DATED 11/04/2025
Annexure A4	TRUE COPY OF THE ORDER IN BAIL APPLICATION NO:7721/2025 OF THIS HON'BLE COURT DATED: 04/07/2025
Annexure A5	TRUE COPY OF THE ORDER DATED 12/03/2026 IN BAIL APPLICATION 1271/2026