



CRL.MC NO. 2154 OF 2026

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“C.R.”

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.S.DIAS

TUESDAY, THE 10TH DAY OF MARCH 2026 / 19TH PHALGUNA, 1947

CRL.MC NO. 2154 OF 2026

CRIME NO.900/2025 OF Kallambalam Police Station,

Thiruvananthapuram

AGAINST THE ORDER DATED 02.03.2026 IN CMP 1/2026 IN SC
NO.2713 OF 2025 OF II ADDITIONAL DISTRICT COURT/ RENT CONTROL
APPELLATE AUTHORITY, THIRUVANANTHAPURAM

PETITIONER/S:

DEPUTY COMMISSIONER OF CUSTOMS
THIRUVANANTHAPURAM INTERNATIONAL AIRPORT,
THIRUVANANTHAPURAM, PIN - 695008

BY ADV SRI.P.G.JAYASHANKAR

RESPONDENT/S:

- 1 STATE OF KERALA
REPRESENTED BY ITS PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM, PIN - 682031
- 2 DEPUTY SUPERINTENDENT OF POLICE
MAITHANAM, OPPOSITE POLICE STATION, VARKALA,
THIRUVANANTHAPURAM, PIN - 695141

OTHER PRESENT:



CRL.MC NO. 2154 OF 2026

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SR PP SMT SEETHA S

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
10.03.2026, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:



"C.R."

CRL.MC NO. 2154 OF 2026

Dated this the 10th day of March, 2026**O R D E R**

Can an Investigating Officer direct a statutory authority to produce a document or thing for the purpose of investigation of a crime?

2. Aggrieved by an order passed by the Additional Sessions Judge-II, Thiruvananthapuram, the Deputy Commissioner of Customs of the Thiruvananthapuram International Airport has invoked the inherent jurisdiction of this Court.

3. The petitioner was served with Annexure A1 order passed under Section 94 (1) of the Bharatiya Nagarik Suraksha Sanhita ('BNSS', in short), directing him to furnish the details of the customs officers who were on duty in the Thiruvananthapuram International Airport on 09.07.2025 between 06.00 p.m. and 09.00 p.m., including their



designation, official addresses and mobile numbers. The petitioner states that he is not obliged to collect, collate and provide information to the 2nd respondent. The petitioner was neither a party to the application nor afforded an opportunity to be heard. Accordingly, the petitioner filed Annexure A2 application to review the Annexure A1 order. However, by Annexure A4 order, the learned Sessions Judge has dismissed the application on the ground that a criminal court does not have the power to review its own order. Under Section 94 of the BNSS (corresponding to Section 91 of the Code of Criminal Procedure), a witness can only be directed to produce a document or thing that is in his possession or control. Hence, Annexures A1 and A4 orders may be set aside.

4. I have heard Sri.P.G.Jayashankar, the learned counsel for the petitioner and Smt.Seetha S., the learned Senior Public Prosecutor.

5. The learned counsel for the petitioner reiterates the contention in the Criminal Miscellaneous Case ('Crl.M.C.',



in short). He places reliance on the decision of this Court in **Kerala Institute of Medical Science (KIMS) v. State of Kerala** [2025 KHC 1838] and that of the High Court of Delhi in **CBI v. I M Quddusi** [2026 DHC 226] to fortify his contention that the Court must be satisfied that the production of a document or thing is for the purpose of investigation, enquiry or trial, and that the document or thing should be in the possession of the person. He submits that, by A1 and A4 orders, the Court has directed the petitioner to collect, collate and provide information, which is impermissible in law.

6. The learned Public Prosecutor opposes the Crl.M.C. She submits that the above crime has been registered against the accused persons for allegedly committing the offences punishable under Section 22(C), 23(C), 27 (A) and 8 read with Section 27(B) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act', for brevity). According to her, the accused Nos. 1 to 6 had



hatched a conspiracy to procure, smuggle, and commercially sell methamphetamine in the country. The contraband was transported from Muscat to Thiruvananthapuram on Air India Express Flight IX-550, which landed in Thiruvananthapuram on 09.07.2025 at 6.20 p.m. It was for the purpose of investigation of the crime that the 2nd respondent had issued letters dated 06.08.2025 and 14.08.2025 to the petitioner. However, the petitioner remained mute and did not send any reply, which in turn compelled the 2nd respondent to file Annexure A3 application before the above Court. The above Court has rightly allowed the application and directed the petitioner to furnish the details. Under Section 94 of the BNSS and Section 67 (b) of the NDPS Act, the 2nd respondent is empowered to seek details from any person or authority for the purpose of investigation of a crime. There is no legal stipulation that the petitioner has to be impleaded or be heard in an application of the above nature. The petitioner is



attempting to shield someone who has committed an offence under the NDPS Act by refusing to furnish the required details. The CCTV footage retrieved from the Thiruvananthapuram International Airport proves the baggage containing the contraband article was picked up by someone from the conveyor belt. Further investigation is being conducted, to ascertain how the contraband article went undetected while passing through the conveyor belt. Therefore, the details sought in the application are absolutely necessary. A request is being made under the Mutual Legal Assistance Treaty (MLAT) for collecting evidence from Republics of Muscat and Oman in order to establish the narcotic trafficking nexus and drug trade relationships of the accused. There is no error in the impugned orders warranting interference by this Court. Hence, the application may be dismissed.

7. It is not in dispute that the 2nd respondent had addressed letters dated 06.08.2025 and 14.08.2025 to the



petitioner requesting the particulars of the Customs Officers who were on duty at the Thiruvananthapuram International Airport on 09.07.2025, including their designation, official addresses and mobile numbers. Notwithstanding the said communications, the petitioner maintained silence, which compelled the 2nd respondent to approach the above Court, which in turn passed the impugned orders. It was only thereafter, as though roused belatedly, that the petitioner filed the application to review Annexure A1 order.

8. At this juncture, this Court considers it apposite to observe that, in matters involving heinous offences under the NDPS Act, which are offences that strike at the core of national interest and imperil the welfare of society at large, the State and all its instrumentalities bear a solemn obligation to extend their fullest cooperation to the investigating agencies. Investigations into such grave crimes demand institutional coordination and prompt



assistance, unimpeded by avoidable technicalities, bureaucratic indifference, or misplaced institutional sensitivities.

9. In the case at hand, the petitioner ought to have, at the very least, exhibited the basic administrative courtesy of responding to the letters issued by the 2nd respondent—either by furnishing the details sought, by seeking clarification, or by expressing any genuine difficulty in supplying the information. Instead, the petitioner chose a course of silence, thereby driving the 2nd respondent to invoke the jurisdiction of the above Court. It must be borne in mind that the 2nd respondent is investigating a serious case of international drug trafficking, a menace that has assumed alarming proportions and continues to inflict grave harm on the society. It was incumbent upon the petitioner to extend full cooperation to the investigation rather than maintaining an attitude of detachment or evasion. Any reluctance in this regard may legitimately give



rise to an inference that there is an attempt, whether deliberate or otherwise, to shield certain individuals from the reach of the law.

10. Now coming to the scope and purport of Section 94 of the BNSS and Section 67 of the NDPS Act, which read as follows:

“Section 94 of the BNSS: Summons to produce document or other thing.-- (1) Whenever any Court or any officer in charge of a police station considers that the production of any document, electronic communication, including communication devices, which is likely to contain digital evidence or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Sanhita by or before such Court or officer, such Court may issue a summons or such officer may, by a written order, either in physical form or in electronic form, require the person in whose possession or power such document or thing is believed to be, to attend and produce it, or to produce it, at the time and place stated in the summons or order.

(2) Any person required under this section merely to produce a document, or other thing shall be deemed to have complied with the requisition if he causes such document or thing to be produced instead of attending personally to produce the same.

(3) Nothing in this section shall be deemed--

(a) to affect sections 129 and 130 of the Bharatiya Sakshya Adhiniyam, 2023 or the Bankers' Books Evidence Act, 1891 (13 of 1891); or

(b) to apply to a letter, postcard, or other document or any parcel or thing in the custody of the postal authority.

Section 67 of the NDPS: Power to call for information, etc.-- Any officer referred to in Section 42 who is authorised in this behalf by the Central Government or a State Government may, during the course of any enquiry in connection with the contravention of any provision of this Act, -

(a) Call for information from any person for the purpose of satisfying



himself whether there has been any contravention of the provisions of this Act or any rule or order made thereunder;
(b) Require any person to produce or deliver any document or thing useful or relevant to the enquiry;
(c) Examine any person acquainted with the facts and circumstances of the case.”

11. In **Selvaraj M.V. v. Sarakunju Wilson**

Kochuthundil and others [2010 (3) KHC 143], this Court, while considering an scope and power under Section 91 Cr.P.C, has held in the following lines:

“5. It is also not as if the Investigating Officer is helpless in the matter. S.91 of the CrPC makes it within the power of an officer in charge of a police station if he considered production of any document or other thing to be necessary or desirable for the purpose of any investigation, inquiry, trial or other proceeding under the CrPC to issue a written order to the person in whose possession or power such document or thing is believed to be requiring such person to attend and produce such document or thing or to produce the same at the time and place stated in the order. The said provision has to be read along with S.92 of the CrPC which states that so far as any document, parcel or thing in the custody of the postal authority is concerned, such power can be exercised (only) by the Courts mentioned therein. In other words, the power of an officer in charge of a Police Station under S.91 is curtailed only by S.92 of the CrPC that if the demand is in relation to a document, parcel or thing in the custody of the postal or telegraph authority such order shall be issued (only) by the Courts stated therein. Dealing with S.91 of the CrPC it is stated that the document or thing called for must have some relation to or connection with the subject matter of the investigation, inquiry or trial and throw some light on the proceeding or be some link in the chain of evidence. A Division Bench of the Allahabad High Court in Surendra Mohan Sarin and Another v. K. P. Mani Tripathi and Others has considered the scope and impact of S.91 of the CrPC and held that the said provision has to be liberally construed in order to find whether the production of any document or any other thing is necessary or desirable for the purpose of investigation. The proceeding before an Investigating Officer is purely investigatory



rather than a adjudicatory in nature and investigation is an informal proceeding held to obtain information to govern a future action as distinguished from a proceeding which is taken as against any person. That being the situation, S.91 of the CrPC has to be given an interpretation which advanced the administration of justice and which document or thing which is the subject matter of a criminal investigation. The word would not tie down the hands of the Investigating Officer in the matter of getting document or thing which is the subject matter of the criminal investigation. The word 'person' occurring in S.91 of the CrPC need not confined to a private person. It can be a public officer also. S.91 empowers the officer in charge of a Police Station to demned by way of a written order a public officer to produce or cause production of a document or thing in his possession and which is necessary for investigation. S.102 of the CrPC empowers any Police Officer to 'seize any property which is alleged or suspected to be involved in the commission of an offence".

12. Similarly, in **Sarath Kumar v. State of Kerala and another** [2019 (5) KHC 298], this Court has held as follows:

"4. S.91 of Cr.PC provides, *inter alia*, that if any document is necessary or desirable for the purpose of any inquiry or trial, the Court may issue a summons to the person in whose possession or power such document is believed to be, requiring him to produce it in Court. As is stated in S.91 itself, the document must be one believed to be in the possession or power of the person to whom summons is to be issued to produce it. The document must therefore be one in existence. That not, it cannot be believed to be in the possession or power of any person. No Court can issue a summons under S.91 of Cr.PC to any person to produce a document after preparing it. The petitioner cannot request the Court to issue summons to the village officer to prepare a plan and produce it".

13. In the present case, the 2nd respondent has sought the petitioner to furnish details of the customs officers who were on duty in the Thiruvananthapuram International



Airport on 09.07.2025 between 06.00 p.m. and 09.00 p.m., including their designation, official address and mobile number.

14. On a careful analysis of the scope and scheme of Section 94 BNSS, read with Section 67 of the NDPS Act, and its interpretations in the above decisions, it is trite that only a document or a thing, which is in the possession of a person from whom it is sought to be summoned, can be directed to be produced. The person cannot be expected to create a document or thing to be furnished to the Investigating Agency.

15. Going by the details sought for in Annexure-A3 application, I am of the definite view that the attendance/duty register of customs officers who were on duty in the Thiruvananthapuram International Airport on 09.07.2025 is to be furnished to the 2nd respondent, which would serve the purpose of the investigation.



In the aforesaid circumstances, I modify Annexure-A1 order by directing the petitioner to furnish to the 2nd respondent the attendance/duty register of customs officers who were on duty at the Thiruvananthapuram International Airport on 09.07.2025, within a week from the date of receipt of a copy of this order. It is also clarified that, in case the Investigating Officer requests any further document or thing, he will be at liberty to approach the petitioner, who, in turn, shall extend utmost co-operation to the 2nd respondent for the purpose of the investigation and to protect the national interest.

With the above observation, the Crl. M.C. is disposed of.

Sd/-

C.S.DIAS, JUDGE



APPENDIX OF CRL.MC NO. 2154 OF 2026

PETITIONER ANNEXURES

- Annexure A1 A TRUE COPY OF THE ORDER DATED 19.12.2025 IN CMP NO.5312/2025 PASSED BY THE 1ST ADDITIONAL SESSIONS JUDGE, THIRUVANANTHAPURAM
- Annexure A2 A TRUE COPY OF THE APPLICATION DATED 06.01.2026 BY THE PETITIONER AS CMP NO. 1/2026 IN CMP NO. 5312/2025 IN SC NO. 2713/2025 ON THE FILES OF THE 2ND ADDITIONAL SESSIONS COURT, THIRUVANANTHAPURAM
- Annexure A3 A TRUE COPY OF THE CMP NO. 5312/2025 FILED BY THE 2ND RESPONDENT BEFORE THE 1ST ADDITIONAL SESSION COURT, THIRUVANANTHAPURAM (WITHOUT ITS ENCLOSURES)
- Annexure A4 THE CERTIFIED COPY OF THE ORDER DATED 02.03.2026 IN CMP NO. 1 OF 2026 IN CMP NO. 5312 OF 2025 IN SC NO. 2713 OF 2025 ON THE FILES OF THE 2ND ADDITIONAL SESSIONS COURT, THIRUVANANTHAPURAM
- Annexure A4 (a) A TRUE READABLE COPY OF THE ORDER DATED 02.03.2026 IN CMP NO. 1 OF 2026 IN CMP NO. 5312 OF 2025 IN SC NO. 2713 OF 2025 ON THE FILES OF THE 2ND ADDITIONAL SESSIONS COURT, THIRUVANANTHAPURAM