



2025:KER:20451

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE V.G.ARUN

TUESDAY, THE 11TH DAY OF MARCH 2025/20TH PHALGUNA, 1946

CRL.MC NO. 8681 OF 2024

CRIME NO.1846/2016 OF ERNAKULAM NORTH POLICE STATION, ERNAKULAM
AGAINST THE ORDER/JUDGMENT IN CC NO.56 OF 2023 OF ADDITIONAL CHIEF
JUDICIAL MAGISTRATE, ERNAKULAM

PETITIONER/ACCUSED:

HIMAVAL MAHESHWARA BHADRANANDA,
AGED 36 YEARS
500B, KUNNUPURAM LANE, BAPPUJI NAGAR,
PONGUMOODU, SREEKARYAM, PIN - 695017

BY ADVS.
ABHIREMYA RAJ R B
S.JAYANT
GOVIND V.P.
SHAHANAZ B.
GAYATHRI R.

RESPONDENTS/COMPLAINANT:

- 1 STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - 682031
- 2 STATION HOUSE OFFICER,
STATION HOUSE OFFICER,
ERNAKULAM TOWN NORTH POLICE STATION,
ERNAKULAM, PIN - 682018

SRI. M.C. ASHI, PP.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
11.03.2025, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**ORDER****Dated this the 11th day of March, 2025**

Petitioner is the accused in Crime No.1846 of 2016 registered at the Ernakulam Town North Police Station for the offence punishable under Section 153A of the Indian Penal Code.

2. The crime is registered on the allegation that, with the intention of promoting enmity between different groups on grounds of religion, petitioner posted a derogatory comment on his Facebook page. Even though crime was registered on 22.11.2016, final report was filed only in the year 2023. This CrI.M.C is filed seeking to quash the proceedings on the ground that cognizance was taken after the period of limitation.

3. Learned Counsel for the petitioner submits that, the offence under Section 153A of IPC being punishable with imprisonment up to three years only, final report ought to have been filed within three years. In the case at hand, the final report is filed only



in 2023 and is hence beyond the period of limitation prescribed in Section 468 of Cr.P.C.

4. Learned Public Prosecutor submitted that the final report was filed in 2020, but was returned after noting defects. Delay in representing the final report occurred since the case diary was misplaced and some time was taken to trace it out.

5. In view of the dispute regarding the exact date on which the final report was filed, report was called from the jurisdictional court. In the report thus filed, learned Magistrate has stated that the final report was filed on 28.02.2020 and as the seizure mahazar and prosecution sanction were not produced, the charge sheet was returned on 11.03.2020. The final report was resubmitted only on 03.02.2023 and cognizance was taken, by numbering the case as C.C No.56 of 2023, on 07.02.2023. It is also reported that no petition for condonation of delay under Section 473 Cr.P.C was filed along with the final report.



6. The relevant dates for deciding as to whether the further prosecution is barred under Section 468 of Cr.P.C are the date of registration of the crime and the date on which the final report was filed. Though final report was initially filed on 28.02.2020, requisite documents including prosecution sanction were not produced along with it. It is settled law that final report filed hastily without completing the investigation or appending the relevant documents, cannot be treated as final report filed in accordance with Section 173 of the Code. Here, after curing defects the final report was filed only on 03.02.2023. Even if 28.02.2020 is taken as the date of filing of final report, that is also beyond the three year period prescribed in Section 468 of Cr.P.C. Further, no application for condonation of delay, as contemplated under Section 473 of Cr.P.C, was filed along with the final report. It is also reported that cognizance was taken only on 07.02.2023, much after the period of limitation. In such circumstances,



continuance of the proceedings will be an abuse of process of court.

In the result, the Criminal Miscellaneous Case is allowed. Annexure A2 final report in Crime No.1846 of 2016 of Ernakulam Town North Police Station and all further proceedings in C.C No.56 of 2023 on the files of the Additional Chief Judicial Magistrate Court, Ernakulam, as against the petitioner, is quashed.

Sd/-

**V.G.ARUN
JUDGE**

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APPENDIX OF CRL.MC 8681/2024

PETITIONER ANNEXURES

ANNEXURE A1	THE COPY OF THE FIR IN CRIME NO.1846/2016 DATED 22/11/2016
ANNEXURE A2	THE COPY OF THE FINAL REPORT DATED 03/02/2023 BEFORE THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE COURT ERNAKULAM