



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.S.DIAS

WEDNESDAY, THE 18TH DAY OF MARCH 2026 / 27TH PHALGUNA, 1947

CRL.MC NO. 4607 OF 2022

**AGAINST THE ORDER/JUDGMENT DATED IN CC NO.336 OF 2020 OF
JUDICIAL MAGISTRATE OF FIRST CLASS ,KATTAKADA**

PETITIONER/ACCUSED :

**RAJKUMAR,
AGED 46 YEARS
S.N BUILDING, PARASAL, AMBALATHINKALA P.O, KATTAKKADA,
THIRUVANANTHAPURAM, PIN - 695572**

BY ADV SRI.M.R.SARIN

RESPONDENT/DEFACTO COMPLAINANT :

- 1 STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM, PIN - 682031**
- 2 SANTHAMMA,
AGED 69 YEARS
PRANAVAM, KULAVIYODU, AMBALATHINKALA P.O,
KATTAKKADA, THIRUVANANTHAPURAM, PIN - 695572**

BY ADV SRI.H.KIRAN

PP SRI M P PRASANTH

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
18.03.2026, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**



C.S.DIAS, J.

CRL.MC NO. 4607 OF 2022

Dated this the 18th day of March, 2026

ORDER

The petitioner is the 1st accused in C.C.No.336/2020 on the file of the Court of the Judicial First Class Magistrate, Kattakkada, ('Trial Court', in short), which has been filed by the 2nd respondent alleging the commission of the offences punishable under Sections 379, 381, 454 and 414 read with Section 34 of the Indian Penal Code ('IPC', in short). However, the Trial Court has taken cognizance of the offences under Section 120B, 381 and 201 of the IPC.

2. The crux of the allegation in Annexure A1 complaint is that, the 2nd respondent had filed C.C.No.490/2013 before the Trial Court against the petitioner and the 2nd accused alleging that they have committed the offence punishable under Section 138 of the Negotiable



Instruments Act. The 2nd accused was working as a bench clerk in the Trial Court. The complaint was posted on 30.07.2015. However, the complaint was not called, and the case was adjourned because the case bundle was missing. The 2nd respondent alleges that the accused persons, in furtherance of their common intention, had committed the theft of the case bundle between 30.08.2014 and 30.07.2015, and thereby caused a loss of Rs.6,75,000/- to the 2nd respondent. Thus, the accused have committed the above offences.

3. I have heard the learned counsel for the petitioner and the learned Public Prosecutor.

4. The learned counsel for the petitioner submits that, by Annexure A2 judgment, this Court has quashed the proceedings as against the 2nd accused on the specific finding that there are no material witnesses or proof that the accused had committed the above offences. The petitioner is at par with the 2nd accused. Therefore, the



proceedings as against the petitioner may also be quashed.

5. The crime has been allegedly committed in respect of a case bundle that was custodia legis. Admittedly, the Trial Court has not lodged any complaint or initiated any proceedings regarding the missing of the case bundle. Instead, it is the 2nd respondent who has filed the complaint, which had led to the registration of the crime. As the case bundle was custodia legis, the Trial Court ought to have initiated a proceedings under Section 195 read with Section 340 of the Code of Criminal Procedure, ('Cr.P.C.', in short) Unfortunately, the Trial Court without looking into this crucial aspect has taken cognizance of the offences on the basis of a complaint filed by a third party.

6. Be that as it may, if Annexure A2 order, this Court had quashed the entire proceedings as against the 2nd accused on the finding that there is no proof or



material on record to substantiate the culpability of the accused persons in the crime. In view of the findings rendered above and in Annexure A2 order, I am satisfied the petitioner has made out valid grounds to invoke the inherent powers of this Court under Section 482 of the Cr.P.C. Thus, I am satisfied that the proceedings as against the petitioner are liable to be quashed, because the petitioner is at par with the 2nd accused.

In the aforesaid circumstances, I allow the Crl.M.C, by quashing Annexure A1 complaint and all further proceedings in C.C.No.336/2020 on the file of the Trial Court as against the petitioner.

Sd/-

SCB/18.03.26.

C.S.DIAS,JUDGE



APPENDIX OF CRL.MC NO. 4607 OF 2022

PETITIONER ANNEXURES

- AnnexureA1** THE CERTIFIED COPY OF THE PRIVATE COMPLAINT FILED BY THE 2ND RESPONDENT AS CC NO 336 / 2020 BEFORE THE HON'BLE JUDICIAL FIRST CLASS MAGISTRATE COURT, KATTAKKADA
- AnnexureA2** THE TRUE COPY OF JUDGMENT IN CRL M.C NO. 228/2016 PASSED BY THIS HON'BLE HIGH COURT OF KERALA DATED ON 14.07.2020
- AnnexureA3** THE CERTIFIED COPY OF THE DEPOSITION OF THE CW1
- AnnexureA4** THE CERTIFIED COPY OF THE DEPOSITION OF THE CW2
- Annexure A5** THE CERTIFIED COPY OF THE DEPOSITION OF THE CW3