



CRL.MC NO. 9671 OF 2025

1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

THURSDAY, THE 23RD DAY OF JULY 2026/1ST SRAVANA, 1948

CRL.MC NO. 9671 OF 2025

CRIME NO.474/2021 OF ALAPPUZHA NORTH POLICE STATION,

ALAPPUZHA

AGAINST THE ORDER/JUDGMENT DATED IN CC NO.1211 OF
2023 OF JUDICIAL MAGISTRATE OF FIRST CLASS- I, HARIPAD

PETITIONER/ACCUSED NO.3:

FR. TOMCY THOMAS
AGED 41 YEARS
S/O THOMAS T, LITTLE FLOWER POLYTECHNIC,
JANGALSIKARI URF KHORABAR, GORAKHPUR,
UTTAR PRADESH, PIN - 273010

BY ADVS.
SHRI.ANANDHU SATHEESH
SMT.SREEDEVI S.
SHRI.V.G.SURESH
SMT.DRISYA DILEEP

RESPONDENTS/RESPONDENT/DE FACTO COMPLAINANT:

- 1 STATE OF KERALA
REPRESENTED BY REPRESENTED BY THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM, PIN - 682031
- 2 STATION HOUSE OFFICER
ALAPPUZHA NORTH POLICE STATION,
ALAPPUZHA, PIN - 688012

CNR : KLHC010856762025



2026:KER:56085

CRL.MC NO. 9671 OF 2025

2

3 ADV. ABHILASH
 AGED 33 YEARS
 S/O SOMAN, MITHILA HOUSE, POONTHOPPU P.O,
 ASHRAMAM WARD, ALAPPUZHA, PIN - 688006

ADV. M A SHAHIB, PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR
ADMISSION ON 23.07.2026, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING:



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ORDER

Dated this the 23rd day of July, 2026

Fr. Tomcy Thomas, the third accused in C.C.No.1211/2013 on the files of the Judicial First Class Magistrate Court-I, Harippad, has filed this criminal miscellaneous case under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking the following reliefs:

- "1. To quash Annexure A2 Final Report in C.C No 1211/23 on the files of Judicial First Class Magistrate-I Haripad and to quash all further proceedings thereon against the Petitioner herein who is the 3rd Accused therein.*
- 2. Such other reliefs this Hon'ble Court deem fit and necessary in the interest of Justice."*

2. Heard the learned counsel for the petitioner/3rd accused and the learned Public Prosecutor in detail.



3. Here, the prosecution alleges commission of offences punishable under Sections 417, 419, 420, 465, 468, 471, 201 and 212 of the Indian Penal Code (hereinafter referred to as 'IPC') by accused Nos.1 to 3. The allegation against the first accused is that she impersonated the 2nd witness in this case and used the enrollment certificate of the 2nd witness, bearing No. K/1177/2018, by forging an enrollment certificate with a photocopy of the same showing her name and used the same as genuine, and got membership in Bar Association, Alappuzha. Thereafter, she contested in the election to the Executive Committee of the Association and served as member from 30.03.2019 to 15.07.2021, and practiced in various courts in Alappuzha and she was appointed as Advocate Commissioner in various cases treating her as an Advocate. Later, it was revealed that she had not passed LL.B and the certificate of enrollment



produced by her before the Bar Association was a forged one. The specific allegation against accused Nos.2 and 3 is that, the first accused absconded for a period of 21 months and stayed at Nirmala Inter College, Mithaura Bazar Hostel, Maharajganj, Uttar Pradesh and accused Nos.2 and 3 helped her to hide in the said place. Accordingly, accused Nos.2 and 3 are alleged to have committed offence punishable under Section 212 of the IPC.

4. It is pointed out by the learned counsel for the petitioner/3rd accused that the petitioner is innocent and in the final report, no specific allegation to establish commission of offence under Section 212 of the IPC by the 3rd accused could be found *prima facie*. It is further submitted that no prosecution materials available to find commission of offence under section 212 of IPC by the petitioner/3rd accused.



5. Whereas the learned Public Prosecutor read out the statement given by CW23, Father Jose C.A. S/o.Antony, who held the post of Superior of Nirmalasramam, disclosing that the first accused, by impersonating herself as 'Catherine', had stayed there after suppressing her real name and accordingly, it is submitted that the offence under section 212 of IPC, alleged against accused Nos.2 and 3, could be found *prima facie* from the statement of CW23 and in such view of the matter, quashment prayer is liable to fail.

6. Before advertng to the rival contentions, it is necessary to extract Section 212 of the IPC, which reads as follows:

“212. Harboursing offender.—Whenever an offence has been committed, whoever harbours or conceals a person whom he knows or has reason to believe to be the offender, with the intention of screening him from legal punishment,

if a capital offence.—shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine;



if punishable with imprisonment for life, or with imprisonment.—and if the offence is punishable with imprisonment for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

and if the offence is punishable with imprisonment which may extend to one year, and not to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both. "Offence" in this section includes any act committed at any place out of India, which, if committed in India, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460; and every such act shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in India."



7. On going through the statement of CW23, it could be gathered that a lady by name 'Catherine' stayed at the hostel under the care of Fr.Tomcy Thomas (the petitioner/3rd accused. CW23 stated that he did not know the real name of the said lady. She had resided there for a particular period. His version further is that, the lady resided therein for a long period and the lady was permitted to reside therein since it was informed by Fr. Tomcy (the petitioner/3rd accused) that she was the sister of Fr.Sandeep, the 2nd accused. Later, upon watching Asianet News, he saw the photograph of the lady who resided at the hostel, and understood that she was the lady who produced forged certificate, obtained a membership in Bar association and also got elected to the Executive Committee. He identified the first accused before the police while giving statement.



Tracing the ingredients to bring home an offence under Section 212 of IPC, the same would include harbouring or concealing a person whom the accused knows or has reason to believe to be an offender, with intention of screening the offender from legal punishment. Thus it appears that the petitioner herein, in connivance with the 2nd accused, harboured and concealed the first accused, knowing that she is an offender, with intention to screen her from legal punishment, which is an offence punishable under Section 212 of IPC. Thus, *prima facie* the offence under Section 212 of IPC is made out and in such a case, quashment prayer is liable to fail.

In the result, this petition stands dismissed.

Interim order of stay stands vacated.

CNR : KLHC010856762025



2026:KER:56085

CRL.MC NO. 9671 OF 2025

10

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

**Sd/-
A. BADHARUDEEN
JUDGE**

nkr

CNR : KLHC010856762025



2026:KER:56085

CRL.MC NO. 9671 OF 2025

11

APPENDIX OF CRL.MC NO. 9671 OF 2025

PETITIONER ANNEXURES

Annexure A-1 A TRUE COPY OF THE FIR IN CRIME NO.
0474/2021 DATED 18.07.2021 OF
ALAPPUZHA NORTH POLICE STATION

Annexure A-2 CERTIFIED COPY OF THE FINAL REPORT
NO.5314/2023 DATED 14.07.2023 ALONG
WITH WITNESS STATEMENTS AND OTHER
RECORDS ATTACHED