



2026:KER:80564

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE JOBIN SEBASTIAN

THURSDAY, THE 15TH DAY OF OCTOBER 2026 / 23RD ASWINA, 1948

CRL.MC NO. 10675 OF 2025

CRIME NO.1104/2018 OF Paravoor Police Station, Kollam

PETITIONER/ACCUSED:

MOHAMMED SHAMEER ALI
AGED 30 YEARS
S/O.BUSAINA.S, PANAMTHODIYIL, THEKKUMBHAGOM,
PARAVOOR.P.O., KOLLAM, PIN - 691301

BY ADV SRI.M.RAJESH

RESPONDENTS/COMPLAINANT:

- 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - 682031
- 2 THE INSPECTOR OF POLICE
PARAVOOR POLICE STATION PARAVOOR PO, KOLLAM (DIST),
PIN - 691301
- 3

PP-SRI.V.R.RAMLAL

SRI.K.RAKESH, AMICUS CURIAE

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
07.10.2026, THE COURT ON 15.10.2026 PASSED THE FOLLOWING:

**"C.R."****ORDER**

This Criminal Miscellaneous Case has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, "the BNSS"), by the sole accused in Crime No. 1104/2018 of Paravoor Police Station, registered for the offences punishable under Sections 354 and 354A of the Indian Penal Code (for short, "the IPC").

2. The prosecution case, as revealed from the FIR, is as follows:

The accused, with an intention to subject the de facto complainant to sexual assault, developed a friendship with her through Facebook and invited her to Dubai. Pursuant to the said invitation, the de facto complainant went to Dubai on 17.05.2018, where the accused arranged her stay at a beach resort until 29.05.2018. During the said period, the accused subjected her to sexual assault and outraged her modesty. Thus, the accused is alleged to have committed the aforesaid offences.

3. The averments in the petition, in brief, are as follows:

The allegations levelled against the petitioner are false and concocted. The crime was registered on the basis of a complaint given by the de facto complainant to the Police Chief, Chhattisgarh, which was forwarded to the Police Chief, Kerala, and thereafter to the Station House Officer, Paravoor Police Station, through the District Police Chief, Kollam. After registration of the crime, the investigating officer issued notices to the



de facto complainant, requiring her to appear for the purpose of recording her statement under Section 161 of the Code of Criminal Procedure, 1973 (for short, "the Cr.P.C."), and to take steps for recording her statement under Section 164 of the Cr.P.C. However, she did not respond to the notice or co-operate with the investigation. Consequently, the police filed an undetected report before the jurisdictional Magistrate on 29.06.2019. Despite the filing of the said report, the continued pendency of the FIR would cause serious prejudice to the petitioner and adversely affect his future prospects, particularly his employment opportunities. Hence, the petitioner seeks to quash the FIR in Crime No. 1104/2018 of Paravoor Police Station and all further proceedings pursuant thereto.

4. I heard Sri. M. Rajesh, the learned counsel for the petitioner, Sri. K. Rakesh, the learned Amicus Curiae, and Sri. V. R. Ramlal, the learned Public Prosecutor.

5. The learned counsel for the petitioner advanced arguments in tune with the averments in the petition. According to the learned counsel, the crime was registered in 2018 on the basis of a complaint forwarded through the police authorities of Chhattisgarh. In the said case, after investigation, the police filed an un-detected report before the jurisdictional Magistrate in 2019. The learned counsel submitted that such a report was filed mainly because the de facto complainant did not co-operate with the investigation. It was further contended that the continued pendency of the



FIR, despite the filing of the undetected report and the absence of any further progress in the investigation, would cause serious prejudice to the petitioner and would adversely affect his future prospects. On these premises, it was urged that the FIR is liable to be quashed.

6. Sri. K. Rakesh, the learned Amicus Curiae, submitted that the filing of an undetected report does not preclude the investigating agency from reopening the investigation upon the receipt of fresh materials. However, the prolonged pendency of an investigation for several years may infringe the fundamental rights of an accused guaranteed under Article 21 of the Constitution of India. According to the learned Amicus Curiae, the continued pendency of the FIR in the present case would cause undue hardship to the petitioner and adversely affect his future. Relying on the decision in ***Robert Lalchungnunga Chongthu @ R.L. Chongthu v. State of Bihar*** [2025 KHC 6957], the learned Amicus Curiae further pointed out that the accused cannot be made to suffer endlessly with the threat of continued investigation and, in the particular circumstances of the case, including the inordinate delay in investigation, the court is justified in quashing the FIR.

7. Before considering the contentions raised, it is necessary to consider the essential factual aspects pertaining to this case. The present crime was registered in the year 2018, alleging that the petitioner developed a friendship with the de facto complainant through Facebook



and invited her to Dubai, where he had molested her. Evidently, the crime was registered on the basis of a complaint given by the de facto complainant to the Police Chief, Chhattisgarh, which was forwarded to the Police Chief, Kerala, and thereafter to the Station House Officer, Paravoor Police Station, through the District Police Chief, Kollam. Admittedly, after investigation, the police filed an undetected report before the jurisdictional Magistrate on 29.06.2019. This happened because, in the investigation, not enough evidence or material to file a charge sheet against the petitioner could be collected, mainly because the de facto complainant refused to co-operate with the investigation. The report submitted by the Station House Officer, Paravoor Police Station, specifically states that, although notice was issued to the de facto complainant in connection with the steps taken to record her statements, including a statement under Section 164 of the Code of Criminal Procedure, she did not appear or produce any materials to substantiate the allegations. Consequently, the undetected report was filed before the jurisdictional Magistrate on 29.06.2019.

8. The crucial question that arises for consideration is whether an FIR can be quashed in a case where the investigation has culminated in the filing of an undetected report. While considering this question, it must be borne in mind that the right to have criminal proceedings concluded within a reasonable time is an important facet of the right to life and personal liberty guaranteed under Article 21 of the Constitution of India. The right to



a speedy investigation is not just for the benefit of the victim or the person who filed the case. It also protects the accused person from having a criminal investigation hang over their head forever, ending the constant stress and uncertainty that comes with it.

9. At the same time, the mere filing of an undetected report does not extinguish the crime or confer an indefeasible right upon the accused to seek quashing of the FIR. In **Chinnathampi @ Subramani v. State** (2017 KHC 3272), a Full Bench of the Madras High Court observed as follows:

"if the Investigating Officer, despite the earnest efforts taken, is unable to detect the crime, he will submit a report to the Magistrate stating that the crime is "undetectable". In such a case, it cannot be construed that the investigation has been completed. If once the investigation is completed, then only a report could be filed under S.173(2) Cr.P.C. A report of this kind where the Police Officer states that the crime is undetectable, does not terminate the investigation and thus, the investigation is construed to be in progress. It is like an interim report not falling within the scope of S.173(2) Cr.P.C. On receipt of such a report, the learned Magistrate does not pass a judicial order but, instead, he simply receives and records the same. There is absolutely no element of any adjudication. This order of the learned Magistrate is undoubtedly not a judicial order."

10. Therefore, the filing of a report in a case as undetected cannot, by itself, justify the exercise of the inherent jurisdiction of this Court to quash the FIR. In **State of Andhra Pradesh v. P.V. Pavithran** [1990 (2) SCC 340], the Hon'ble Supreme Court considered whether the prolonged delay in investigation would justify quashing the criminal proceedings. In the said judgment, the Hon'ble Supreme Court recognised that unreasonable prolonged investigation may cause serious mental distress and prejudice to the accused. In the said decision, the Hon'ble



Supreme Court observed as follows;

" a lethargic and lackadaisical manner of investigation over a prolonged period makes an accused in a criminal proceedings to live every moment under extreme emotional and mental stress and strain and to remain always under a fear psychosis. Therefore, it is imperative that if investigation of a criminal proceeding staggers on with tardy pace due to the indolence or inefficiency of the investigating agency causing unreasonable and substantial delay resulting in grave prejudice or disadvantage to the accused, the Court as the protector of the right and personal liberty of the citizen will step in and resort to the drastic remedy of quashing further proceedings in such investigation."

11. Nevertheless, in the said decision, the Hon'ble Supreme Court held that:

"No general and wide proposition of law can be formulated that whenever there is inordinate delay on the part of the investigation, such delay, ipso facto, would provide ground for quashing the First Information Report or the proceeding arising therefrom."

12. However, dealing with the similar question, the Hon'ble Supreme Court, in **Vakil Prasad Singh v. State of Bihar**, [2009 (3) SCC 355] held that:

"It is well settled that the right to speedy trial in all criminal prosecutions is an inalienable right under Art.21 of the Constitution. This right is applicable not only to the actual proceedings in Court but also includes within its sweep the preceding police investigations as well. The right to speedy trial extends equally to all criminal prosecutions and is not confined to any particular category of cases. In every case, where the right to speedy trial is alleged to have been infringed, the Court has to perform the balancing act upon taking into consideration all the attendant circumstances, enumerated above, and determine in each case whether the right to speedy trial has been denied in a given case. Where the Court comes to the conclusion that the right to speedy trial of an accused has been infringed, the charges or the conviction, as the case may be, may be quashed unless the Court feels that having regard to the nature of offence and other relevant circumstances, quashing of proceedings may not be in the interest of justice. In such a situation, it is open to the Court to make an appropriate order as it may deem just and equitable including fixation of time frame for conclusion of trial."

13. After observing so, the Hon'ble Supreme Court quashed the proceedings in the case. The principle that can be gathered from a conjoint



reading of the above decisions is that delay in investigation itself is not a ground to quash criminal proceedings. However, an inordinate delay in the investigation and trial not attributable to the accused amounts to a violation of Article 21 and warrants the quashing of criminal proceedings if there are compelling and exceptional circumstances. In essence, the quashing of criminal proceedings on the ground of inordinate delay in the investigation is not automatic.

14. While considering whether criminal proceedings have to be quashed on the ground of delay, under the facts and circumstances of each case, the Court has to examine whether the delay in the investigation is unreasonable and whether such delay has caused serious prejudice to the accused, thereby infringing the right to a speedy investigation and trial guaranteed under Article 21 of the Constitution of India. Mere delay, by itself, does not warrant quashing the proceedings; rather, the Court must undertake a balancing exercise by considering the nature and gravity of the offence, the reasons for the delay, the conduct of the parties, and the actual prejudice caused to the accused, and determine whether quashing the proceedings or granting any other appropriate relief is necessary in the interests of justice.

15. In the present case, the crime was registered in 2018, and the undetected report was filed on 29.06.2019. Nearly eight years have elapsed since the registration of the crime, yet the materials placed before this



Court do not disclose any subsequent progress in the investigation. The report of the investigating officer indicates that the investigation could not proceed further owing to the non-appearance of the de facto complainant and the absence of sufficient materials to substantiate the allegations. Thus, the investigation had reached a standstill as early as 2019, and there is nothing on record to indicate that any further material has emerged or that any meaningful investigative steps have been taken thereafter.

16. It is also relevant to note that the de facto complainant and the petitioner became acquainted through Facebook and had met each other in Kerala before the de facto complainant travelled to Dubai on 17.05.2018, where she allegedly stayed until 29.05.2018. It was during her stay in Dubai that the de facto complainant was allegedly molested. Notably, the de facto complainant is a mature, educated lady and a dentist by profession. The nature of the offence alleged against the accused cannot be treated as heinous under the facts of the present case. It is difficult to believe that the de facto complainant was totally ignorant of the consequences of visiting Dubai at the invitation of the accused. More significantly, it was due to the non-cooperation of the de facto complainant that the investigation in this case was stalled and the investigating agency was constrained to file a report as undetected. Therefore, under these circumstances, the further continuance of the FIR against the petitioner is unwarranted, and the same deserves to be quashed.



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17. In the result, this Criminal Miscellaneous Case is allowed. The FIR in Crime No. 1104/2018 of Paravoor Police Station, Kollam City, and all further proceedings pursuant thereto, as against the petitioner stand hereby quashed.

This Court places on record its sincere appreciation to the learned Amicus, who rendered assistance to this Court in an enviable manner.

Sd/-
JOBIN SEBASTIAN
JUDGE

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APPENDIX OF CRL.MC NO. 10675 OF 2025

PETITIONER ANNEXURES

- Annexure 1 THE CERTIFIED COPY OF THE FIR IN CRIME NO. 1104/2018 OF THE PARAVOOR POLICE STATION
- Annexure 2 THE COPY OF THE JUDGMENT OF HON'BLE HIGH COURT OF KERALA REPORTED IN MOHAMMED SHAMEER ALI VS STATE OF KERALA (2019 (3) KLT 1034)
- Annexure 3 THE TRUE COPY OF THE UN REPORT DATED 29.06.2019 SUBMITTED BY THE 2ND RESPONDENT BEFORE THE JFMC, PARAVOOR