



2025:KER:80607

CRL.MC NO. 250 OF 2025

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE C.PRATHEEP KUMAR

MONDAY, THE 27TH DAY OF OCTOBER 2025 / 5TH KARTHIKA, 1947

CRL.MC NO. 250 OF 2025

CRIME NO.793/2024 OF Ernakulam North Police Station, Ernakulam

CC NO.556 OF 2024 OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE ,
ERNAKULAM

PETITIONER(S) / ACCUSED

RANJITH BALAKRISHNAN, AGED 60 YEARS
S/O. BALAKRISHNAN, 60/6242A, 'KARUMALA' P.V.SAMY ROAD,
CHALAPPURAM KOZHIKODE, PIN - 673002

BY ADVS.
SRI.SANTHEEP ANKARATH
SHRI.SHERRY M.V.

RESPONDENT(S) / STATE AND DEFACTO COMPLAINANT

- 1 STATE OF KERALA
REPRESENTED BY ITS PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM, KOCHI -, PIN - 682031
- 2 STATION HOUSE OFFICER,
ERNAKULAM TOWN NORTH POLICE STATION, ERNAKULAM
DISTRICT, KOCHI, PIN - 682018
- 3
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OTHER PRESENT:

PP-SRI.U.JAYAKRISHNAN

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
27.10.2025, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

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

The sole accused in C.C.No.556/2024 on the file of the Additional Chief Judicial Magistrate Court, Ernakulam filed this petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita (BNSS) praying for quashing all further proceedings against him

2. The offences alleged against the petitioner are under Section 354 and 509 of the IPC. The date of the alleged incident was on 22.04.2009. Annexure A1 complaint was given only on 26.08.2024, after more than 15 years.

3. Relying upon Section 468 of Cr.PC, the learned counsel for the petitioner Sri. Santheep Ankarath would argue that since the maximum punishment provided for the offences under Sections 354 and 509 of IPC in 2009 were two years and one year respectively, the period of limitation for

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taking cognizance of the aforesaid offences was only three years from the date of commission of the offences. Therefore, according to the learned counsel, the charge is hopelessly barred by limitation. Further, according to the learned counsel, the application filed under S.473 Cr.PC subsequent to taking cognisance of the offence is of no use.

4. On the other hand, the learned Public Prosecutor Sri.U.Jayakrishnan while opposing the petition would argue that the reason for the delay has been explained in the final report and in the application filed under S.473 Cr.PC. Though notice was served on the de facto complainant, she did not turn up.

5. In this case, as per the report filed by the learned Magistrate, the police filed final report on 16.11.2024 and the Magistrate has taken cognizance of the offence on 29.11.2024. Though on 19.11.2024 the investigating officer has filed an application seeking validation of the final report by explaining the delay, it was not considered and



deferred till the time of appreciation of the evidence.

6. Now the points that arise for consideration are the following:

1) Whether the learned Magistrate was justified in taking cognizance of the offence after the period of limitation, without condoning the delay?

2) Whether the procedure adopted by the learned Magistrate in deferring the question of limitation till the time of appreciation of the evidence is correct?

7. The Points:- The learned counsel for the petitioner has also relied upon the decision of this Court in ***Agron Remedies PVT.Ltd. (M/s) and Others vs. Drug Inspector, Tvm and Another*** [2022 (2) KHC 684], in support of his argument. In the above decision in paragraph 15 this Court held that:

"Here no petition was filed by the complainant at pre - cognizance stage to condone the delay with satisfactory



explanation, if cognizance has to be taken even after expiry of the period of limitation. Moreover no grounds were shown to condone the delay in the interest of justice. The delay has to be explained satisfactorily and it should have been condoned before taking cognizance of the offence, and S.473 of Cr.P.C cannot have any application, after cognizance was taken on a time barred complaint. The provisions of S.473 of Cr.P.C' has to be invoked at the pre-cognizance stage, and once cognizance is taken, the court cannot go back to condone the delay to save the period of limitation. Before taking cognizance the learned Magistrate should have applied his mind to see that the prosecution is within time".

8. In the decision in **Johnson Alexander vs. State By CBI, ACB** [Manu/SC/0443/2015] the Apex Court held that:

"In view of the clear bar under Clause (b) of Sub-section (2) of Section 468 Code of Criminal procedure, the complaint is barred by limitation, more so there is no application filed by the prosecution explaining the delay caused from the date of the alleged occurrence till the date of filing the complaint and



registering the FIR against the Appellant herein under Section 120-B read with Section 13(1)(d) of the P.C. Act, on this ground alone, the proceedings initiated against the Appellant are vitiated in law as there is an express bar under Section 468(2)(b) Code of Criminal Procedure. The aforesaid legal contentions are not examined either by the learned Special Judge or by the High Court while examining the correctness of taking cognizance against the Appellant and other accused. Though there is a statutory bar under Clause (b) of Sub-section (2) of Section 468 Code of Criminal Procedure to take cognizance after lapse of the period of limitation, the alleged occurrence is of the year 1995, FIR was lodged and the proceedings are initiated in the year 1999 and taken cognizance on 21.06.2001, therefore, the entire proceedings are vitiated in law. Hence, taking cognizance against the Appellant by the learned Special Judge, CBI in C.C.No.115/2001 is bad in law and liable to be quashed. Accordingly, we set aside the impugned order of the High Court insofar as this Appellant is concerned. For the reason that the complaint and FIR is registered beyond one year, therefore, the proceedings are not maintainable in law. On this ground alone, these proceedings are



liable to be quashed and we hereby quash the same."

9. Therefore, the law is well settled that the delay is to be condoned before taking cognizance and after taking cognizance the court cannot go back to condone the delay to save the period of limitation.

10. In this case, the maximum punishment provided for the offence under Section 354 and 509 of IPC as on the date of commission of the offence was only two years and one year respectively. Therefore, as per Section 468 of Cr.PC, the period of limitation for taking cognizance in this case was only three years from the date of commission of the offence. In the above circumstance, the learned Magistrate was not justified in taking cognizance of the offence after the period of more than 15 years. Similarly, the procedure adopted by the learned Magistrate in deferring the question of limitation till the time of appreciation of the evidence is also not correct



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11. In this case cognizance was taken by the Magistrate on the basis of a time barred police report without condoning the delay and as such, the proceedings against the petitioner is liable to be quashed by invoking the power under Section 528 of BNSS.

12. In the result, this Cr.M.C is allowed and all further proceedings against the petitioner in pursuance of Crime No.793/2024 of Ernakulam North Police Station is quashed.

Sd/-

C.PRATHEEP KUMAR

JUDGE

SAS



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APPENDIX OF CRL.MC 250/2025

PETITIONER ANNEXURES

ANNEXURE A 1	CERTIFIED COPY OF FIRST INFORMATION REPORT DATED 26.8.2024 IN CRIME NO. 793/2024 OF ERNAKULAM TOWN NORTH POLICE STATION.
ANNEXURE A 2	CERTIFIED COPY OF THE FINAL REPORT DATED 16.11.2024 IN CRIME NO. 793/2024 OF ERNAKULAM TOWN NORTH POLICE STATION UPON WHICH C.C NO. 556 OF 2024.
ANNEXUR A3	TRUE COPY OF THE TRACKING CONSIGNMENT REPORT DOWNLOADED FROM THE WEBSITE OF INDIA POST