



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE V.G.ARUN

WEDNESDAY, THE 9TH DAY OF JULY 2025 / 18TH ASHADHA, 1947

CRL.MC NO. 979 OF 2022

CRIME NO.94/2019 OF Kattappana Police Station, Idukki

AGAINST THE ORDER DATED IN CC NO.374 OF 2019 OF JUDICIAL
MAGISTRATE OF FIRST CLASS , KATTAPPANA

PETITIONER:

ELVIN JOHN MATHEW,
AGED 40 YEARS
SON OF JOHN MATHAI, PUTHENPURAYIL HOUSE, THOPPIPALA
P.O.IDUKKI
IDUKKI, PIN - 685 511.

BY ADVS.

SASTHAMANGALAM S. AJITHKUMAR (SR.)
SREEJITH S. NAIR

RESPONDENT:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA
ERNAKULAM, PIN - 682 031.

BY ADV. SANAL. P. RAJ, PP.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
09.07.2025, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**"CR"****V.G.ARUN, J**

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Crl.M.C.No.979 of 2022

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Dated this the 9th day of July, 2025

The petitioner is the accused in C.C.No.374 of 2019 pending on the files of the Judicial First Class Magistrate Court, Kattappana. The case originated from Crime No.94 of 2019 registered at Kattappana Police Station for offences punishable under Section 21(1) r/w Section 25 (1-B) of the Arms Act, 1959 (for short, 'the Act').

2. The essential facts are as under:-

The petitioner is the holder of a gun for which appropriate licence had been issued by the competent authority. As the licence was due to expire on 15.12.2016, the petitioner applied for its renewal on 05.12.2016 and deposited the gun in the Armoury of a licenced dealer on 18.03.2017. During routine verification at the Armoury, the Police noticed that the petitioner's gun was deposited three months after expiry of the licence, contrary to the mandate of Section 21 of the Act.



3. The learned counsel for the petitioner contended that as per Section 21(1), the requirement is only to deposit the arm without 'unnecessary delay'. The petitioner having applied for renewal of licence on 05.12.2016 and deposited the gun on 18.03.2017, he cannot be prosecuted and penalised under Section 21 of the Act, the deposit being within three months of expiry of the licence. In support of this argument, reliance is placed on the decision of this Court in ***Devasia Mathew v. State of Kerala and Others*** [2017 (2) KHC 58].

4. The learned Public Prosecutor submitted that as per Rule 24(2) of the Arms Rules, 2016 (for short, 'the Rules') the licensee is bound to apply for renewal of licence 60 days prior to the date of expiry. As against this, the petitioner submitted renewal application only 10 days prior to the expiry of his licence. Moreover, contrary to the mandate of Section 21(1), which requires the licensee to deposit the arm immediately on expiry of the licence, petitioner deposited his gun after three months of expiry of his licence. The failure to deposit the gun within the time stipulated under Section 21(1) being punishable under Section 25(1-B)(h) of the Act, the



investigating officer was justified in submitting the charge sheet for the alleged offences. According to the learned Public Prosecutor, **Devasia Mathew** (supra) was rendered on an entirely different set of facts. Going by the allegation in that case, the arm was deposited in the Armoury before expiry of the licence period and the expression 'unnecessary delay' was interpreted based on the said fact.

5. In the case at hand, the petitioner's licence was valid upto 15.12.2016 and he deposited the gun in the Armoury on 18.03.2017. The short question is whether the deposit made after three months can be termed as deposit made without 'unnecessary delay'. In **Devasia Mathew**, though in a different context, this Court has held that the meaning of the words 'unnecessary delay' has to derive its basis from sub-rule 46(4) of the Arms Rules, 1962. Therein deposit of the arm within six months of expiry of the licence was held to be deposit made without unnecessary delay.

6. While on the subject, it will be apposite to note that, even though Rule 24(2) mandates submission of the renewal



application sixty days prior to the expiry of the licence, sub-rule 5 of Rule 24 empowers the licensing authority to consider the application for renewal submitted after expiry of the licence, if the period between the date of expiry of the licence and the date of application is not 'unduly long'.

7. In this context, the principle '*Nulla poena sine lege*' ("no penalty without law"), which means that 'no one can be punished for an act unless it is clearly defined as a crime', assumes relevance. The principle emphasizes the need for the laws to be clear, specific and precise, so as to provide protection against arbitrary punishment, based on vague laws.

8. The expression 'without unnecessary delay' in Section 21(1) of the Act being vague, failure to deposit the arm immediately after expiry of the licence cannot result in the licensee being compelled to face criminal prosecution. All the more so, since the rules provide for consideration of an application submitted after expiry of the licence, if the period between the date of expiry of the licence and the date of application is not 'unduly long'



For the reasons aforementioned, this Crl.M.C. is allowed. Annexure 1 final report and all further proceedings in Crime No.94 of 2019 of Kattapana Police Station, as against the petitioner, is quashed.

SRJ/sj

sd/-
V.G.ARUN, JUDGE



APPENDIX OF CRL.MC 979/2022

PETITIONER'S ANNEXURES

ANNEXURE1	THE TRUE COPY OF FINAL REPORT IN CRIME NO.94/2019 OF KATTAPPANA POLICE STATION, IDUKKI DISTRICT.
ANNEXURE2	THE TRUE COPY OF LETTER NO. DCIDK/7187/2019/E2.
ANNEXURE3	THE TRUE COPY OF THE LETTER NO. E2-46578/2016.