



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

TUESDAY, THE 2ND DAY OF DECEMBER 2025 / 11TH AGRAHAYANA, 1947

CRL.MC NO. 10878 OF 2025

CRIME NO.2/2009 OF VACB, THIRUVANANTHAPURAM,

Thiruvananthapuram

CC NO.11 OF 2013 OF ENQUIRY COMMISSIONER AND SPECIAL

JUDGE (VIGILANCE), THIRUVANANTHAPURAM

PETITIONER/ACCUSED:

MOHAN ABRAHAM
AGED 69 YEARS
S/O.M.M.ABRAHAM, MELMOOTIL, P.R.LANE, KAVADIAR
P.O., THIRUVANANTHAPURAM, PIN - 695000

BY ADVS.
SRI.S.RAJEEV
SRI.V.VINAY
SRI.M.S.ANEER
SRI.SARATH K.P.
SRI.ANILKUMAR C.R.
SRI.K.S.KIRAN KRISHNAN
SRI.AZAD SUNIL
SMT.DIPA V.
SRI.AKASH CHERIAN THOMAS

RESPONDENTS/STATE:

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM, PIN - 682031
BY SPL.PUBLIC PROSECUTOR SRI.RAJESH.A., VACB
BY SR.PUBLIC PROSECUTOR SMT.REKHA.S., VACB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 02.12.2025, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

**CR****ORDER**

Dated this the 02nd day of December, 2025

This petition has been filed by the sole accused in C.C.No.11/2013 on the files of the Enquiry Commissioner and Special Judge (Vigilance), Thiruvananthapuram, arose out of Crime No.2/2009 of the Vigilance and Anti-Corruption Bureau, Thiruvananthapuram, seeking the following prayer:

“To direct the Court of Enquiry Commissioner and Special Judge, Vigilance, Thiruvananthapuram to commence the trial only after complying the provisions of Rule 19(4) of Criminal Rules of Practice, 1982 by allowing this Crl MC in the interest of justice.”

2. As on 29.11.2025, as per the order of a learned Single Judge of this Court, the trial was kept in abeyance, though, in fact, the examination of witnesses was scheduled to start from 01.12.2025 onwards. Thus, because of the interim order passed by this Court, the trial was postponed. Now, as per the order of the



Enquiry Commissioner and Special Judge, Thiruvananthapuram, dated 01.12.2025, it was also found that there was non-compliance with Rule 19(4) of the Criminal Rules of Practice, 1982 (for short, 'the C.R.P., 1982,' hereinafter), and accordingly, an order was passed as under:

“1. The Investigating officer is directed to file a comprehensive list (A) specifying the details of witnesses examined during the investigation, the documents collected and also the material objects collected.

2. The Investigating officer is directed to file a comprehensive list (B) specifying the details of witnesses, the documents and also the material objects relied upon.

3. The Investigating officer is directed to file a comprehensive list (C) specifying the details of witnesses, the documents and also the material objects un-relied.”

3. In view of the above order, the learned counsel for the petitioner seeks permission to withdraw this petition.

4. Permission granted and this petition is dismissed withdrawn.

5. However, it appears that the examination of the witnesses was scheduled from 01.12.2025, as per order dated 11.08.2025 and the petitioner filed Annexure I petition



complaining non-compliance of Rule 19(4) of the C.R.P., 1982, only on 10.11.2025, after keeping silence for a pretty long time. Thus, the filing of this petition on the previous day of start of the examination of the witnesses would involve an element of stalling the trial. Anyhow, as of now, the examination of the witnesses scheduled was stopped and the learned Special Judge is awaiting compliance of the directions he had issued, as already extracted above.

6. Noting all these aspects, there shall be a direction to the learned Special Judge to effectuate compliance of Rule 19(4) of the C.R.P., 1982, within a period of two weeks from today, and schedule the case at the earliest, and complete the examination of the witnesses and trial within a period of two months on the expiry of two weeks, for complying Rule 19(4) of the C.R.P., 1982, after ensuring compliance of the same, without fail, and report compliance.

7. In the decision in **Akhil Sabu v. State of Kerala** reported in **[2024 (5) KHC 49]**, this Court issued directions to all Criminal Courts in the District Judiciary to ensure compliance of Rule 19(4) of the Criminal Rules of Practice, Kerala,



1982, before start of trial, by directing the Public Prosecutors to give a specific posting for the said compliance, and to start the trial only after ensuring compliance with the mandate of Rule 19(4) of the C.R.P., 1982, without fail.

8. In the instant case, going by the order passed, as extracted hereinabove, it is discernible that the learned Special Judge failed to comply with the directions issued by this Court in **Akhil Sabu's** case (supra) in the strict sense and, accordingly, he was compelled to pass an order directing compliance of Rule 19(4) of the C.R.P., 1982, as extracted above, only after the accused complained of non-compliance with Rule 19(4) of the C.R.P., 1982, by filing a petition on 10.11.2025.

9. It is discernible that even though the trial court scheduled this case for examination of the witnesses much earlier, i.e. as per order dated 11.08.2025, the accused person did not raise any contention regarding non-compliance with Rule 19(4) of the C.R.P., 1982 till 10.11.2025. It seems that usually such challenges would be raised just before the start of examination of the witnesses and the intention is to delay the trial. Similarly, such challenge would be made before this Court also, most



importantly, on the previous day or two or three days before the start of examination of the witnesses to stay the same, and by that time, summons to the witnesses already been issued and the prosecution agency turmoiled a lot to effectuate examination of the witnesses. Further, the learned Judge also would make preparation for examination of the witnesses without scheduling any other case. Once the trial is stayed or deferred, the learned Judge also becomes workless for the days covered by the schedule. In fact, if the learned Special Judge, in the instant case, had complied with the directions in the decision in **Akhil Sabu's** case (supra), this scenario should not have happened. Thus, it appears that the Criminal Courts in the District Judiciary are not only to be directed to comply with the directions in **Akhil Sabu's** case (supra), but also to issue another direction ensuring compliance with Rule 19(4) of the C.R.P., 1982 before scheduling a case for examination of witnesses. Accordingly, it is ordered that all Criminal Courts in the District Judiciary shall ensure compliance with Rule 19(4) of the C.R.P., 1982, before scheduling the case for examination of witnesses and obtain an endorsement to that effect in the proceedings sheet of the case from the accused or his



counsel, as the case may be, and also record the same in the proceedings hereafter, without fail, to avoid challenge regarding non-compliance with Rule 19(4) of the C.R.P., 1982, being raised so as to stall the trial after service of summonses to the witnesses, thereby causing difficulty to the Court as well as to the witnesses, including the prosecution.

Registry is directed to communicate this direction to all the Criminal Courts in the District Judiciary through the Principal Sessions Judges and Chief Judicial Magistrates, for compliance hereafter, without fail. It is specifically ordered that non-compliance of the order would warrant contempt proceedings against the officers, once it is noticed by this Court.

Sd/-
A. BADHARUDEEN
JUDGE

Bb



APPENDIX OF CRL.MC NO. 10878 OF 2025

PETITIONER'S ANNEXURES

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| Annexure-I | A COPY OF THE APPLICATION FILED BY THE PETITIONER U/S.19(4) OF THE CRIMINAL RULES OF PRACTICE (KERALA), 1982 |
| Annexure-II | A TRUE COPY OF THE REPORT FILED BY THE DYSP BEFORE THE COURT OF ENQUIRY COMMISSIONER & SPECIAL JUDGE, THIRUVANANTHAPURAM |
| Annexure-III | A COPY OF THE ONLINE PROCEEDINGS DATED 27.11.2025 ON THE FILE OF COURT OF ENQUIRY COMMISSIONER AND SPECIAL JUDGE, THIRUVANANTHAPURAM IN CC.NO.11/2013 |
| Annexure-IV | A COPY OF THE ONLINE PROCEEDINGS IN CC.NO.11/2013 SCHEDULING THE TRIAL FROM 01.08.2025 |

RESPONDENT'S ANNEXURES : NIL