



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE C.PRATHEEP KUMAR

WEDNESDAY, THE 7TH DAY OF JANUARY 2026 / 17TH POUSHA, 1947

CRL.MC NO. 2029 OF 2021

**AGAINST THE ORDER/JUDGMENT DATED IN CC NO.231 OF 2020
OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE, THIRUVANANTHAPURAM**

PETITIONER/ACCUSED:

**ANILKUMAR
AGED 58 YEARS
S/O.SUDHAKARAN, SREELAKAM, SNRRA 164,
NEAR PANAYIL DEVI TEMPLE, NEERAZHI LANE,
ULLOOR MEDICAL COLLEGE P.O.,
THIRUVANANTHAPURAM, PIN - 695011**

**BY ADVS.
SRI.S.RAJEEV
SRI.K.K.DHEERENDRAKRISHNAN
SRI.V.VINAY
SHRI.ANAND KALYANAKRISHNAN
SRI.M.S.ANEER**

RESPONDENTS/STATE/DEFACTO COMPLAINANT:

- 1 STATE OF KERALA
REP BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM,
(CRIME NO.1162/2014 OF MEDICAL COLLEGE
POLICE STATION THIRUVANANTHAPURAM)**
- 2 ARYA.S.
AGED 27 YEARS
W/O.SHERIN, UNARDHAM TC 6.35, PNRA 71E,
PRASANTH NAGAR, ULLOOR MEDICAL COLLEGE.P.O.,
THIRUVANANTHAPURAM, PIN - 695011**



OTHER PRESENT:

SR. PP - SRI. BREEZ M.S

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 07.01.2026, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**



'CR'

ORDERDated this the 07th day of January, 2026

The accused in C.C No. 231 of 2020 on the file of the Additional Chief Judicial First Class Magistrate Court, Thriuvananthapuram, filed this petition under Section 482 Cr.P.C praying for quashing all further proceedings against him. The above case is based on a private complaint filed by the 2nd respondent/defacto complainant in the form of a protest complaint against Annexure A1 refer report filed by police in Crime No. 1162 of 2014 of the Medical College Police Station.

2. The main grievance raised by the learned counsel for the petitioner is that the learned Magistrate has passed a cryptic order taking cognizance of the offences without even referring to Annexure A1 refer report. Therefore, the learned counsel prayed for setting aside Annexure A4 order of the learned Magistrate dated 27.02.2020, taking cognizance of the offence under Section 506(i) IPC against the petitioner.

2. Though service was complete, 2nd respondent/defacto complainant did not turn up.

3. From Annexure A4 proceedings of the learned Magistrate, it is revealed that the learned Magistrate has recorded the statements of the complainant and a witness and also directed the SHO,



Medical College Police Station to produce the CD relating to Annexure A1 refer report. However, on 27.02.2020, while taking cognizance of the offence under Section 506(1) IPC, the only order seen to have been passed by the learned Magistrate is as follows :

“ The complaint is taken on file as C.C No. 231 of 2020 under Section 506(1) IPC. Issue summons to the complainant. Take steps. Return of summons. 02.05.2020.”

4. As argued by the learned counsel for the petitioner, in the order dated 27.02.2020 referred above, while taking cognizance of the offence under Section 506(1) IPC against the petitioner, the reasons for taking cognizance of the offence and the materials relied upon by the learned Magistrate were not disclosed.

5. The learned counsel for the petitioner has relied upon the decision of this Court in ***Parameswaran Nair v. Surendran*** [2009 (1) KLT 794], in support of his argument. In the above decision, in Paragraph 19, this court held as follows :

“19. The order passed by the learned Magistrate is to be considered in the light of the aforesaid principles. The order is blank on whether the decision to take cognizance and issue summons was taken on the materials available in the final report made under S.173 (2) or on the materials made available by the complainant in the inquiry under S. 200. The order makes it clear that the learned Magistrate has not considered the question on the proper perspective. In such circumstances, the



order can only be set aside and the matter remanded for fresh consideration in accordance with law.”

6. In the decision in ***C.R Chandran v. State of Kerala*** [ILR 2024 (3) Ker. 245], in paragraph 11, this Court held as follows :

“11. Therefore, an order taking cognizance should be self-speaking and the same should contain the materials relied on by referring the same in detail and based on the said materials the offences for which cognizance proposed to be taken are made out, so as to justify the order taking cognizance. The order of cognizance without disclosing the essentials described herein above, in the form of a cryptic, irrational and non speaking, would not sustain in the eye of law. Therefore, the cryptic order taking cognizance challenged in this petition would require interference and accordingly order dated 23.07.2016 passed by the Magistrate is table to be set aside. However, the matter would require reconsideration by the Magistrate after considering the materials, including the statements given by CWs 1 to 3, afresh in view of the settled law herein above discussed. For the said purpose, the matter is liable to be remanded back to the trial court.”

7. Therefore, it is evident that while taking cognizance of an offence based on a private complainant, especially one filed as a protest complaint against a refer report filed by the police, the Magistrate shall take into consideration the refer report as well. Further, it should be a speaking order, containing the materials justifying the order taking cognizance, as held by this court in the decisions referred above.



8. Annexure A4 order dated 27.02.2020 is a cryptic order which does not refer to Annexure A1 refer report. Moreover, it does not contain the materials relied upon in support of taking cognizance of the offence. Therefore, Annexure A4 order is liable to be set aside.

9. In the result, Annexure A4 order of the learned Magistrate dated 27.02.2020 taking cognizance of the offence against the petitioner is set aside. The matter is remanded back to the leaned Magistrate with a direction to pass appropriate orders as per law, in tune with the decisions in *Parameswaran Nair (supra)* and *C.R Chandran (supra)*.

Sd/-

**C. PRATHEEP KUMAR,
JUDGE**



APPENDIX OF CRL.MC NO. 2029 OF 2021

PETITIONER ANNEXURES

ANNEXURE-I	A CERTIFIED COPY OF THE FINAL REPORT SUBMITTED BY THE INVESTIGATION OFFICER IN CRIME NO.1162/2014 OF MEDICAL COLLEGE POLICE STATION
ANNEXURE-II	A COPY OF THE SIT FOR COMPENSATION FILED BY THE PETITIONER BEFORE THE HON'BLE SUB COURT, THIRUVANANTHAPURAM AS OS NO.71/2015
ANNEXURE-III	A CERTIFIED COPY OF THE COMPLAINT FILED BY 2ND RESPONDENT ON 11.01.2016 BEFORE THE ADDL. CHIEF JUDICIAL MAGISTRATE COURT, THIRUVANANTHAPURAM AGAINST THE FILING OF REFER REPORT IN RC NO.489/2014
Annexure IV	A CERTIFIED COPY OF THE ORDER IN CC NO 231/2020 OF THE CHIEF JUDICIAL MAGISTRATE, THIRUVANANTHAPURAM TAKING COGNIZANCE AND ISSUING SUMMONS TO THE PETITIONER
Annexure V	CERTIFIED COPY OF THE SWORN STATEMENT OF THE DEFACTO COMPLAINANT BEFORE THE CHIEF JUDICIAL MAGISTRATE, THIRUVANANTHAPURAM