



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

TUESDAY, THE 5TH DAY OF AUGUST 2025 / 14TH SRAVANA, 1947

CRL.MC NO. 6827 OF 2019

AGAINST THE ORDER DATED 29.04.2019 IN CMP 78/2019 IN ST
NO.1971 OF 2017 OF GRAMA NYAYALAYA, PERINAD KOLLAM

PETITIONER/5TH ACCUSED:

SANTHOSH KUMAR, AGED 55 YEARS
S/O.ALOCIOUS, RIMA GARDENS, CHITTAYAM CHERI,
PANAYAM VILLAGE, KOLLAM DISTRICT, PIN- 691601.

BY ADVS. SRI.DINESH MATHEW J.MURICKEN
SRI.VINOD S. PILLAI

RESPONDENTS/DEFACTO COMPLAINANT & COMPLAINANT:

1 SYAMALA, AGED 49 YEARS (*Address corrected)
D/O.JAGADAMMA, FIRST FLOOR, D.S.APARTMENT,
PIPINMOODU, AMBALAMUKKU, MUTTADA P.O.,
THIRUVANANTHAPURAM DISTRICT, PIN- 695025.

*SYAMALA, D/O JAGADAMMA, SAINATH-E-26, PEROOR NAGAR
RESIDENTS ASSOCIATION, PEROOR NAGAR, KOWDIAR PO,
THIRUVANANTHAPURAM DISTRICT, PIN-695003

*(ADDRESS OF THE 1ST RESPONDENT IS CORRECTED AS PER
ORDER DATED 5.8.2025 IN CRL.MA.NO.3/2019)

2 STATE OF KERALA, REP. BY THE PUBLIC PROSECUTOR, HIGH
COURT OF KERALA, ERNAKULAM- 682031.

SRI.Maya M.N-PP

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
05.08.2025, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**"CR"****ORDER**

Annexure A3 order passed by the Grama Nyayalaya, Perinad, condoning the delay in taking cognizance of the offences against the petitioner is under challenge in this Crl.M.C.

2. The petitioner is the 5th accused in S.T.No.1971/2017 on the files of the Grama Nyayalaya, Perinad. The offences alleged against him are punishable under Sections 323 and 341, read with Section 34 of the IPC. The prosecution allegation, in short, is that on 27.1.2013, the petitioner, along with the remaining accused, wrongfully restrained the de facto complainant and caused him bodily injury and thereby committed the offences.

3. The alleged incident took place on 27.1.2013. The final report was filed on 17.11.2016. As per Section 468(1) of Cr.P.C, no court shall take cognizance of an offence of the category specified in sub-section (2), after the period of limitation. As per sub-section 2(b), if the offence is punishable with imprisonment for a term not exceeding one year, the period of limitation is one year. The punishment prescribed for the offence under Section 323 of IPC is simple imprisonment for one year and for the offence under Section 341 of IPC is simple imprisonment for one month. No



application has been filed by the investigating agency along with the final report to condone the delay. The petitioner appeared before the trial court and filed an application as CMP No.735 of 2018 to stop the proceedings under Section 258 of the Cr.P.C on the ground that taking cognizance of the offence was barred by limitation under Section 468 of Cr.P.C. Thereafter, the prosecutor filed an application under Section 473 of Cr.P.C to condone the delay. The application was opposed by the petitioner. However, it was allowed as per Annexure A3. The said order is under challenge in this Crl.M.C.

4. I have heard the learned counsel for the petitioner and the learned Public Prosecutor. There is no appearance for the 1st respondent/de facto complainant.

5. The learned counsel for the petitioner submitted that Annexure A3 order is not sustainable since it is not a speaking order. The learned counsel further submitted that no sufficient reason has been shown by the Prosecutor to condone the delay in taking cognizance of the offences.

6. As stated already, no application was filed by the investigating agency along with the final report to condone the delay. No reason has been stated in the final report for the delay. The reason shown in CMP No.78/2019 is that the investigating



officer could not procure the presence of the de facto complainant to record her statement despite earnest effort. In short, the investigating officer was attributing fault on the part of the de facto complainant.

7. Section 468 Cr.P.C. places an embargo upon the court from taking cognizance of an offence after the expiry of the limitation period provided therein. Section 469 prescribes the period during which the limitation begins. Section 473 enables the court to condone delay, provided that the court is satisfied with the explanation furnished by the prosecution/complainant, and where, in the interests of justice, extension of the period of limitation is called for. The principle of condonation of delay is based on the general rule of the criminal justice system, which states that a crime never dies, as has been explained by way of the legal maxim, *nullum tempus aut locus occurrit regi* (lapse of time is no bar to the Crown for the purpose of it initiating proceeding against offenders). A criminal offence is considered a wrong against the State and also the society as a whole, even though the same has been committed against an individual (**Udai Shankar Awasthi v. State of U.P.**, JT 2013 (1) SC 539). It is settled that the condonation petition can be entertained, and an order can be passed at any time before the conclusion of the trial [**Sukhdev Raj v. State of Punjab**, (1994)



SCC (Cri.) 1480]. When the statute expressly requires the delay to be properly explained, it mandates a precise reference to the causes for the delay, which can be tested on the touchstone of relevancy or sufficiency by a court of law (See **Dharampalsatyapal Ltd. v. State of Kerala**, 2024 (2) KLT 649). Before allowing an application filed under Section 473 of Cr.P.C, the court must be satisfied, on the facts and circumstances of the case, that the delay has been properly explained. The delay should not be condoned as a matter of routine without sufficient reasons. The court, while condoning delay, has to record the reasons for its satisfaction, and the same must reflect in the order. The extension of the period of limitation merely on the grounds that it is necessary to do so in the interests of justice and not on the ground of explained delay is improper.

8. A reading of the impugned order would show that the trial court did not consider the veracity of the reason offered by the prosecutor to condone the delay. On the other hand, the trial court simply observed that it is necessary to condone the delay in the interests of justice and accordingly, the petition was allowed. The said course adopted by the trial court is, no doubt, not correct. The trial court ought to have considered whether the reason offered by the prosecutor to condone the delay is genuine and reasonable



or not. Since the impugned order is bereft of any reason, it is not sustainable. Accordingly, it is set aside. The trial court is directed to reconsider CMP No.78/19 afresh in accordance with law and pass a reasoned order within two months from the date of receipt of a copy of this order.

This Crl.M.C is disposed of.

Sd/-

DR. KAUSER EDAPPAGATH

JUDGE

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APPENDIX OF CRL.MC 6827/2019

PETITIONER ANNEXURES

ANNEXURE A1	TRUE COPY OF THE FINAL REPORT IN CRIME NO.134/2013 OF ANCHALUMOODU POLICE STATION DATED 27.01.2013.2018.
ANNEXURE A2	TRUE COPY OF THE ORDER IN C.M.P.NO.735/2018 IN S.T.NO.1971/2017 PASSED BY THE GRAMA NYAYALAYA, PERINAD DATED 29.04.2019.
ANNEXURE A3	TRUE COPY OF THE ORDER IN C.M.P.NO.78/2019 IN S.T.NO.1971/2017 PASSED BY THE GRAMA NYAYALAYA, PERINAD DATED 29.04.2019.