



2026:KER:1595

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE C.PRATHEEP KUMAR

FRIDAY, THE 9TH DAY OF JANUARY 2026 / 19TH POUSHA, 1947

CRL.MC NO. 7127 OF 2022

CRIME NO.521/2021 OF MEDICAL COLLEGE POLICE STATION,

KOZHIKODE

AGAINST THE ORDER/JUDGMENT DATED IN CC NO.222 OF 2022

OF JUDICIAL MAGISTRATE OF FIRST CLASS ,KUNNAMANGALAM

PETITIONER:

**MALU.K.
AGED 72 YEARS
W/O. PRABHAKARAN, ASWATHY HOUSE, CHEVAYOOR,
KOZHIKODE, PIN - 673017**

**BY ADVS.
SRI.V.A.VINOD
SHRI.ANIL KUMAR K.P.**

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT
OF KERALA, ERNAKULAM, PIN - 682031**
- 2 STATION HOUSE OFFICER
MEDICAL COLLEGE POLICE STATION, KOZHIKODE,
PIN - 673571**
- 3 BIJILA P P
AGED 39 YEARS
W/O. VIPIN V C, JESVI HOUSE, PALAZHIPPALA, G A
COLLEGE P.O, KOZHIKODE, PIN - 673571**



**BY ADVS.
SHRI.NIRMAL.S
SMT.VEENA HARI**

SR. PP-SMT.BINDU O.V.

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
09.01.2026, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**



“CR”

ORDER

(Dated this the 09th day of January, 2026)

The 3rd accused in CC No. 222 of 2022 on the file of the Judicial First Class Magistrate Court, Kunnamangalam arising out of Crime No. 521 of 2021 filed this petition under Section 482 Cr.PC praying for quashing all further proceedings. The petitioner is the practicing lawyer and a notary public. The offences alleged against the petitioner and the other accused persons are under Section 465, 468 and 471 IPC.

2. The allegation is that the accused persons 1 and 2 with the help of the petitioner create a fabricated consent letter on 21.05.2021 purported to be executed by the defacto complainant and produced the same before the Kozhikode Corporation and obtained license for conducting a cool bar and bakery.

3. According to the learned Counsel for the petitioner, the petitioner being a notary public for taking cognizance of any offence committed by him, the mandate of Section 13(i) of the Notaries Act is to be complied. According to the learned Counsel, in this case Section 13(i) has not been complied and as such the prosecution initiated against the petition is liable to



be quashed.

4. The petition was strongly opposed by the learned Counsel for the 3rd respondent and the learned Public Prosecutor.

5. Admittedly, the petitioner is a practicing lawyer and a notary public. It is also admitted that the alleged consent letter was attested by the petitioner in discharge of his function as a notary public. Section 13 of the Notaries Act reads as follows.

13. Cognizance of offence.—(1) No Court shall take cognizance of any offence committed by a notary in the exercise or purported exercise of his functions under this Act save upon complaint in writing made by an officer authorised by the Central Government or a State Government by general or special order in this behalf.

(2) No Magistrate other than a Presidency Magistrate or a Magistrate of the first class shall try an offence punishable under this Act.

From the above provision it is clear that for taking cognizance of any offence committed by a notary in exercise of his functions under the Notaries Act, complaint made by an officer authorized by the concerned government is necessary. In the decision in **Jolsna E.P v. State of Kerala and another** [2020 (6) KHC 334], relied upon by the learned Counsel for



the petitioner, in a similar instance this Court also held that compliance of Section 13 is a mandatory requirement for prosecuting a notary public. In para.16, this Court held as follows.

S.13, S.8 - Prosecution against Notary -- Mandatory requirement -- Complaint by Officer authorised by Central Government or State Government is sine qua non for taking cognizance of offence against a Notary who purportedly exercise his functions under the Act -- Penal Code, 1860, S.463, S.464, S.465, S.467, S.468 and S.471 Held: There would not be any room for doubt to conclude that bar provided under S.13(1) is mandatory and no Court shall take cognizance of any offence committed by a notary public in exercise or purported exercise of his functions under the Act except upon a complaint in writing made by an officer authorised by the Central Government or a State Government by a general or special order in that behalf. That is a protection given to the notary public by the rule making authority visualising the functions which a notary public has to exercise. S.8 authorises a notary public to verify, authenticate, certify or attest the execution of any instrument. At that stage, he may not be knowing the genuineness of the document or the consequences which may come after the execution of the document. If no such protection is granted to a notary it will be difficult for them to perform their acts as contemplated to be done as a notary. So whenever a criminal prosecution is launched against a notary public a Court should not be oblivious of the protections given to them under the Act and straight away take cognizance without verifying the nature of the complaint and formality to be complied.



In the light of the above discussions and the decision referred above, the prosecution initiated against the petitioner in violation of the mandate of Section 13(1) is liable to be set aside. In the result, this Crl.MC is allowed. All further proceedings against the petitioner in CC No.222 of 2022 on the file of the Judicial First Class Magistrate Court, Kunnamangalam is set aside.

Sd/-

C. PRATHEEP KUMAR
JUDGE

AKH



APPENDIX OF CRL.MC NO. 7127 OF 2022

PETITIONER ANNEXURES

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| Annexure 1 | CERTIFIED COPY OF THE FIRST INFORMATION REPORT IN CR NO. 521/2021 OF MEDICAL COLLEGE POLICE STATION DATED 16.8.2021 |
| Annexure 2 | CERTIFIED COPY OF THE FINAL REPORT IN CC NO. 222/2022 ON THE FILE OF THE JUDICIAL IST CLASS MAGISTRATE COURT, KUNNAMANGALAM DATED 16.8.2021 |
| Annexure 3 | THE CERTIFIED COPY OF THE SEIZURE MAHAZAR DATED 12/10/2021 |
| Annexure 4 | 3. THE CERTIFIED COPY OF THE AGREEMENT DATED 19/5/2020 ATTESTED BY THE PETITIONER/ACCUSED 21.05.2020 |