



2025:KER:66649

“CR”

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

TUESDAY, THE 9TH DAY OF SEPTEMBER 2025 / 18TH BHADRA, 1947

OP (CRL.) NO. 609 OF 2025

AGAINST THE ORDER/JUDGMENT DATED IN ST NO.789 OF 2023
OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE (E&O), ERNAKULAM

PETITIONER/ACCUSED:

PRASANTH ANDREWS
AGED 37 YEARS
S/O ANDRES, MALIYEKKAL VERTHODEN, ANCHERICHIRA,
KURIACHIRA P.O., THRISSUR @35/147, MUNDADAN
TOWER, PALLIKULAM ROAD, THRISSUR, PIN-682035,
PIN - 680006

BY ADVS.
SHRI.FRANKLIN ARACKAL
SMT.SHYLA SHAFTEQ
SRI.I.J.AUGUSTINE
SRI.M.B.SOORI

RESPONDENT/COMPLAINANT:

AYYAPPAN PILLAI
AGED 76 YEARS
S/O. GOPALA PILLAI, PROPRIETOR, M/S. HINDUSTAN
AGENCIES RESIDING AT 'MATHILAKAM', JAYANAGAR,
MARADU P.O., KANAYANNUR TALUK, ERNAKULAM
DISTRICT, PIN - 682304

THIS OP (CRIMINAL) HAVING COME UP FOR ADMISSION ON
09.09.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



“CR”

P.V.KUNHIKRISHNAN, J

O.P.(Crl) No.609 of 2025

Dated this the 9th day of September, 2025

JUDGMENT

It is true that the judiciary is facing docket explosions, and every judicial officer should strive to dispose of cases without adjourning cases at the instance of parties for frivolous reasons. But, while trying to dispose of the cases, the court should bear in mind that justice must not only be done but must also be seen to be done. It emphasises the importance of transparency and perception in the administration of justice. Even if a case is dismissed or allowed, parties should leave the court premises with a feeling that they obtained a fair chance to contest their case. Then only the system will prevail. That is the success of the justice delivery system.

2. The petitioner is an accused in ST No.789 of 2023 on the file of the Additional Chief Judicial Magistrate Court (E&O)



Ernakulam. It was a prosecution initiated under Section 138 of the Negotiable Instruments Act, 1881. Ext.P1 is the complaint. The trial in the above case started on 04.02.2025, and the complainant was examined as PW1. Exts.P1 to P61 were marked on the side of the complainant. After the closure of evidence of the complainant and during the examination of the petitioner under Section 313 Cr.P.C., the petitioner explained that the subject cheques in question were originally handed over to one Shivasubramaniam. It is the case of the petitioner that the complainant, after obtaining the cheque from Shivasubramaniam, filled it and presented the cheque, which resulted in the initiation of the present prosecution. Shivasubramaniam was summoned and examined as DW1. During the said examination, it is submitted that printouts of the screenshots of WhatsApp chat between the petitioner and DW1 were shown to DW1. DW1 admitted the phone number on the said printout. The printouts of the screenshots of the WhatsApp chat between the petitioner and DW1 were not marked is the grievance of the petitioner. Hence, on 05.08.2025, when the case was posted for hearing, the



petitioner filed Ext.P2 application to reopen the evidence for the purpose of marking the printouts of the screenshots of the WhatsApp chat. Ext.P2(a) is produced herein as the printouts of the screenshots of the WhatsApp chat.

3. According to the petitioner, on 05.08.2025, the learned Magistrate, without considering Ext.P2, proceeded with the hearing and the case was posted to 07.08.2025 for further hearing. On 07.08.2025, the learned Magistrate posted the case to 12.08.2025 for judgment without passing any orders in Ext.P2. Hence, the petitioner filed O.P.(CrI.) No.539 of 2025 before this Court, which resulted in the Ext.P3 judgment. Now the grievance of the petitioner is that, as directed by this court, the Ext.P2 application was considered by the learned Magistrate on 08.09.2025 and dismissed that application at 3.15 p.m. on that day, and the case was posted to 09.09.2025 for judgment. The petitioner submitted that he filed an application for a certified copy as evidenced by Ext.P4, on 08.09.2025 itself. But without issuing a certified copy, the learned Magistrate is going to deliver the judgment today, is the grievance. This original petition was



considered by this Court at 10:25 a.m. on 09.09.2025.

4. Heard the learned counsel for the petitioner and the learned Public Prosecutor.

5. The way in which this original petition is going to be disposed of, I am of the opinion that no notice is necessary to the respondent. If the respondent is aggrieved by any of the directions issued in this judgment, the respondent is free to file a review petition.

6. This Court, as per the Ext.P3 judgment, issued the following direction:

"I) The Additional Chief Judicial Magistrate Court (E&O), Ernakulam is directed to consider and pass appropriate orders in Ext.P2, if it is pending as on today, as expeditiously as possible, at any rate, within a period of two weeks from the date of receipt of a certified copy of this judgment."

7. The grievance of the petitioner is that Ext.P2 was dismissed yesterday (08.08.2025), and without serving a copy of the order, the case is posted for judgment today (09.09.2025) at 11:00 a.m. It is clear that the petitioner is very much interested in the outcome of the Ext P2 petition, and that is why he



2025:KER:66649

approached this court earlier, which resulted in the Ext P3 judgment. If Ext. P2 is dismissed, the court ought to have issued a copy of the order immediately. I am dissatisfied with the way in which the learned Magistrate shows haste in disposing of this case. As I mentioned earlier, justice should not only be done but should also appear to be done. Whether this Court will interfere with the order passed in Ext.P2 is a different matter. When the petitioner filed an application and there was a delay in passing orders on it, the petitioner approached this Court, and this Court directed that the said application be disposed of immediately. In such circumstances, the learned Magistrate ought not to have taken such haste to dispose of the main case itself by dismissing the petition yesterday and posting the case for judgment today. This practice is not proper. Heaven will not fall down if the pronouncement of the final verdict is made after serving a copy of the order passed in Ext. P2.

8. I am of the considered opinion that the order passed in Ext.P2 should be given to the petitioner within three days, and the pronouncement of the judgment should be deferred for a



period of two weeks. The petitioner is free to file an affidavit before the jurisdictional court about this order, and the learned Magistrate shall defer the pronouncement of judgment. The Registry will also inform the office of the Additional Chief Judicial Magistrate (E&O) Ernakulam over the phone and communicate to the learned magistrate that the judgment shall not be pronounced today in ST No.789 of 2023.

Therefore, this original petition is disposed of with the following directions:

1. The certified copy of the order passed in Ext.P2 shall be served to the petitioner within three days from today, if a proper application for the same is filed.
2. The pronouncement of the judgment in ST No.789 of 2023 by the Additional Chief Judicial Magistrate (E&O) Ernakulam is deferred for a period of two weeks from today.

Sd/-

P.V.KUNHIKRISHNAN, JUDGE

SMF



APPENDIX OF OP(CRL.) 609/2025

PETITIONER EXHIBITS

Exhibit P1	A TRUE COPY OF THE COMPLAINT DATED 5/12/2023 ON THE FILE OF ACJM(EO), ERNAKULAM
Exhibit P2	A TRUE COPY OF THE CRL MP 3450/2025 DATED 05/08/2025 FILED BY THE PETITIONER/ACCUSED
Exhibit P2(a)	A TRUE COPY OF THE PRINT OUT OF WHATSAPP CHAT BETWEEN THE PETITIONER /ACCUSED WITH AFFIDAVIT U/S 63 OF BHARATHEEYA SAKSHYA ADHINYAM, 2023
Exhibit P3	A TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN OP(CRL) 539/2025 DATED 27.08.2025
Exhibit P4	A TRUE COPY OF THE APPLICATION DATED 8/9/2025 FOR ISSUANCE OF CERTIFIED COPY OF THE ORDER IN EXHIBIT P2 CRL MP