

IN THE COURT OF SESSIONS, ERNAKULAM DIVISION

Present:-

Sri. K.K.Balakrishnan, Sessions Judge

Monday, 15th day of June, 2026/25th Jyaishta, 1948

Crl.MP No.02/2026 in S C No 1068/2018

(Crime No 1547/2018 of Ernakulam Central Police Station)

Petitioners:
(Accused No 13 and
16 respectively)

1. Sanish P H, aged 40 years, S/o. Haneefa, Pulikkanattu House, Near Nambyapuram Mosque, Post Palluruthy, Kochi Taluk, Ernakulam District, Pin-682 006.
2. Saanidh, aged 64 years, S/o. Hamza, Mekattu House, Masjid Road, Post Nettoor, Maradu Village, Ernakulam District, Pin-682 040.

By Advs. P P Harris, E A Harris, Shaiq Rasal M Wakarulislam K S, Mohammed Jaufar K S & Sohail Ahammed Harris P P.

Respondent/
Complainant:

State of Kerala represented by The Assistant Commissioner of Police, Kochi City.

By Public Prosecutor Sri. G Mohanraj

This petition filed by the accused numbers thirteen and sixteen under Section 227 of the Code of Criminal Procedure 1973 and under Section 250 of the Bharatiya Nagarik Suraksha Sanhita-2023 for discharging accused (petitioners) from the case.

This petition coming on for hearing on 06.06.2026 and the Court on 15.06.2026 passed the following:

ORDER

This petition is filed under Section 227 of the Code of Criminal Procedure and Section 250 of the Bharatiya Nagarik Suraksha Sanhita on behalf of A13 and A16 for discharge of them from the case for the reason that the final report submitted in the case is incomplete and no final report is filed against the remaining accused.

2. Petitioners contented that the offences alleged in the case are punishable u/s. 143, 147, 341, 323, 324, 326, 307, 302, 506(ii), 201, 120(B) r/w Section 149 of the Indian Penal Code. A partial final report filed in the above matter and wrongly committed, the case which is pending before this court. In the final report allegations is that in pursuance of the criminal conspiracy committed accused murdered deceased Abhimanyu on 02.07.2018 at 00,30 am at the back gate of Maharajas College Ernakulam. The prosecution filed an incomplete and piecemeal final report without completing the investigation into the alleged larger criminal conspiracy and the role of all accused persons. Though the absconding accused were subsequently arrested, no final report has been filed against them even after several years. According to the petitioners, a final report under Section 173(2) Cr.P.C. can be filed only after completion of investigation into the entire case and all offences arising out of the same transaction. Hence, the final report in this case and the consequent committal against the petitioners are illegal and seek discharge under Section 227 Cr.P.C.

and Section 250(2) of the BNSS.

3. Objection was filed by the learned Special Public Prosecutor contending that there are sufficient materials to proceed against the charge sheeted accused and that the investigation against the petitioners is complete. Similar contentions were already rejected by this court in Crl.M.P.No.1569/2024 filed by A1, A2 and A4 to A9 and it is applicable to the present petitioners. The judgments of the Hon'ble Supreme Court and the Hon'ble High Court of Kerala regarding the matter of cognizance already taken, are applicable to the present case. Hence, the prosecution sought dismissal of the petition.

4. Heard both sides.

5. The point for consideration is that whether the petitioners are entitled discharge from the case, especially for the reason of investigation going on with respect to the accused 17 to 32?

6. **Answer to the point:** The learned counsel appearing for the petitioners vehemently argued that the investigation in the case has not yet been completed and, therefore, the final report submitted against the petitioners is only a piecemeal report. According to the learned counsel, the receipt of such a report by the court and the consequent committal of the case are legally unsustainable. It was contended that a case can be committed for

trial only after the completion of the entire investigation. The learned counsel submitted that the investigation into the alleged conspiracy is still pending and, as such, the filing of the final report prior to the completion of that investigation is contrary to law. Consequently, the petitioners cannot be compelled to face trial on the basis of an incomplete investigation. Placing reliance on the expression “case” occurring in Section 173(2) of the Code of Criminal Procedure, the learned counsel argued that what is committed for trial is the case as a whole and not merely the offences disclosed therein. It was therefore contended that, so long as the investigation into the conspiracy aspect remains incomplete, the committal of the case is invalid and the petitioners are entitled to be discharged. To support the arguments learned counsel placed reliance on the decisions in *K. Veeraswami v. Union of India and Others* [1991 KHC 1162], *Jisal Rasak v. State of Kerala* [2019 KHC 742], and *Furtado v. CBI* [1996 KHC 257].

7. Refuting the contentions advanced on behalf of the petitioners, the learned Special Public Prosecutor submitted that there is no legal impediment to proceeding with the trial against the accused persons who have already been charge-sheeted. It was argued that the principal charge against the petitioners and the other charge-sheeted accused is that of murder, and they are required to stand trial for the offences allegedly committed by them. According to the learned Special Public Prosecutor, for the purpose of trial,

the relevant consideration is the “offence” and not the “case.” A charge is framed in respect of an offence and not in respect of a case. Therefore, the pendency of investigation into certain aspects of the matter does not preclude the commencement or continuation of the trial against the accused who have already been charge-sheeted. The learned Special Public Prosecutor further pointed out that an identical contention had been raised earlier by the accused through a separate petition, which was dismissed by this court. The said order has attained finality, as it was never challenged. The present petition is nothing but an attempt to delay the progress of the trial. The ongoing investigation pertains only to the larger conspiracy allegedly involving accused Nos. 17 to 32, and that a separate final report would be filed against them depending upon the outcome of such investigation. The allegations against accused Nos. 17 to 32 have no bearing on the trial of the offences for which accused Nos. 1 to 16 have already been charge-sheeted. So, the learned Special Public Prosecutor argued for dismissal of the petition. Reliance was placed on the decisions in *Dinesh Dalmia v. CBI* [(2007) 8 SCC 770], *Sharif Ahmed & Another v. State of Uttar Pradesh & Another* [2024 INSC 727], *Central Bureau of Investigation v. Kapil Wadhawan and Another* [(2024) 3 SCC 734], and *Abdul Azeez v. National Investigation Agency* [2014 (3) KLT 156].

8. I have considered the rival submissions advanced by the learned

counsel for the petitioners and the learned Special Public Prosecutor. The law with respect to filing of additional charge sheet and continuing investigation in other aspect of the incident are now well settled by the judicial pronouncement of Honble Supreme Court.

9. In *Sherif Ahmed & Another v. State of Uttar Pradesh & Another* [AIR 2024 SC 2420], relied by prosecution, covers the subject matter in the case on hand and Hon'ble Supreme Court held as follows:

“13. The question of the required details being complete must be understood in a way which gives effect to the true intent of the charge sheet under S.173(2) of the Code. The requirement of "further evidence" or a "supplementary charge sheet" as referred to under S.173(8) of the Code, is to make additions to a complete charge sheet (*State Through Central Bureau of Investigation v. Hemendhra Reddy & Anr.*, 2023 SCC OnLine SC 515), and not to make up or reparate for a chargesheet which does not fulfil requirements of S.173(2) of the Code. The chargesheet is complete when it refers to material and evidence sufficient to take cognizance and for the trial. The nature and standard of evidence to be elucidated in a chargesheet should *prima facie* show that an offence is established if the material and evidence is proven. The charge

sheet is complete where a case is not exclusively dependent on further evidence. The trial can proceed on the basis of evidence and material placed on record with the charge sheet. This standard is not overly technical or fool - proof, but a pragmatic balance to protect the innocent from harassment due to delay as well as prolonged incarceration, and yet not curtail the right of the prosecution to forward further evidence in support of the charges”.

10. In *Central Bureau of Investigation v. Kapil Wadhawan and Another* [(2024) 3 SCC 734], Apex Court further clarified the subject matter in following paragraph. In this judgment *K Veeraswami v Union of India* case also considered.

“23. The benefit of proviso appended to sub-section (2) of S.167 of the Code would be available to the offender only when a charge sheet is not filed and the investigation is kept pending against him. Once however, a charge sheet is filed, the said right ceases. It may be noted that the right of the investigating officer to pray for further investigation in terms of sub-section (8) of S.173 is not taken away only because a charge sheet is filed under sub-section (2) thereof against the accused. Though ordinarily all documents relied upon by the prosecution should accompany the charge sheet, nonetheless

for some reasons, if all the documents are not filed along with the charge sheet, that reason by itself would not invalidate or vitiate the charge sheet. It is also well settled that the court takes cognizance of the offence and not the offender. Once from the material produced along with the charge sheet, the court is satisfied about the commission of an offence and takes cognizance of the offence allegedly committed by the accused, it is immaterial whether the further investigation in terms of S.173(8) is pending or not. The pendency of the further investigation qua the other accused or for production of some documents not available at the time of filing of charge sheet would neither vitiate the charge sheet, nor would it entitle the accused to claim right to get default bail on the ground that the charge sheet was an incomplete charge sheet or that the charge sheet was not filed in terms of S.173(2) of Cr.PC.”

11. I find no merit in the contention that the committal of the case and the continuation of the trial are vitiated merely because investigation is pending in respect of certain other accused and the alleged larger conspiracy. The petitioners have already been charge-sheeted for specific offences on the basis of the materials collected during the investigation. The pendency of investigation against A17 to 32 in the matter of conspiracy of them does not render the final report already filed against the charge-sheeted accused

invalid, nor does it preclude the court from proceeding with the trial. What is relevant for the purpose of framing charges and conducting the trial is the offence alleged against the accused and the materials available in support thereof. The mere fact that investigation continues against certain other persons does not affect the maintainability of the proceedings against the petitioners. It is also pertinent to note that a similar contention had earlier been raised by the accused and was rejected by this Court. The said order has attained finality. The present challenge, therefore, appears to be a repetition of an issue already decided and is devoid of any substantive legal basis.

12. The allegations under investigation against accused Nos. 17 to 32 constitute a distinct aspect of the matter and the outcome of such investigation will not have any bearing on the trial of accused Nos. 1 to 16 in respect of the offences for which they have already been charge-sheeted. Consequently, the contention that the petitioners cannot be subjected to trial until completion of the entire investigation is unsustainable.

13. The learned counsel appearing the petitioners raised no arguments with respect to the materials produced by the prosecution along with the final report, for claiming discharge. The only argument submitted by the learned counsel is above said claims. The learned Prosecutor asserted that the materials produced by the prosecution sufficiently established more than

prima facie case against all accused persons who are charge-sheeted, for the murder of the victim and other offences. So argued for framing of charge against accused 1 to 16 for the offences charged in the final report.

14. On perusal of the materials produced by the prosecution, there are statements of witnesses including those persons witnessed the incident and documents shows strong prima facie case against A1 to A16 for committing offence under Sections 143, 147, 341, 323, 324, 326, 307, 302, 506(ii), 201, 120(B) r/w 149 of IPC. So, no ground is found to discharge these accused persons from the case. Therefore, charge is to be framed and trial is to be conducted against these accused for the said offences.

In the above circumstances, I find that the claims raised by the petitioners are wholly devoid of merit and are liable to be rejected. Accordingly, the petition is dismissed.

(Dictated to the Confidential Assistant, typed by her, corrected and pronounced by me in open court on this the 15th day of June, 2026).

Sd/-

K K Balakrishnan
Sessions Judge

Typed by: sm
Comp.by:

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S C No.1068/2018
Order dated: 15.06.2026