

**IN THE COURT OF JUDICIAL MAGISTRATE OF FIRST CLASS – I,
MAVELIKARA.**

PRESENT : - Smt. Soorya S.Sukumaran., Judicial First Class Magistrate.
Dated this the 12th day of June 2026

CMP 1/2026 in CC No. 348/2022

Petitioner : Santhosh Eapen, aged 48 years,
S/o Mathew Eappen, Mulakkal
Puthenpurayil, Pallipad P. O, Karthikappally
Taluk.
(By Adv. Suresh Mathai)

Respondent : Aby Thomas, aged 44 years,
S/o G.Thomas, Aby Villa, Erezha South Muri,
Chettikulangara P.O, Mavelikara.
(By Adv. M.M.Warrier)

Order : Petition is allowed.

The petition came up for hearing and the court delivered the following:

ORDER

This is a second petition filed u/s 348 of BNS (Section 311 of C r p c) to reopen the evidence of PW1 for the purpose of cross-examination. It is submitted that on the date when PW1 was examined, the Learned Counsel for the accused was absent and consequently, he could not cross examine PW1.

2. The complainant/respondent objected the petition on the ground that several opportunities had already been granted to the accused and this petition is intended only to protract the proceedings.

3. Heard both sides and perused the records.

4. The records reveal that opportunities had been granted to the accused for cross examination of PW1. But the accused fail to avail said opportunities. Subsequently on the application of the accused PW1 was recalled. Even thereafter the accused did not cross examine PW1 and consequently PW1 was discharged without being cross-examined.

5. Considering the fact that cross-examination is a valuable right of the accused and that denial of and opportunity to cross-examine the witness may cause prejudice to the defence, this Court is inclined to grant one more opportunity in the intrest of Justice.

6. At the same time, having regard to the fact that opportunity had already been availed, this petition can be allowed only on terms.

7. In the result the petition is allowed on cots of Rs.3,000/- to the complainant. On such payment the evidence of PW1 shall stand reopened for the purpose of cross-examination.

Pronounced by me in open court on this the 12th day of June 2026

Judicial I Class Magistrate-I,
Mavelikara.