

IN THE COURT OF JUDICIAL FIRST CLASS MAGISTRATE-II, MAVELIKARA

Present : Anandhu.J.B, Judicial First Class Magistrate.

Tuesday, May 19, 2026

CMP 1587/2025 in CC 180/2025

Petitioner : Dr.K.Krishnakumar, aged 62 years,
s/o Komalangan, Krishnendu, Peroor,
Karikod, Kollam. [13th accused]
[Rep by Adv.Asokakumaran Nair]

Respondent : State of Kerala.
[Rep by APP, JFMC II, Mavelikara.]

Section of law : s.262 BNSS

This case coming on for hearing and on this day the court passed the following:

ORDER

1. Petition filed by the 13th accused to discharge him.
2. The averments of the petitioner are as follows. Petitioner is the 13th accused in the case. Petitioner is a retired joint director of Technical Education, Govt. of Kerala and he has taken his PhD from IIT Madras. Petitioner is currently working as the principal of Sri Buddha Engineering College. The petitioner has more than 35 years of unblemished academic and administrative service in the field of higher education. The allegation in the case related to incident involving certain students of the college. The offences mentioned in the charge include Sections 143, 145, 148, 149, 323, 341, 326 of IPC and s.4 r/w 3,7 of Kerala Prohibition of Ragging Act,1998. The FIR does not name the petitioner as an accused. The charge does not contain any material to book the petitioner in the case. Petitioner, being the principal, has ensured immediate

compliance with law and institutional policy by constituting the anti-ragging committee, which conducted thorough and impartial inquiry and found that no incident of ragging has occurred. The committee submitted its final report based on available evidence and statements. The petitioner was pressured by the Investigating Officer to submit a revised report falsely stating that ragging had occurred. Petitioner has refused to manipulate the findings of the committee. The police has vengeance against the petitioner since their informal financial demands were refused. The inclusion of the petitioner as 13th accused without any proper material and evidence is clearly motivated by malice and abuse of power. The petitioner was on leave on the alleged date of incident. The college authorities informed the police about the incident immediately. The petitioner has constituted committee in proper time. No latches has happened from the part of the petitioner and the college authorities. The students who have participated in the conflict were suspended. The petitioner has fully cooperated with the police authorities. The final report filed before this court contains no material, no overt act, no conspiracy, and mens rea against the petitioner. Continuing proceedings against the petitioner would amount to abuse of process of law. Petitioner seeks to discharge him from the case. Hence the petition.

3. The learned Assistant Public Prosecutor filed objection to the petition with the following contentions: The petition is not maintainable either under law or in facts. All the averments contained in the petition and accompanying affidavit are denied. There are serious allegations against the petitioner. The statements of witnesses and documents produced along with the final report reveals a prima facie strong case against the accused. It is clear that the college authorities did not report the incident to the police on time. Only after the registration of FIR in this case, a complaint was put forward by the college authorities. The version regarding the incident is different in the said

complaint proceedings of the principal dated 20.11.2023. The committee itself was constituted only after the incident. The report filed by the petitioner was prepared without giving an opportunity of being heard to CW1. There was inordinate delay in submitting the report. The said report was prepared with the intention of screening the offender for the legal punishment. Even though SHO is a member of the committee, he was not given any information and he is not a signatory in the report. Discrepancy pointed out in the petition is not sufficient for discharging the petitioner. The contentions raised in the petition are based on facts, and hence the veracity of such allegations can be found out only after adducing evidence. No sufficient legal issues are raised in the petition to discharge the petitioner. A prima facie strong case is made out against the petitioner, and there are sufficient grounds to proceed against him. The attempt of the petitioner is to delay the trial proceedings. Petition is not maintainable and liable to be dismissed.

4. The prosecution case is that the de facto complainant was a first-year student of Sri Buddha College of Engineering, Pattoor. The first accused and other accused no. 2 to 12 are senior students in the said college. The first accused, while travelling in the college bus, asked the de facto complainant, who was a co-passenger, to remove the mask worn by him. Even after repeated demands on several days, the de facto complainant was not ready to obey the said order of the first accused. Aggrieved by the same, the first accused, as well as other accused, formed themselves into an unlawful assembly and in prosecution of the common object of the said assembly on 20.11.2023 at 10.40 a.m., in front of the Civil Block of the said Collage, rushed towards the de facto complainant and the first accused beat him on his face. Thereafter, accused no. 2 to 12 pushed the de facto complainant as well as his friend near to the library block and abused the de facto complainant with filthy language. Thereafter, all the accused beat him incessantly and the first

accused beat on his face by using a stone causing fracture on his nasal bone. On seeing the scene, when one of the relatives of the de facto complainant attempted to save him from further attack, the accused persons beat him also. The first accused again beat the de facto complainant on his forehead and face by using a weapon and other accused grabbed on his hair and dragged him through the floor of the college, causing him grievous injuries. The de facto complainant has lost his upper molar teeth and several facial bones were fractured. The 13th accused, being the principal of the said college, has failed to intimate the matter to the police in due course and also failed to report the ragging. The accused have alleged to have committed the offences punishable u/ss 143,147,148,149, 323, 341, 324, 294(b), 326, 506(ii), 201 IPC and s.4 r/w 3,7 of the Prohibition of Ragging Act, 1998 [hereinafter referred to as 'the Act'].

5. The point to be considered is whether are sufficient grounds to proceed against the petitioner, the 13th accused ?
6. Heard the learned counsel for the petitioner and learned APP. Perused the prosecution records.
7. The case was registered against accused no. 1 to 13 for an alleged incident that happened on 20.11.2023 at 10.40 a.m. The de facto complainant was a first-year student of Sri Buddha Engineering College, Pattoor. Accused no. 1 to 12 are the senior students in that college. On the alleged day, the accused no. 1 to 12 have formed themselves into an unlawful assembly and in prosecution of the common object of the said assembly has attacked the de facto complainant in front of the civil block of the said college. The de facto complainant incurred grievous hurt due to the said attack, losing his upper molar teeth and causing fracture on his several facial bones. The petitioner herein, who is the 13th accused, is the principal of the said college. He is

arrayed as an accused for the reason that he has failed to intimate about the incident, which according to the prosecution is a ragging. It is also alleged that the petitioner has failed to identify the alleged incident as ragging in the report of the committee constituted under the Kerala Prohibition of Ragging Act, in order to help other accused. Hence, the petitioner has alleged to have committed the offences punishable under Section 4 r/w 3 and 7 of the Kerala Prohibition of Ragging Act, 1998.

8. Initially, when the case was registered on 21.11.2023, the petitioner herein was not an accused. During the course of the investigation, the investigation officer, by a report dated 26.11.2024, has added the petitioner herein as the 13th accused in the investigation. In the said report, it is stated that on investigation, it was revealed that the petitioner herein has committed the offence punishable under Section 4 r/w 3 and 7 of the Kerala Prohibition of Ragging Act, 1998. The main argument raised by the learned counsel for the petitioner is that there is no prima facie materials to establish that there exist sufficient grounds to proceed against the petitioner. The learned Assistant Public Prosecutor, on the other hand, would argue that there are sufficient grounds against the petitioner to proceed with. It is argued by the prosecutor that the materials before this court would reveal a prima facie case against the petitioner.
9. Before going into the merits of the arguments and contentions, it is necessary to discuss the provisions of the Kerala Prohibition of Ragging Act, 1998. As per section 3 of the Act, ragging within or without any educational institution is prohibited. As per Section 4, whoever commits, participates in, abates or propagates ragging within or without any educational institution shall, on conviction, be punished with imprisonment for a term which may extend to two years and can be fined upto ₹ 10,000. Section 7 deals with deemed

abatement. As per Section 7 of the Act, if the Head of the Educational Institution fails or neglects to take action in the manner specified in Section 6, when a complaint of ragging is made, such person shall be deemed to have abetted the offence of ragging and shall, on conviction, be punished. As per Section 6 of the Act, whenever any student, parent or guardian or teacher of an educational institution complains about, in writing, of ragging to the head of the educational institution, the head of that educational institution shall, without prejudice to the provisions of the Act, within seven days of the receipt of the complaint, enquire into the matter mentioned in the complaint and, if, prima facie, it is found true, suspend the student who is accused of the offence, and shall immediately forward the complaint to the police station having jurisdiction over the area in which the educational institution is situated.

10. On going through the above provisions of law, it is clear that section 7 of the Act attracts when a Head of the Institution fails to take action in the manner specified in Section 6. Section 6 of the Act deals with the duties of a Head of the Institution. It states that when a written complaint is given to the Head of the Institution, alleging ragging, he shall conduct enquiry within seven days from the receipt of such complaint. Further, on the enquiry if it is found that if it is prima facie found that such ragging has occurred, he shall suspend the accused students. It is also the duty of the Head of the Institution to forward such complaint to the jurisdictional police station. Section 7 of the Act attracts when the Head of the Institution fails to comply with the provisions of Section 6. Therefore, so as to ascertain whether the provisions of Section 7 of the Act is attracted against the petitioner herein, this Court must look into whether he has failed to comply his duties envisaged under Section 6 of the Act.

11. As discussed above, the duty envisaged to the Head of the Institution under Section 6 of the Act arises when a written complaint is made to him. Hon'ble High Court of Kerala in **State of Kerala v. K. M. Mariam and Another [2008 (2) KHC 623]**, while discussing the scope of s.6 of the Act, has opined as follows; *Before deciding this question it will have to be seen as to whether the statutory obligation under S.6 on the head of the Institution can arise only on receipt of a written complaint or whether such head of the institution is bound to comply with the formalities stipulated thereunder even on receipt of an oral complaint. The words "complains in writing" occurring in S.6 of the Act do not admit of any doubt, particularly when one of the duties cast on the head of the institution is to forward the complaint to the police station having jurisdiction over the area. Unless it is a written complaint there cannot be any question of the head of the institution forwarding the same to the police. Moreover, having regard to the purposes for which such an obligation has been cast on the head of the educational Institution, it will be unreasonable to expect such a person occupying a pivotal role to act upon oral grievances and thereafter to be found guilty for failure to act on such grievances. The Legislature has guardedly employed the words "complains in writing". Thus, it is only when the head of the Institution receives a written complaint that he or she is obliged to perform the duties cast on him or her under S.6 of the Act.*
12. On perusing the above decision of the Hon'ble High Court, it is clear that a written complaint is a sine qua non for complying with Section 6 of the Act. The obligation of the head of the institution starts only when he receives a written complaint alleging ragging. On perusing the prosecution records, it is seen that there is no such materials before this court that would establish that someone has preferred a written complaint to the Head of the Institution, who is the petitioner herein, so as to enable him to comply the duties

envisaged under Section 6 of the Act. Even though it is mentioned that the petitioner has failed to inform the police about the alleged incident happened in his college, that is not a duty cast upon the petitioner under Section 6 of the Act. Another allegation against the petitioner herein is that the report of the enquiry conducted by the college authorities found no ragging in the alleged incident, which is false according to the prosecution. From the above discussion, it is amply clear that the allegations levelled against the petitioner are not sufficient to tie the petitioner under Section 7 of the Act, since the allegations, even if found true, are not violations of the duties cast upon the petitioner under Section 6 of the Act. From the prosecution materials, it is not prima facie evident that any person, either the defacto complainant or his parents, has preferred a written complaint to the petitioner herein.

13. Hon'ble Apex Court in **Union of India v. Prafulla Kumar Samal and Another [1979 KHC 574]** discussing the parameters of discharging an accused, has held as follows;

10. Thus, on a consideration of the authorities mentioned above, the following principles emerge:

(1) That the Judge while considering the question of framing the charges under S.227 of the Code has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out;

(2) Where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained the Court will be fully justified in framing a charge and proceeding with the trial.

(3) The test of determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. By and large however if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some

suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused.

(4) That in exercising his jurisdiction under S.227 of the Code the Judge which under the present Code is a senior and experienced Court cannot act merely as a Post Office or a mouth piece of the prosecution, but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the Court, any basic infirmities appearing in the case and so on. This however does not mean that the Judge should make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.

14. Hon'ble Apex court in **Onkar Nath Mishra and Others v. State (NCT of Delhi) and Another [2008 (1) KHC 217]** has held as follows;

11. It is trite that at the stage of framing of charge the Court is required to evaluate the material and documents on record with a view to finding out if the facts emerging therefrom, taken at their face value, disclosed the existence of all the ingredients constituting the alleged offence. At that stage, the Court is not expected to go deep into the probative value of the material on record. What needs to be considered is whether there is a ground for presuming that the offence has been committed and not a ground for convicting the accused has been made out. At that stage, even strong suspicion founded on material which leads the Court to form a presumptive opinion as to the existence of the factual ingredients constituting the offence alleged would justify the framing of charge against the accused in respect of the commission of that offence.

15. Considering the above discussion, it is clear that from the prosecution materials before this court, it is not prima facie established that the petitioner has committed the offences punishable under the Act. On perusing the

prosecution materials, there is no sufficient materials to prima facie establish that the petitioner has failed to comply with the duties enumerated under Section 6 of the Act, so as to make him liable under Section 7 of the Act. Therefore, from the above discussion, I am of the opinion that there are no sufficient grounds to proceed against the petitioner and he is entitled for a discharge.

16. In the result, the CMP is allowed as follows;

Petitioner, the 13th accused in the above crime, stands discharged for the offences alleged against him.

Voice typed by me in my personal laptop using Adalat AI, corrected and pronounced by me in open court on this the 19th May, 2025.

Judicial First Class Magistrate-II,

Mavelikara.