

IN THE COURT OF SESSIONS, ERNAKULAM DIVISION

Present:-

Sri. K N Prabhakaran, Additional Sessions Judge – I

Tuesday, 17th day of February, 2026/ 28th Magha , 1947

Crl.M.P No.3/2026 in S.C No. 378/2022

**Petitioner/
Accused :**

1. Muhammed Favas, Aged 32 years, S/o. Muhammed Koya, Favas Manzil, Kolathara Desom, Cheruvannur, Kozhikode.
2. Sreemon, Aged 29 years, S/o. Thankamani, Veluthedath Veedu, Karuvanthuruthy, Kozhikide.
3. Muhammed Ajmal, Aged 27 years, S/o. Abdhulla, Kunnil House, Choorimaoola, Chengala, Kasargod.
4. Thayyiba Aula, Aged 27 years, D/o. Noushad K T, Karinjalikulathil House, Kuttapuzha, Thiruvalla, Pathanamthitta.

By Adv. T D Robin

**Respondent/
Complainant:**

State of Kerala represented by Special Public Prosecutor,
District & Sessions Court, Ernakulam.

By Special Public Prosecutor Sri. Shamsudin K M

This petition filed under Section 9 R/W 45 of the Evidence Act .

This petition coming on for hearing on 17.02.2026 and the Court on the same day passed the following:

ORDER

The petition filed under Section 9 r/w 45 of the Evidence Act.

1. Case of the petitioners A1, A2, A4 and A6 in short is as follows. As per the order of the Hon'ble High Court in MC 1129 of 2026, the petitioners were allowed to file appropriate application for the purpose of identification of certain persons in the CCTV footage marked as Ext.P214. The Hon'ble High Court has also reserved the right of the petitioners to work out their remedies

in accordance with law. PW80 has identified accused no. 1, 3, 4, 5 and 6. During cross-examination, when PW80 was asked to identify certain persons including PW1 and PW8. Identifying the presence of PW1 and PW8, at least in the specific instances narrated in the petition is material according to the defence. Therefore, summons to be issued to PW1 and PW8 to produce their photographs so that it can be handed over to DW1. Thereafter DW1 has to be ordered to identify PW1 and PW8. By undertaking the process of face enhancement software, which was done in the case of SC 552 of 2024 . Alternatively it is also prayed that this Court may be pleased to view the CCTV footages in the above case and identify the presence of PW1 and PW8 at least in the instances narrated in the petition.

2. Copy served.
3. Petition opposed.
4. Objection filed inter alia contending that case is posted for hearing after completion of evidence. There is no petition to reopen the evidence. No purpose will be served even if the petition is allowed. There is no clarity to identify the persons alleged to have been appeared in the time sequence mentioned in the petition. PWs1 and PW8 were cross examined in detail. There is no fruitful result. The attempt of the petitioner is to protract the matter.
5. Heard both sides.
6. It is the case of the petitioners that the Hon'ble High Court has permitted them to file appropriate application before this Court, requesting to compare the person seen in the CCTV footages . It is worth referring to the Order of the Hon'ble High Court dated 10.02.2026 in CrI.M.C 1129 of 2026. The said

MC was filed challenging the order of this Court, in CrI.M.P 1 of 2006 dated 21.01.2006. That application was filed by the petitioners herein inter alia contending that with the help of scientific equipment DW1 will be able to identify the persons in CCTV footage. If the photographs are produced by PW1 and PW8 it can be handed over to DW1 with request to identify the persons at such specific instances.

7. In this context, it is also worth referring to the fact that the petitioners have filed CrI.M.P. 5267 of 2025 and 5268 of 2025 to issue summons to DW1 and calling upon PW1 and PW8 to produce their photographs for the purpose of identification. Those petitions were originally dismissed by this court. The matter was taken up before the Hon'ble High Court. Thereafter, as per the order in CrI.M.C No. 10804 of 2025, those petitions were allowed. Summons was also issued to DW1 and directing PW1 and PW8 either to appear in person on the date on which expert witness appears or to produce their photographs as required by the expert witnesses. On that basis DW1 was examined. She was not able to identify PW1 and PW8. PW8 who was presently . She had also deposed that she could not identify the persons directly. She has also deposed that if photographs are produced, she can try to identify them with the help of scientific equipment. According to her, she cannot identify those persons by merely showing the photographs. CrI.M.P 1 of 2026 was dismissed, holding that no purpose will be served by producing the photographs of PW1 and PW8. As DW1 has categorically stated that she could not identify PWs1 and PW8 by seeing their photographs. Identification must be before the court. That relief in this petition also is identical to the relief claimed in MP 1/26. The alternative prayer is

requesting the court to view the CCTV footages and identify the presence of PW1 and PW8 in the above instances. It is pertinent to note that the production of evidence and identification of the accused or witnesses is not the duty of the court. The court is to appreciate the evidence adduced before the court. That apart it is also pertinent to note that there was no attempt to see that the CCTV footages are exhibited, at the time when DW1 was before the court. The relief sought is one and the same. The relief sought in this petition is the same as the relief sought in CrI.M.P 1 of 2026. Except for the alternative prayer, which cannot be allowed for the reason stated above. It is evident that the attempt is to see that the final disposal of the case is protracted. I am satisfied that the petition is without any merit and liable to be dismissed.

In the result, the petition is dismissed.

Dictated to the Confidential Assistant, transcribed and typed by him, corrected by me and pronounced in open court on this the 17th day of February, 2026.

Sd/-

K N Prabhakaran
Additional Sessions Judge-I

Typed by: JJ Comp.by:

CrI.MP No.3/2026 in
S.C No. 378/2022
Order dated: 17.02.2026