

**IN THE COURT OF JUDICIAL MAGISTRATE OF THE FIRST
CLASS- I, KOCHI**

Present: Sri. Kannan L, Judicial First Class Magistrate - I, Kochi

Dated, this 11th day of November, 2025

CMP 1226/2025 in CC 910/2020

Petitioner/
complainant : State of Kerala represented by the Learned Assistant
Public Prosecutor in Cr.No. 1086/2019 of Harbour
Police Station.

Accused : 1. Anil Kumar, aged 40/19 years, Sivapadam House,
Near Subramanya Temple, Kochukadavanthra,
Ernakulam
2. Ajesh Ashokan, aged 40/19 years, S/o Ashokan,
Kallupadath House, Amaravathy, Fort Kochi
3. Palani Swami, aged 39/19 years, S/o Chinnaya,
Alunkal House, Cheriya Kadavanthra, Ernakulam
4. Akhil B Koyikkara, Koyikkara House, Olanad,
Varapuzha, Ernakulam

Offences : U/s 143, 147, 341, and 323 r/w 149 of the IPC

Order : Allowed

ORDER

This is an application filed by the learned Assistant Public Prosecutor under Section 311 of Cr.PC.

2. The grounds stated in the application are as follows: In the present case, the final report has been filed for offences punishable under Sections 143, 147, 341, and 323 read with Section 149 of the IPC. The case now stands posted for the evidence of CW4. The Police have reported that the said witness is presently abroad and is unable to appear before the Court for examination due to illness. CW4 is the Doctor who prepared the medical certificate of the victim, and the production of the said certificate is

necessary for the proper adjudication of the case. Considering the unavailability of CW4, another Doctor, namely Dr. K.I. Muthukoya, who is acquainted with the handwriting and signature of CW4, may be examined to mark the said certificate in evidence. Hence, the present application is filed for summoning Dr. K.I. Muthukoya as a witness.

3. A copy of the application was served on the defence. An objection was filed, contending as follows:

4. The application is not maintainable. The attempt to summon another doctor at this stage is nothing but an afterthought, intended to fill up the lacunae in the present prosecution case. To substantiate their claim that CW4 is abroad and unable to appear before the Court due to illness, no supporting documents have been produced. The marking of the wound certificate through another doctor, who is not the author of the document, would seriously prejudice the rights of the accused. Only the doctor who prepared the certificate is competent to speak about the injuries and the correctness of the entries therein. The proposed witness has no direct knowledge of the injuries sustained by the victim or the treatment given to her, and therefore cannot be treated as a competent witness to prove the said document. Mere acquaintance with the handwriting or signature of CW4 is insufficient to prove the medical contents or the authenticity of the wound certificate. Hence, the application is to be dismissed.

5. Heard both sides

6. As already stated above, the offences alleged include one punishable under Section 323 of the IPC. Needless to say, the wound certificate is a vital piece of evidence in this case.

7. The specific ground raised by the prosecution is that CW4, who issued the wound certificate, is presently abroad and is unable to appear before the Court due to illness. It is a well-settled principle that when the person who prepared a document is not available for examination, the document may be proved through a person who is conversant with the handwriting of the author.

8. Being so, I am of the view that this application deserves to be allowed. The contentions raised by the defence can be considered at the appropriate stage during trial.

In the result, the application is allowed. Issue summons to Dr. K.I. Muthukoya for examination as a prosecution witness.

(Pronounced by me in the open court on this the 11th day of November, 2025).

Sd/-

Judicial Magistrate of the First Class – I, Kochi