

**IN THE COURT OF THE JUDICIAL I CLASS MAGISTRATE,
KOLENCHERRY:**

**Present : Smt. Sirsha N A,
Judicial I Class Magistrate.**

Wednesday the 28th day of May, 2025

CMP No. 22 of 2025

In

CC No: 152 of 2022

- Petitioner/ Accused** : A12 M.A . Aravidhan, S/o. Ayyappan, age 74/18,
Mattathil House, Pancode Kara, Aikkaranadu North Village
- A20 Shafeeq, S/o. Hakkim, age 36/18,
Shafeeq Manzil , Nedumangadu Village , Nedumangadu
- A23 Dr. P.G.Hari, S/o. Gopinadhakuruppu, age 48/18,
Pottayangal Building, Kumbalakkadu Kara, Wayanad
- A24 K.K.Jishnu, S/o. Kunjoonju, age 36/18,
Karikkombil House, Thodupuzha,
- A26 Sheneer,S/o. Aboobacker, age 30/18,
Erikunna House, Chandakkunnu Bhagam, Nilamboor Village
- A29 Santhosh, S/o. Kunjiraman, age 58/18,
Ambattu House,Thalikkulam Kara, Thalikkulam Village
- A30 Shaiju, S/o. Sankaran, age 41/18,
Kalthottikkal House, Thrithalloor Post, Vadanappilly , Thrissur
- A31 Chandran, S/o. Kochon, age 62/18,
Thiriyidathu House, Vadanappilly Village, Thrissur
- A34 Shiji, W/o. Prasanth, age 45/18,
Arayannaparambil House, Thrithalloor , Thrissur
- A35 Shameera.K.P, W/o. Mustafa, age 36/18,
Peedikakandi House, Medical College Post, Kozhikode
- A39 Mridula, D/o. Viswanadhan, age 24/18,
Smrithi House, Kozhummel House, Karavelloor ,Kannur
- A45 Gouri, D/o. Mari, age 28/18,
Mallikappara Colony, Thirunelli Appappara Village ,
Thirunelli, Wayanad
- A46 Baby, S/o. Kuriakose, age 54/18,
Vattakkunnel , Kalayanthani Alakkodu Village, Thodupuzha
- A48 Arun, S/o. Velayudhan, age 35/18,
Karippalivayal House, North Beppur Village, Kozhikode

- A49 Ramesan, S/o. Ramanan, age 43/18,
Anchalassery House, Kurichi Post, Kurichi Village ,Kottayam
- A50 John.P.O, S/o. Ouseph, age 58/18,
Pathupara House, Vellassery Kara, Kaduthuruthy Village,
Kottayam
- A52 Suja, W/o. Prasanth, age 36/18,
Pakidichirayil CMC /20 Cherthala, Cherthala Village, Alappuzha
- A54 Vilayody Sivankutty, S/o. Ramu, age 54/18,
Thekkegramam Post,Chittoor Village , Palakkad
- A58 Babu Joseph, S/o. Joseph Cherian, age 49/18,
Thanal House, Kaviyoor Post, Kaviyoor Village , Thiruvalla
- A61 Hanukrishna, S/o. Ramakrishnan, age 27/18,
Thengumvilakkal House, Manampuzha Post, Kunnathoor, Kollam
- A62 Sudheesh, S/o. Sudhakaran, age 24/18,
Sudheesh Bhavanam, Kallada Post, Kollam
- A65 Musthafa.P.K, S/o. Mammu, age 48/18,
Peedikakandi House, Nellikkode Village , Medical College Post,
Kozhikode
- A69 Noushad P A, S/o. Aboobakkar, age 45/18,
Panackal House, Vengola P O. Perumbavoor.
- A70 Deepesh Narayanan, S/o. Narayanan, age 39/18,
Mandir House, Mattanchery , Near Cochin College
- A71 Hasrath Ali, S/o. Muhammed Sulaiman, age 61/18,
Cheenikkal House, Marampilly Kara, Aluva
- A73 Swapnesh Babu, S/o. Vijayan, age 41/18,
Chemmazhiyathu House, St.Vincent Convent Road , Palarivattom
- A76 C.K..Gopalan. S/o. Kunjappan, age 66/18,
Chakkalakkal House, Kenichira, Thazhamala Post, Wayanad
- A77 Rasheed.A.A, S/o. Abdul Khader, age 45/18,
Arakkaparambil House, Kombaramukku, Mattanchery Village
- A80 Thankamma, W/o. Suku, age 40/18,
Avayal House, Polakkappara , Meenangadi Village, Wayanad
- A81 Narayanan, S/o. Chadayan, age 36/18,
Avayal House, Polakkappara Kara, Meenangady Village, Wayanad
- A82 Thanka, W/o. Narayanan, age 28/18,
Avayal House, Polakkappara Kara, Meenangady Village, Wayanad
- A83 Prasanth, S/o. Bahuleyan, age 45/18,
Arayaparambil House, Thrithalloor Post, Vadanappilly, Thrissur

Respondent : State of Kerala represented by Sub Inspector of Police,
Puthencruz Police Station (Crime No: 163/2018)
(By A.P.P. Kolenchery)

Order : CMP is allowed.

ORDER

This is a petition filed under Section 281 of the Bharatiya Nagarik Suraksha Sanhita (BNSS) by the counsel on behalf of the accused in the above case.

2. The case was instituted based on the final report filed by the Sub Inspector of Police, Puthencruz Police Station, alleging commission of offences punishable under Sections 143, 147, 283, and 149 of the Indian Penal Code (IPC), and Section 4(2) of the Kerala Public Ways (Restriction of Assemblies and Procession) Act, 2011.

3. The petitioners herein are accused Nos. A12, A20, A23, A24, A26, A29, A30, A31, A34, A35, A39, A45, A46, A48, A49, A50, A52, A54, A58, A61, A62, A65, A69, A70, A71, A73, A76, A77, A80, A81, A82, and A83 in the above case. The offences alleged against them are as stated above. It is averred that the petitioners are innocent and have no connection with the alleged offences. The specific allegation is that on 04.02.2018, in retaliation to police intervention in stopping a procession towards the Vadayambadi Temple Ground which was allegedly encroached upon and from which Dalit families were ousted by the Temple Committee with the backing of the Nair Service Society the petitioners, along with others, formed an unlawful assembly with an intent to obstruct the national highway. Around 3:00 p.m. on the said date, they allegedly marched towards the Puthencruz Police Station, raised provocative slogans, and assembled in front of the station, occupying the National Highway and adjacent footpaths. After dispersing the assembly, the Inspector of Police, Puthencruz, suo motu registered Crime No. 163/2018 against seven named

persons and around 100 identifiable individuals under Sections 143, 147, 283, and 149 of IPC, as well as Section 4(2) of the Kerala Public Ways (Restriction of Assemblies and Procession) Act, 2011. The same officer who registered the FIR conducted the investigation and later filed the final report before this Court.

It is submitted that the petitioners were not named in the FIR. They were never arrested in connection with the case. None of the 14 charge witnesses cited by the prosecution have named the petitioners, nor did they state they could identify them or mention any specific role played by them. There is no description or identifying particulars provided in the witness statements that could reasonably lead to the identification of the petitioners.

In such circumstances, arraying the petitioners as accused is arbitrary, unlawful, and contrary to the principles of justice. There is no material evidence to link the petitioners to the alleged offences. The petitioners are social activists residing in different parts of Kerala and are not involved in the alleged incident in any manner.

4. A copy of the petition was served on the prosecution. Though the learned Assistant Public Prosecutor opposed the application, no substantial argument was advanced to justify the continuation of proceedings against the petitioners.

5. Heard. Records perused.

6. Point for Consideration:

1. Whether the petition deserves to be allowed?

7. **Finding on Point No. 1:** Under Section 258 of the Code of Criminal Procedure (Cr.P.C.), the Court has the power to drop proceedings in summons cases instituted otherwise than on complaint, where the materials on record do not disclose any offence against the accused. A perusal of the records reveals that, although 14 witnesses have been cited by the Investigating Officer, none of them have deposed anything regarding the involvement of the petitioners in the alleged incident. No identification of the accused was made by any witness. The

final report and statements recorded under Section 161 Cr.P.C. do not disclose any incriminating material against the petitioners. Hence, there is no prima facie case made out against them.

8. In view of the above, I am of the considered opinion that the proceedings against the petitioners cannot be sustained. Accordingly, the petition is allowed.

In the result:

The petition is allowed. The proceedings against the petitioners (accused Nos. A12, A20, A23, A24, A26, A29, A30, A31, A34, A35, A39, A45, A46, A48, A49, A50, A52, A54, A58, A61, A62, A65, A69, A70, A71, A73, A76, A77, A80, A81, A82, A83) are hereby dropped under Section 258 of the Code of Criminal Procedure.

(Dictated to the Confdl, Asst, transcribed and typed by her, corrected by me and pronounced in open court on this the 28th day of May, 2025.)

Sirsha N A
Judicial Ist Class Magistrate
Kolencherry