

**IN THE COURT OF THE ADDITIONAL SPECIAL SESSIONS JUDGE,
(SPE/CBI)-III, ERNAKULAM**

Present :-

SRI.SABARINATHAN. P, SPECIAL JUDGE.

Saturday, the 31st day of October, 2025/09th Karthika, 1947.

Crl. M.P. No.541/2025

in

S C No. 421/2020

Petitioner/Complainant : The Central Bureau of Investigation,
Special Crime Branch,
Thiruvananthapuram.

Represented by : Sri. M. Navas,
Senior Public Prosecutor.

Respondents/Accused Nos.1 to 33:

1. Sumesh. K.V, S/o. Chandran,
aged 40 years, Kizhakkevalappil House,
Poomalakkavu, Cherukunnu Ambalam
Road, Kannapuram.
2. Ganesan. P, S/o. Balan Nair, aged 48 years,
Parayil House, Raj Quarters,
China Clay Road, Kannapuram.
3. Anoop, S/o. Balan, aged 45 years,
Kaniyarathvalappil House,
Kannapuram, Idakkepuram.
4. Vijesh @ Babbotty, S/o. Krishnan,
aged 40 years, Thaiyyil House, Morazha.

5. Prakasan. K, S/o. Sreedharan, aged 45 years, Pappinisserikkaran Kannothe House, Panthottam, Near K.K.N. Smaraka Vayanasala, Morazha.
6. Umesan.V, S/o. Gopalan, aged 45 years, Pattuvam Ariyil, Dharmakinnar.
7. Pavithran. P, S/o. Kunjappa, aged 51 years, Porayil House, Karakkunnu Road, Keezhara, Kannur.
8. Latheesh. C, S/o. Kunjambu, aged 42 years, Chalil House, Muthuvani, Morazha.
9. Manoharan. P.V, S/o. Late Kunjiraman, aged 47 years, Palangottuvalappil House, Kannapuram, Keezhara, Valluvankadavu.
10. N.P. Dinesan @ Maina Dinesan, S/o. Kunjiraman, aged 53 years, Naduvilepurayil House, Kannapuram, Keezhara, Valluvankadavu.
11. C.N.Mohanan, S/o. Govindan, aged 51 years, Chevan Narothe House, Morazha, Near Grameena Vayanasala.
12. Bijumon, S/o. Vady Ravi, aged 45 years, Vady House, C.H. Nagar, Morazha.
13. N. Nidhin, S/o. Narayanan, aged 36 years, Naduvilepurayil House, Kannapuram, Keezhara, Valluvankadavu.
14. E.P. Radhakrishnan, S/o. Kunjiraman, aged 50 years, Eliyanpola House, Valluvankadavu, Keezhara, Kannapuram.

15. Shijin Mohan @ Shijin, S/o. Mohanan, aged 34 years, Naduvilepurayil House, Kannapuram, Keezhara, Valluvankadavu.
16. K.V. Sajith, S/o. Chandran, aged 43 years, Kizhakkevalappil House, Kannapuram, Idakkepuram.
17. Sudhakaran @ Conductor Sudhakaran, S/o. Kannan, aged 51 years, Moolayil House, Morazha.
18. Naveen. N.P, S/o. Narayanan, Naduvilepurayil House, Kannapuram, Keezhara, Valluvankadavu.
19. Syamjith, S/o.Govindan, age not known, Syamala Nivas, Mottamayal, Morazha.
20. Sareesh. A, S/o. Narayanan, aged 40 years, Aachali House, Koranpeedika, Morazha. **(No more)**.
21. Shaji.K.V, S/o. Kunjiraman, aged 47 years, Koolothvalappil House, Periyadavu, Vellikkeel, Morazha.
22. Prakasan Muthuvany, S/o. Kappadan Kannan, aged 50 years, Kappadan House, Muthuvany, Morazha Colony Road.
23. Ajayakumar. N. P @ Ajayan, S/o. Kumaran. aged 54years, Naduvilepuram, Kannapuram, Keezhara, Valluvankadavu.
24. Rajeevan. P, S/o. Narayanan, aged 55 years, Poyil House, Pattuvam, Ariyil.

25. V.V. Mohanan, S/o. Balan, aged 61 years, Naduvilepurayil House, Kannapuram, Keezhara, Valluvankadavu.
26. Purushothaman.M.V @ Purushu, S/o. Koran, aged 57 years, Melothvalappil House, Kannapuram, Keezhara, Valluvankadavu.
27. P. K.Ajithkumar, S/o. Raveendran Nambiyar, aged 55 years, Konath House, Morazha, Panneri.
28. P. P. Suresan, S/o. Narayanan, aged 54 years, Padinjarepurayil House, Pattuvam, Idamudavu, Kaichanthadam.
29. K. Babu, S/o. Balan, aged 52 years, Karakkadan House, Pattuvam, Ariyil, Dharmakkinar.
30. U.V. Venu, S/o.Kunjiraman, aged 62 years, Ubravalappil House, Mullool, Pattuvam.
31. A.V. Babu, S/o. Krishnan, aged 50 years, Anthoorveetil House, Vellikkeel, Morazha. **(No more)**
32. P. Jayarajan, S/o. Kunjiraman, aged 68 years, Kairali House, Pookkode, Koothuparambu.
33. T.V. Rajesh, S/o. Chanthukkutty, aged 51 years, Athrakkal House, Kulappuram, Cheruthadam.

**A1 to A19, A21 to 26 and 28 to 30-Represented by-
Advs. Muhammed Shaheel.B and Nicholas Joseph.**

A27- Represented by-Advs. M.Sunilkumar, Thomas Abraham and Mahesh Bhanu.S.

A32 and A33- Represented by-Advs. Sri. K. Viswan & Arun Bose D.

This petition is coming on for hearing on 31st day of October, 2025 in the presence of Senior Public Prosecutor appearing for the petitioner/ Complainant and Counsel appearing for the respondents/accused, having stood over for consideration on the same day Court passed the following:

ORDER

This is an application filed by the prosecution to recall and summon CW.3, N.K. Haris for examination.

2. According to the petitioner, CW.3 referred to above, is employed in Kuwait for the last four years. Accordingly, he failed to appear before Court when he was summoned earlier, for examination. Since, he was reported abroad, he was given up by the prosecution on 02.06.2025. Now, the said witness is expected to arrive his native place in the last week of October, 2025 and is ready and willing to give evidence before this Court. He is a prime occurrence witness, who was present along with the main witnesses and deceased at the house of CW.6, Muhammed Kunji on the date of the incident (20.02.2012) and he was also forcibly taken to the place of

attack, i.e. Chulliyottuvayal at the first phase. Hence, the examination of the said witness is very essential for the prosecution. The filing of the present application is not with an intention to fill up the lacuna in the prosecution case. Hence, the prosecution prays to allow this application.

3. Notice in this application has been given to the accused through counsel and the counsel appearing for A1 to A19 and A21 has filed detailed counter opposing the application. According to him, CW.3 was summoned for examination on 12.05.2025, he failed to appear before Court on that day or on subsequent days and after completing the examination of PWs 1 and 2, CW.3 was given up by the prosecution on 02.06.2025. The accused, immediately at the commencement of the examination of the witnesses has filed CrI. M.P. 350/2025 for deferring cross examination of CWs. 2 to 4, till the completion of the chief examination of the said witnesses. Since, CWs. 3 and 4 were given up by the prosecution on 02.06.2025, this Court has closed the said application on 02.06.2025 itself. The prosecution was able to produce PW.1, Sakaria, though he was working abroad for the last several years. The prosecution has no request to take coercive steps to secure the presence of CW.3 and instead they straightaway given up him. Now the present application has been filed after completion of examination of PW 1 to PW.16. The accused have already formulated their defence and conducted

cross examination of the PW1 and PW2, the prime witnesses. Now, recalling and examining CW.3 at a later stage is only with an intention to fill up the lacuna in the evidence already tendered by the prosecution. Moreover, according to the accused, the present application has been filed at the pressure exerted by the lawyer of the deceased's mother, who is assisting the prosecution. It is contended that summoning an occurrence witness at the belated stage will certainly cause serious prejudice to the accused. Hence, the accused pray to dismiss this application.

4. Both sides were heard and perused the available records.

5. Now the point that arises for consideration is as follows :-

Whether there is sufficient ground to recall and summon CW.3 for examination as prayed for by the prosecution?

6. **The Point:-** The learned Senior Public Prosecutor argued that examination of CW.3 is very essential for the prosecution, the said witness, though expected to come by the end of this month has not reached India, as he is detained in jail abroad. However, his arrival is expected within two weeks. The prosecution is ready and willing to produce CW.3 for examination on his arrival in India. The learned counsel appearing for the accused on the other hand argued that allowing this application at this stage

will certainly cause prejudice to the accused. Hence he prays to dismiss the application.

7. I have considered the submissions made by either side. This is a case in which the accused are charged for the offences punishable u/s. 143, 147, 148, 447, 450, 506(i), 364,341, 323, 324, 307,302,109,201, 120B r/w. 149 IPC for the alleged murder of one Shukkoor, attempted murder of PW.1, Sakaria and causing of injuries to other witnesses. Certain other allegations are also there against the accused. As on today, PW. 1 to PW.26 were examined on the side of the prosecution. The oral evidence regarding the incident, conspiracy and seizure of material objects, the examination of doctors etc., is almost over and the remaining witnesses are to be summoned for examination. Almost all the material witnesses were examined on the side of the prosecution. The remaining witnesses, except the investigating officers and the Judicial First Class Magistrate, who conducted test identification parade, are formal witnesses. Examination of an occurrence witness at the belated stage will certainly cause prejudice to the accused. It is also to be taken note that there was no request on the side of the prosecution to take coercive steps against CW.3, to secure his presence before Court. Instead, the learned Prosecutor has straightaway gave up him. It appears to me that the Prosecutor has applied his mind

before giving up the witness and has taken a right decision to give up the witness. Now, the prayer of the Prosecutor to recall and summon a witness already given up by the prosecution is not liable to be allowed at this belated stage and as contended by the accused allowing this application at this belated stage will certainly cause prejudice to them. Hence, I am not inclined to allow this application. Point answered accordingly.

In the result, this Criminal M.P is hereby dismissed.

Dictated to the Confidential Assistant, transcribed and prepared by her in computer, corrected by me and pronounced in open Court on this the 31st day of October, 2025.

Sd/-
Sabarinathan. P
Special Judge, (SPE/CBI) – III
Ernakulam

Appendix:- Nil.

Sd/-
Special Judge, (SPE/CBI)-III

Order

in

CrI. M.P 541/25

in

SC 421/2020

Dated 31.10.2025

