

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE-II,
PARAVUR**

**Present:- Smt. Chithralekha N. S.
Judicial Magistrate of the First Class**

Dated this the Wednesday, the 18th day of March, 2026

CMP 1/2026 IN CC 3008/2015

Petitioner/Complainant	Smt. Dhanya A S, Assistant Public Prosecutor Gr. II, Judicial First Class Magistrate Court – II, Paravur
Respondents/ Accused	1. Jafar, Aged 47, S/o. Yusuf Kunju, Neduvila Veedu, Kulappadam, Nedumpana Village. 2. Noushad, Aged 44, S/o. Yusuf Kunju, Neduvila Veedu, Kulappadam, Nedumpana Village. 3. Asharaf, Aged 41, S/o. Yusuf Kunju, Neduvila Veedu, Kulappadam, Nedumpana Village. 4. Fathima Beevi, Aged 71, D/o. Rukkiya Beevi, Neduvila Veedu, Kulappadam, Nedumpana Village. (By Adv. Pallimon S Sreekumar)
Order	: CMP is allowed.

ORDER

1. This petition stands filed u/s. 242(3) Cr.PC by the learned Assistant Public Prosecutor in CC 3008/2015 on the file of this court.

2. The averments in brief of the petitioner is that :- CW4, CW5 and CW6 were considered for examination during trial. Their statement were missing from the final report and subsequently traced in the CD file, kept

within the police station.

3. Heard the learned counsel who appeared for accused no. 1 to 4 and learned Assistant Public Prosecutor and perused the available records. When said statement was received as part of the prosecution records the defence opposed the petition stating that the statements were subsequently fabricated.

4. There is serious omission from the part of the investigating officer in not forwarding the original statement recorded u/s. 161 Cr. PC of above witnesses. However it may be noted that said witnesses were included in the array of the witnesses in the final report. There cannot arise a situation in which certain witnesses have been incorporated in the final report for proving the relevant facts without recording their statement.

5. Therefore I find no ground to hold that the statements were subsequently fabricated and intended to be produced before court. Also there will be ample opportunity for the defence to cross examine said witnesses during trial after serving copy to them. Therefore no prejudice will be caused to the accused. Therefore it is a fit case in which the plea of the prosecution could be allowed. Therefore the prosecution is allowed to produce the original statement of CW4, CW5 and CW6.

In the result, the CMP stands allowed.

(Dictated by me, transcribed and typed by Confidential Assistant and corrected by me and pronounced in the open court, on this the 18th day of March, 2026).

Sd/-
Judicial Magistrate of the First Class-II,
Paravur