

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE -II  
KANJIRAPPALLY**

Present :-Niyatha Prasad,  
Judicial First Class Magistrate – II, Kanjirappally

Wednesday, the 20<sup>th</sup> day of May, 2026  
(30<sup>th</sup> day of Vaisakham, 1948)

**CMP 01/2026**

**in**

**CC No. 60/2020**

Petitioners/Accused

- : A1. Akhil K. O,  
S/o Omanakuttan, Aryasseril (H),  
Chenappady, Kizhakkekara,  
Erumely South.
- A2. Aneesh Mohan,  
S/o Mohanan, Maruthanal (H),  
Chenappady City, Erumely South.
- A3. Anoop K. O,  
S/o Omanakuttan, Aryasseril (H),  
Chenappady, Kizhakkekara, Erumely South.
- A4. Prajeesh,  
S/o Prasannan, Mundappallil (H),  
Chenappady, Purappa, Erumely South.
- A5. Anoop K. S,  
S/o Sivankutty, Kollamala (H),  
Chenappady, Purappa.
- A6. Mohanan @ Kudalloor Mohanan,  
Anikkattuthazhe (H), Chenappady,  
Kizhakkekara, Erumely South.

**(Rep. By Adv. Sri. Mohammed Haris K. S)**

Counter Petitioner

- : Aravind M. C, aged 23/19,  
S/o Chandranpilla, Madappallil (H),  
Chenappady P. O, Erumely, Kottayam.

**(Rep. By Adv. Sri. Remesh V. R)**

Offence : Punishable under sections 341, 323, 324 r/w 34 of Indian Penal Code.

Sentence/Order : Petition is allowed. Case is committed u/s.362 of Bharatiya Nagarik Suraksha Sanhitha, 2023 to the Hon'ble District & Sessions Court.

### **ORDER**

Petition filed U/s. 362 of Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as 'BNSS') by the accused persons in CC 60/2020.

2. The petitioner's case in brief is as follows:- The petitioner's are the accused persons in this case. With respect to this case, there is a counter case pending before the Hon'ble District & Sessions Court, Kottayam as SC 28/2020 wherein the 2<sup>nd</sup> accused is CW1 and the 1<sup>st</sup> accused is CW2. It is submitted that both cases occurred at the same time and at the same place. According to the petitioners, both cases has to be tried by the same court in the interest of justice. The petitioners prayed for committing this case to Hon'ble District & Sessions Court, Kottayam. Hence this petition.

3. I have perused the records in CC 60/2020.

4. Heard. Perused records.

5. The submissions made by the learned counsel for the petitioners is that the incident in CC 60/2020 and SC 28/2020 happened on the same day, time and place. While this petition was filed, a report was called for from the Station House Officer, Erumely Police Station. It was stated in the report that Crime No. 964/2019 was registered on the basis of the statement given by the petitioners herein against the defacto complainant in this case and the said case is pending as SC 28/2020. Furthermore, the learned APP also submitted that CC 60/2020 is the connected case of SC 28/2020. Further, the learned counsel for the counter petitioners also submitted that the above said cases are connected to each other and that they have to be tried together. All parties wanted this case to be committed to

the Hon'ble District & Sessions Court, Kottayam. But the offence alleged against the accused in CC 60/2020 are not exclusively triable by Hon'ble Court of Sessions. Hence, the power this court can exercise is the special power conferred by virtue of Section 362 of BNSS to commit the case/cross case to the Hon'ble District & Sessions Court, Kottayam. Section 362 BNSS reads thus:

"If, in any inquiry into an offence or a trial before a Magistrate, it appears to him at any stage of the proceedings before signing judgment that the case is one which ought to be tried by the Court of Session, he shall commit it to that Court under the provisions herein before contained and thereupon the provisions of Chapter XIX shall apply to the commitment so made".

6. Admittedly from the facts of both the cases, it is clear that both the criminal cases arise as a result of the same incident. Virtually these are two different versions of the same incident resulting in two criminal cases. The honorable Apex Court in **Sudhir and Ors. v. State of M.P. and Ors.** reported in **AIR 2001 SC 826** held that;

“How to implement the said scheme in a situation where one of the two cases (relating to the same incident) is charge-sheeted or complained of, involves offences or offence exclusively triable by a Court of Sessions, but none of the offences involved in the other case is exclusively triable by the Sessions Court. The magistrate before whom the former case reaches has no escape from committing the case to the Sessions Court as provided in Section 209 of the Code. Once the said case is committed to the Sessions Court, thereafter it is governed by the provisions subsumed in Chapter XVIII of the Code. Though, the next case cannot be committed in accordance with Section 209 of the Code, the magistrate has, nevertheless, power to commit the case to the court of Sessions, albeit none of the offences involved therein is exclusively triable by the Sessions Court. Section 323 is incorporated in the Code to meet similar cases also.”

7. Even though no offence triable exclusively by the Hon'ble District & Sessions Court is involved in this case, the facts is similar to SC 28/2020 which arose as a result of the same incident. In the light of the decision of the Honorable Apex Court and after hearing the arguments, I am of the view that the prayer of the learned counsel for the petitioners is entitled to be allowed and resultantly I order so. Case is refiled as CP 08/2026.

**In the result,**

The petition is allowed and this case is committed to the Hon'ble District & Sessions Court, Kottayam u/s.362 of BNSS.

*(Dictated to the Confidential Assistant, transcribed and typed by her corrected and pronounced by me in open Court on this the 20<sup>th</sup> day of May, 2026.)*

Sd/-  
**Judicial First Class Magistrate-II**  
**Kanjirappally**