

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

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

Dated this the 16th day of March, 2026

ST 3627/23

Complainant : State of Kerala represented by the Sub Inspector of
police, Karukachal P.S.in Cr.1261/2023

(By APP.Gr.II,Kanjirappally)

Accused : Manoj Varghese,Pananthanam House, Anikkadu PO

Offence : 279 IPC

ORDER

This is a case charge sheeted by the Sub Inspector of Police, Karukachal Police Station in crime No 1261/2023 against the accused person alleging commission of offence punishable under section 279 of Indian Penal Code .

2. Summons was ordered to the accused as early as on 18.10.2023 Thereafter till date repeatedly summons was issued to the accused for securing the presence of the accused. However, the SI of Police submitted report stating that the accused could not be found in the said address and that the address provided in the final report is not the true and correct address of the accused. The report reveals that further expending time in searching the accused is a futile exercise and that the amount incurred for securing the presence of the accused far exceeds the amount which may be imposed against him.

3. The Hon'ble High court of Kerala in **Suo Moto v. State of Kerala** reported in **2023(7) KHC 505** held that "*in the case of petty offences and in case of those summons cases instituted otherwise than upon a complaint which do not qualify as petty offences, where the prosecuitor files a report stating unambiguously*

that despite its best effort at locating the accused, it has not been successful in securing the presence of the accused before the Magistrate, it would be permissible for the magistrate to record an order of stoppage of proceedings in accordance with S.258 of the Code subject to the conditions which read as follows :

1. *In the case of petty offences where the prosecution files a report stating unambiguously that despite its best effort at locating the accused, it has not been successful in securing the presence of the accused before the Magistrate, the Magistrate concerned shall scrutinize the report submitted by the prosecution to satisfy himself/ herself of the fact that reasonably sufficient steps have been taken by the prosecution to ensure the presence of the accused **or** that the costs of ensuring the presence of such accused far exceed the maximum fine that is prescribed under the statute for the offence concerned. In the event of magistrate being satisfied of either of the aspects above mentioned then it would be permissible for the magistrate to record an order of stoppage of proceedings in accordance with section 258 of Cr.PC.*

2. *In case of those summons cases instituted otherwise than up on a complaint or which do not qualify as petty offence where the prosecution files a report stating unambiguously that despite its best effort at locating the accused, it has not been successful in securing the presence of the accused before the Magistrate, the Magistrate concerned shall scrutinize the report submitted by the prosecution to satisfy himself/ herself of the fact that reasonably sufficient steps have been taken by the prosecution to ensure the presence of the accused **and** that the costs of ensuring the presence of such accused far exceed the maximum fine that is prescribed under the statute for the offence concerned. In the event of magistrate being satisfied of either of the aspects above mentioned then it would be permissible for the magistrate to record an order of stoppage of proceedings in accordance with section 258 of Cr.PC.*

4. *In the instant case which is a summons case instituted otherwise than on a complaint which do not qualify as petty offence, the prosecution has filed a report stating unambiguously that despite its best efforts at locating the accused it has not*

been successful in securing the presence of the accused before this court and that the costs that may be incurred in securing the presence of accused far exceeds the fine that may be imposed against the accused. The report submitted would got to show the same. Hence I am satisfied that this is a fit case wherein the provisions of S. 281 of BNSS can be applied.

In the result

Proceedings against the accused is dropped u/s. 281 of BNSS.

sd/-
JUDICIAL FIRST CLASS MAGISTRATE-II
KANJIRAPPALLY