

**IN THE COURT OF THE JUDICIAL MAGISTRATE OF THE  
FIRST CLASS, ERATTUPETTA**

Present:- Sri. Krishna Prabhan R.,  
Judicial Magistrate of the First Class, Erattupetta

Friday, 17<sup>th</sup> day of October , 2025 / 25<sup>th</sup> day of Aswina, 1947

**CMP NO. 1869/2025 IN CC 504/18**

Petitioner	:	Jollychen P Joseph Pulimoottil House Thalappalam Kara Erattupetta, Kottayam
		<b>(By Adv. Rathish Kumar P.R)</b>
Respondents	:	1. State of kerala represented by SHO Erattupetta  2. Goerge Varky, Poovathinal House Chemmalamattam , Thidanadu Kara Kottayam Dt.  3. T.K Cheriyan Thnammackal House Thidanadu, Kottayam Dt.
Order	:	Petition is dismissed.

This application having been finally heard on this day, the Court passed the following:-

**ORDER**

1. This is a petition filed u/s. 173(8) of Cr.P.C.

**2. The averments in the petition in brief is as follows:-**

The petitioner is the defacto complainant in the aforesaid case. The offences alleged against the accused are u/s.447, 201 and 506(i) of IPC and Sec.17 of Kerala Money Lenders Act, 1958. On 05/08/16, the petitioner lodged a complaint with the Superintendent of Police, following which a FIR was registered against accused no.1 and 2. After completing investigation, the investigating officer filed final report against the present accused only and the 2<sup>nd</sup> accused was cited as a witness. It was done without recording the statement of the defacto complainant. The FIR, statements recorded u/s. 161 Cr.P.C and other materials show the role of the 2<sup>nd</sup> accused. During investigation, the investigating officer recorded the statement of 2<sup>nd</sup> accused and he has admitted that he was also part of this transaction. The investigating officer failed to add 2<sup>nd</sup> accused in the final report. Hence this petition is filed to direct the investigating officer to re-examine the investigation of this case and record further statements and collect such other materials and thereafter submit a supplementary report u/s.173(8) of Cr.P.C adding accused no.2 in the FIR as an accused.

3. Copy served to the prosecution. Report filed.
4. Heard both sides.

5. **Now the points that arise for determination are:**

(i). Whether this petition is allowable or not?

(ii). Order?

6. **Points No(i)**

I have perused the available materials in hand. The offences alleged against the present accused are u/s. 447, 201 and 506(i) of IPC and Sec.17 of Kerala Money Lenders Act, 1958. It can be seen that this case was registered in the year 2016. The accused entered appearance on 10/09/18. Charge has been framed on 10/11/21. Eventhough summons were issued to CW1 and CW2, they did not turn up and subsequently, coercive steps u/s. 82 Cr.P.C were also executed against CW1 and CW2. Even then, they did not appear before this Court. Further, it can be seen that on 03/01/23 CW1 and CW2 applied through a counsel. Since this is an old matter, this Court proceeded with trial and CW6 was examined as PW1. At this stage, this petition is filed.

7. In **Vinubhai Haribhai Malaviya and Others v. State of Gujarat and Another**, reported in AIR 2019 SC 5233, the honourable Apex has held that powers are available to Magistrate for ensure a proper investigation which would included the ordering of further investigation after a report is received by him u/s.173(2) of Cr.P.C and which power

continue to enure in such Magistrate at all stages of the progress of a criminal case until the trial itself commences.

8. In this case, the trial already started. I am of the view that there is no need to allow this petition at this point of time. In the result, the aforesaid point is found against the petitioner.

9. **Point No.(ii)**

In the result, this petition is dismissed.

Dictated to the Confidential Assistant transcribed and typed by her, corrected by me and pronounced in open Court on this the 17<sup>th</sup> day of October 2025.

Sd/-

**Judicial Magistrate of the First Class,  
Erattupetta**

//True Copy//

**Judicial Magistrate of the First Class,  
Erattupetta**