

IN THE COURT OF THE ADDL. SESSIONS JUDGE-II

THIRUVANANTHAPURAM

PRESENT: Sri. RAJIV JAYARAJ, ADDL. SESSIONS JUDGE-II

Monday, the 2nd day of March, 2026/ 11th day of Phalguna, 1947

CMP No.01/2026 in CMP No. 5312/25 in SC No.2713/2025

(Crime No.900/2025 of Kallambalam Police Station, pending before the Additional Sessions Court-II, Thiruvananthapuram)

Petitioner:-

The Deputy Commissioner of Customs,
Thiruvananthapuram International Airport,
Thiruvananthapuram.

By Advocate:-P.G. Jayashankar

Counter Petitioner:-

State of Kerala represented by Station House Officer,
Kallambalam Police Station,
Chirayinkeezhu, Thiruvananthapuram .

By Additional Public Prosecutor Sri. K.L. Hareeshkumar

This petition coming on for hearing on 02/03/2026 and the court on the same day passed the following :

ORDER

This is an application filed by the Deputy Commissioner, Customs, Thiruvananthapuram International Airport to recall the order dated 19.12.2025 passed on CrI.MP 5312/25 filed by the Deputy Superintendent of Police, Varkala, who is the investigating officer in NDPS Crime 900/25 of Kallambalam police

station, seeking a direction to the Customs Deputy Commissioner, Thiruvananthapuram International airport to furnish the identity particulars of customs officials deployed for baggage screening duty between 6 p.m and 8 p.m on 09.07.2025, the date of occurrence.

2. The Customs Deputy Commissioner has filed the instant petition for recalling the aforesaid order on a few grounds.

3. I have heard the Senior Standing Counsel and Special Public Prosecutor, Government of India (Taxes) and the learned Additional Public Prosecutor.

4. The first contention raised is that the petitioner herein was not impleaded as a party and hence the order is vitiated for violation of principles of natural justice. This contention cannot be accepted. The direction issued under the impugned order is purely investigative in nature, intended to facilitate the collection of factual and administrative details necessary for effective investigation of a serious offence under the NDPS Act. The order does not adjudicate upon any right, liability or culpability of the customs officials nor does it visit them with any civil or penal consequence. In such circumstances, non-impleading the petitioner does not render the order void or liable to be recalled, particularly when the order merely requires interdepartmental co-operation in aid of investigation.

5. It is well settled that orders passed to facilitate investigation, including directions for production of records or furnishing of information, do not attract the full rigour of audi Alteram Partem, unless demonstrable prejudice is shown. No such prejudice is made out in the present case.

6. The further contention that the petitioner does not maintain or possess information regarding the details of the identity of the deployed officials of Customs Department at the International airport is also without merit. The Customs establishment functioning at an International airport operates under a defined administrative hierarchy. Duty rosters, deployment charts, shift arrangements and

supervisory control are necessarily maintained within the department, whether centrally or through subordinate units. The petitioner, being the Deputy Commissioner of Customs in charge of the Airport is the appropriate authority either to furnish the information directly or to cause the information to be collected from the concerned wing and produce before the investigating officer. The obligation cast by the impugned order is not personal, but institutional and cannot be defeated by pleading internal administrative distribution of work.

7. It is also relevant to note that the authority of the criminal court to pass the impugned order is traceable to the inbuilt power of the criminal court to aid investigation no matter any specific provision dealing with the issue may not be found either in BNSS or NDPS Act.

8. This Court was moved only after repeated requests by the Investigating Officer failed to evoke any response from the Customs authorities. In such circumstances, issuance of a judicial direction to secure necessary information is well within the jurisdiction of the court and does not amount to excess of authority.

9. The learned counsel for the petitioner cited a host of decisions to canvass the position that this court has power to recall its own orders. I am not referring to each of them for the sake of brevity except to point out one decision in Adalath Prasad's case reported in AIR 2004 SC 4674, in which the Hon'ble Apex court laid down the law that a magistrate cannot recall the process issued against the accused after taking cognizance of offence in a private complaint since it amounted to review of the order in the teeth of S.362 Cr.P.C. Either the magistrate or a sessions court has no inherent power unlike the High court and therefore the former cannot bypass S 362 Cr.P.C and reconsider its orders.

10. The recall of a judicial order passed by the criminal court is permissible only when the order is shown to be passed without jurisdiction or obtained by fraud or vitiated by patent illegality. None of these grounds is attracted in the present case.

The petitioner essentially seeks a re-hearing on merits which is impermissible under the guise of a recall petition. Therefore the two decisions, ***Vishnu Agarwal v. State of U.P and Another*** reported in ***2011 KHC 4158*** and ***Asit Kumar Kar v. State of West Bengal and Others*** reported in ***2009 (1) KHC 645*** of the Hon'ble Apex Court cited by the learned Senior Standing Counsel and Special Public Prosecutor, Government of India (Taxes) distinguishing the powers of a criminal court to review and recall are of no help to the petitioner. Equally unsustainable is the submission made by the Additional Public Prosecutor that the instant recall petition ought to be heard and disposed of only by the parent court, which made the matter over to me.

11. It was pointed out by the petitioner's counsel that the request made for furnishing details does not survive after the completion of the investigation and submission of final report. But the learned Additional Public Prosecutor clarified that the steps are underway to reopen the case for further investigation and so the request has not become redundant.

12. For the forgoing reasons, this court finds no merit in the petition seeking recall of the order dated 19.12.2025 in CrI.MP 5312/25. Petitioner is directed to produce the details as ordered on 19.12.2025 within a week.

In the result, the petition is dismissed. For reporting compliance of order dated 19.12.2025, call on 10.03.2026.

Dictated to the CA, transcribed by her, corrected and pronounced by me in Open Court on this the 2nd day of March, 2026.

Sd/-

RAJIV JAYARAJ
ADDL. SESSIONS JUDGE-II

By Order

SHERISTADAR

(Copies : 4)

Typed by : Rifa

Compared by : Soumya FCS :

(True Copy)

Copy of Order
in Crl.MP No.1/2026
in SC. No. 2713/2025
Dated 02-03-2026