



**“CR”**

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT**

**THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN**

**FRIDAY, THE 1<sup>ST</sup> DAY OF AUGUST 2025 / 10TH SRAVANA, 1947**

**CRL.RC NO. 2 OF 2025**

**CRIME NO.715/2009 OF Kayamkulam Police Station, Alappuzha**

**AGAINST THE ORDER/JUDGMENT DATED 30.01.2016 IN CrI.A**

**NO.18 OF 2015 OF ADDITIONAL DISTRICT COURT-I, MAVELIKKARA**

**SECTION 442 OF BHARATIYA NAGARIK SURAKSHA SANHITA**

**RESPONDENTS:**

- 1 STATE OF KERALA  
REPRESENTED BY PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, PIN - 682031**
- 2 KRISHNAN @ MASANAN  
AGED 31 YEARS, S/O MUNIYAR SWAMI, NEAR ARAPALAYAM  
BUS STAND, MADURAI, TAMIL NADU,  
PIN - 625001**
- 3 THE REGISTRAR (COMPUTERISATION)  
-CUM- DIRECTOR ( INFORMATION TECHNOLOGY)  
(IS SUO- MOTU IMPEADED AS Addl. R3 VIDE ORDER  
DATED 21-7-25)**

**BY ADV.:**

**SR PP, SEETHA S**

**THIS CRIMINAL REVISION CASE HAVING COME UP FOR  
ADMISSION ON 01.08.2025, THE COURT ON THE SAME DAY DELIVERED  
THE FOLLOWING:**

**“CR”****P.V.KUNHIKRISHNAN, J.**  
-----**Crl. RC No.02 of 2025**  
-----**Dated this the 01<sup>st</sup> day of August, 2025****ORDER**

To avoid multiplicity of appeals, revision and other proceedings arising from the same matter, it is not only the duty of the court alone, but it is the bound duty of the lawyers, litigants and the registry of the court concerned as well. Otherwise, there will be far-reaching consequences. Here is a case where two criminal appeals were filed before the Sessions court by the same accused through two different lawyers, and in one appeal, the conviction and sentence were confirmed, while in the other, the same accused was acquitted. Who is responsible? The Court, or the registry of the court, or the



accused, or the lawyer who filed the appeal on behalf of the accused, or the prosecutor concerned?? Whoever it is, this incident serves as a lesson to all the stakeholders, and all should work together to protect the criminal justice delivery system.

2. This *suo moto* revision is registered based on a letter from the District and Sessions Judge, Alappuzha. The Kayamkulam Police registered Crime No.715/2009 against four accused under Section 457, 461, 392 and 411 r/w 34 of IPC. The case was charge sheeted and the case was taken on file by the Judicial First Class Magistrate Court, Kayamkulam, as CC No.454/2010. The learned Magistrate, after trial, acquitted accused No.4 (Rajeev). The accused No.1 (Manikandan), accused No.2 (Madhavan) and accused No.3 (Krishnan @ Masanan, who is the 2<sup>nd</sup> respondent herein) were convicted and sentenced under Section 392 and 457 IPC. Challenging the



conviction and sentence, accused Nos. 2 and 3 filed Crl. Appeal No.342/2012 and Crl. Appeal No.30/2012 respectively before the court of the Additional Sessions Judge-I, Mavelikkara. Those appeals were dismissed by a common judgment on 09.04.2013, confirming the conviction and sentence imposed on them.

3. After about three years, the 2<sup>nd</sup> respondent herein, who is the 3<sup>rd</sup> accused, filed a second criminal appeal, suppressing the earlier appeal as Crl. Appeal No.18/2015 before the court of the Additional Sessions Judge-I, Mavelikkara, against the same judgment of the Judicial First Class Magistrate Court, Kayamkulam, in CC No.454/2010 through another counsel with a delay condonation petition of 1223 days. The delay was condoned, and the appeal was heard, and thereafter he was acquitted vide judgment dated 30.01.2016. The Registry of the



appellate court and the Public Prosecutor failed to bring up the dismissal of the earlier appeal to the notice of the learned Judge. Observing the anomaly in these proceedings, the Sessions Judge, Alappuzha, submitted the matter before this Court. When the matter was placed before the Hon'ble Judge dealing with the Crl. Revision Petition as per roster, it was directed to initiate a *suo moto* revision against the judgment dated 30.01.2016 of the Additional Sessions Judge-I, Mavelikkara, in Crl. Appeal No.18/2015. Accordingly, the present Crl. Revision Case is registered.

4. When this revision came up for consideration on 09.06.2025, this Court passed the following order:

“The learned Public Prosecutor takes notice to R1.

2. The Registry will issue a copy of this Crl.RC to the Public Prosecutor.



3. Issue urgent notice by speed post to R2.

4. The Additional District Court-I, Mavelikara, will take steps to give notice to R2 through the counsel who filed Criminal Appeal No.18/2015, which was disposed of by that Court earlier.

5. The Registrar Vigilance will give a report on the following aspects.

1. Whether there is any mechanism to find out the filing of appeal against the same judgment earlier when a new Criminal Appeal came up for consideration, challenging the same judgment for the second time.

2. Whether the Appellate Court called the TCR when the second Criminal Appeal No.18/2015 is disposed of.

If the Officer who disposed of the second appeal is in service, the Registrar Vigilance will get an explanation from him also. The Registrar Vigilance will also get a statement from the lawyer who filed the second Criminal Appeal to find out, whether there is any foul play.

Post on 21.07.2025.”



5. Based on the above direction, the Registrar (Vigilance) submitted an enquiry report. It will be better to extract the conclusion of the Registrar (Vigilance) in the enquiry report:

### **Conclusion**

#### **“1. Appeal Filing and Tracking Mechanism**

Upon verification of the Register of Criminal Appeals, it is observed that each entry contains essential data in tabular form including:

- Date of filing
- Name and address of the appellant
- Trial Court details of the proceedings
- Date of original judgment
- Hearing and disposal of appeal

15. Thus, identifying prior appeals, requires manual inspection of physical registers.

16. As confirmed by the Registrar (Computerisation), no online or automated system currently exists to flag previously filed appeals against the same judgment.

#### **2. TCR in Criminal Appeal No. 18/2015**

- The proceedings reveal: The delay of 1223 days was condoned as per order in Crl.M.P. No. 60/2015 and the appeal admitted on 20.02.2015.



- On requisition, the Judicial First Class Magistrate, Kayamkulam intimated via letter dated 25.05.2015 (Ext.7) that the TCR was already transmitted in connection with Crl. Appeal No. 289/2013
- Direction was subsequently issued to place the TCR from Crl.A 289/2013 in Appeal No. 18/2015
- The hearing progressed between July 2015 and January 2016, culminating in final arguments on 28.01.2016 and judgment on 30.01.2016.

17. Additionally, the judgment in Crl.A 30/2012 had been received in the Trial Court on 09.05.2013 and formed part of the records. Hence, it is ascertained that the appellate court had access to the TCR including prior appellate judgments while disposing of Crl.A 18/2015.

### **3. Status of Presiding Officer and Advocate's Statement**

- Sri. Muhammed Vaseem, the then Presiding Officer who allowed Crl.A No. 18/2015, retired from judicial service in 2021 and is presently serving as a Member of KAAPA.
- A statement from Advocate Sri. B. Tijumon, who appeared for the appellant in Crl.A 18/2015, has been recorded and is enclosed





as Annexure (Ext.3). He affirms having filed the appeal on instructions from a relative of the appellant, unaware of any previously preferred appeal at the time of filing of Crl. A 18/2015. He came to know about the earlier appeal only after the orders in Crl. R.C. No. 2/2025.

This report is humbly submitted in adherence to the directions of this Honourable Court for kind consideration and appropriate further orders.”

6. Based on the report of the Registrar (Vigilance), this Court *suo moto* impleaded the Registrar (Computerisation)-cum-Director (IT) as additional respondent No.3. This Court directed the Addl. 3<sup>rd</sup> respondent to file a statement to find out whether any mechanism can be developed to see that such mistakes do not happen in future. The 3<sup>rd</sup> respondent filed a detailed statement. In the statement, it is clearly stated that a comprehensive exercise is currently underway to standardise and



unify the case types across all District Courts. It is stated that this will ensure that, irrespective of the court or the mode of filing (online or offline), the system can intelligently identify and group cases. Since this will directly affect the numbering process in courts in the District Judiciary, it is proposed to implement the same from 01.01.2026 for data consistency, is the submission. The Addl. 3<sup>rd</sup> respondent submitted that once the same is implemented, difficulties like the one that happened in the present case will not arise. Therefore, from 01.01.2026, this type of mistake will not happen. But, till 31.12.2025, all District Courts will ensure that there are no earlier appeals or other proceedings filed by the same party against the same judgment, in order to avoid conflicting decisions.

7. In the enquiry report, the Registrar (Vigilance) took a statement from the lawyer who



filed the second Crl. Appeal. He stated that he was not aware of the earlier proceedings. No other foul play from the side of the lawyer is detected by the Registrar in her report. This court believes the statement of the lawyer, because he is an officer of the court. Hence, I don't want to take any action against the lawyer who filed the second criminal appeal. The presiding officer, who disposed of the second criminal appeal, is already retired from service. On 09.06.2025, this Court directed the Addl. District & Sessions Court-I, Mavelikkara, to take steps to give notice to the 2<sup>nd</sup> respondent through the counsel who filed Crl. Appeal No.18/2015. The Additional District and Sessions Judge submitted a report before this Court in which it is stated that the notice was given to the counsel who filed the second Crl. Appeal and he informed that he communicated the same to the 3<sup>rd</sup> accused, who is Krishnan @



Masanan. Therefore, service to the 3<sup>rd</sup> accused, who is the 2<sup>nd</sup> respondent in this revision, is complete. There is no appearance for the 2<sup>nd</sup> respondent.

8. This Court considered the issue in detail. Admittedly, the second respondent filed Crl. Appeal No.30/2012 against the conviction and sentence imposed on him, and the conviction and sentence were confirmed by the appellate court. Thereafter, the 2<sup>nd</sup> respondent again filed the second Crl. Appeal through another lawyer as Crl. Appeal No.18/2015 before the court of the Additional Sessions Judge-I, Mavelikkara, itself. The second appeal is allowed by the appellate court by acquitting the second respondent. In the light of the first order dismissing the appeal and confirming the conviction and sentence, the 2<sup>nd</sup> respondent ought not to have filed a second appeal suppressing the same. Therefore, the 2<sup>nd</sup> respondent is to be imposed with heavy costs.



I fix Rs. 1,00,000/- as the cost to be paid by the 2<sup>nd</sup> respondent. It should be a lesson to all, and it is to protect our system. Moreover, the second judgment in Crl. Appeal No.18/2015 is to be set aside, invoking the inherent jurisdiction of this Court. The Registrar (District Judiciary) can be directed to send this judgment to all the Principal District Judges in the State, to ensure that such issues do not happen till 01.01.2026, the date on which the unification of case types across all courts is set to be implemented. Strict directions should be given by the Principal District Judge to his office to number all cases only after manually verifying that there are no earlier proceedings on the same issue. The registry will forward a copy of this judgment to the Home Secretary, Government of Kerala and the State Police Chief. It is also the duty of the police to inform the prosecutor concerned about the earlier proceedings



so that the prosecutor can submit the same to the court. The Home Secretary, Government of Kerala and the State Police Chief will do the needful to avoid such instances in future.

Therefore, this Criminal Revision Case is allowed in the following manner:

1. The order dated 30.01.2016 in Crl. Appeal No.18/2015 of the Additional District & Sessions Judge-I, Mavelikkara, is set aside.
2. The Registrar (District Judiciary) will forward a copy of this order to all Principal District Judges of the State forthwith.
3. The 2<sup>nd</sup> respondent will pay a cost of Rs. 1,00,000/- (Rupees One Lakh only) to the Kerala State Legal Service Authority, within a period of one month. If the amount is not deposited, the Legal Service Authority can



take appropriate steps, in accordance with  
law, to recover the same.

**Sd/-**

**P.V.KUNHIKRISHNAN  
JUDGE**

nvj



**APPENDIX OF CRL.RC 2/2025**

**PETITIONER ANNEXURES**

<b>ANNEXURE A</b>	<b>JUDGMENT DATED 18.08.2011 OF JUDICIAL FIRST CLASS MAGISTRATE, KAYAMKULAM IN CC 454/2010</b>
<b>ANNEXURE B</b>	<b>COMMON JUDGMENT OF ADDITIONAL DISTRICT JUDGE-I, MAVELLIKARA DATED 09.04.2013 IN CRL.A 30/2012 &amp; CRL.A 342/2012</b>
<b>ANNEXURE C</b>	<b>JUDGMENT DATED 30.01.2016 OF THE ADDITIONAL DISTRICT &amp; SESSIONS COURT- I, MAVELIKKARA IN CRL.A 18/2015</b>
<b>ANNEXURE D</b>	<b>LETTER DATED 04.03.2025 OF SESSIONS JUDGE, ALAPPUZHA</b>
<b>ANNEXURE E</b>	<b>OFFICE NOTES AND ORDERS OF THE HONOURABLE JUDGE DEALING WITH SINGLE BENCH CRIMINAL MATTERS</b>

//TRUE COPY//

PA TO JUDGE