

**P.E. Thomas Vs. State of Kerala**

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**SooperKanoon Citation :** [sooperkanoon.com/732254](http://sooperkanoon.com/732254)

**Court :** Kerala

**Decided On :** May-21-1999

**Reported in :** 1999CriLJ4037

**Judge :** G. Sasidharan, J.

**Acts :** [Prevention of Corruption Act, 1988](#) - Sections 3, 4(3), 7 and 11; Indian Penal Code (IPC) - Sections 34, 120B, 307, 323, 327, 392, 420 and 506; Code of Criminal Procedure (CrPC)

**Appeal No. :** CrI. M.C. No. 2062 of 1999

**Appellant :** P.E. Thomas

**Respondent :** State of Kerala

**Advocate for Def. :** C.M. Suresh Babu, P.P.

**Advocate for Pet/Ap. :** P.E. Thomas, Adv. and;Party-in-Person

**Disposition :** Petition dismissed

**Judgement :**

ORDER

**G. Sasidharan, J.**

1. The petitioner wants this Court to give a direction to the Judicial Magistrate of the First Class III, Punalur, to take Annexure-II complaint on file and proceed with the same in accordance with law. The petitioner filed a complaint as CMP No. 2009 of 1999 before the Judicial Magistrate of the First Class III, Punalur, against one B.V. Jyothi Babu and certain others employed in the Pathanapuram Taluk Office alleging offences under Section 420, 323, 327, 506, 392, 307 and 120B read with Section 34, IPC and also under Section 7 and 11 of the Prevention of Corruption Act. In the petition it is stated that on 29-4-1999 the learned Magistrate gave back the complaint to the petitioner on the ground that since there were allegations in the complaint regarding commission of the offences punishable under the Prevention of Corruption Act also, the Magistrate had no jurisdiction to take cognizance of the offences. Thereafter the petitioner filed a complaint in the Court of the Judicial Magistrate of the First Class, Punalur, alleging commission of the offences punishable only under the Indian Penal Code. The petitioner has also filed a complaint as C.M.P. No. 263 of 1999 in the Court of the Enquiry Commissioner and Special Judge Thiruvananthapuram against B.V. Jyothi Babu and others alleging commission of the offences under the Prevention of Corruption Act. According to the petitioner, the complaint was forwarded to the police for investigation. Now the petitioner says that the complaint filed by him in the Court of the Judicial Magistrate of the First Class III, Punalur, was not received by the Magistrate and it was returned by saying that such a complaint would not be entertained in his Court. What the petitioner now wants is to give a direction to the above Magistrate to receive to the file of his Court the above complaint.

2. The statement in the petition would go to show that, according to the petitioner, the offences punishable under the Prevention of Corruption Act and the offences under the Indian Penal Code were committed during the course of the same transaction. The complaint filed in the Court of the Enquiry Commissioner and Special Judge deals with only offences punishable under the Prevention of Corruption Act. Since the offences under the Indian Penal Code are also alleged to have been committed along with the offences under the Prevention of Corruption Act in the course of the same transaction, all the offences had to be tried by the same Court and there is provision for that in the Prevention of Corruption Act. Section 4(3) of the [Prevention of Corruption Act, 1988](#), says that

when trying any case, a special judge may also try any offence, other than an offence specified in Section 3 with which the accused may, under the Code of Criminal Procedure, be charged at the same trial. In the light of the above provision what the petitioner would have done was to file the complaint in the Court of the Enquiry Commissioner and special judge alleging the commission of the offences under the Indian Penal Code also along with the commission of the offences punishable under the Prevention of Corruption Act. In so far as the petitioner had already filed a complaint in the Court of the Enquiry Commissioner and special judge alleging commission of the offences under the Prevention of Corruption Act a direction to the Magistrate to take to the file of his Court the complaint alleging commission of offences under the Indian Penal Code in the course of the same transaction cannot be given. Hence, the petitioner is not entitled to get the relief prayed for in the petition.

In the result, this petition is dismissed.

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