

# Mary Rocky vs State Of Kerala on 12 June, 2023

**Author: V Raja Vijayaraghavan**

**Bench: V Raja Vijayaraghavan**

Crl.MC No.3197/2023

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IN THE HIGH COURT OF KERALA AT ERNAKULAM  
PRESENT  
THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V  
Monday, the 12th day of June 2023 / 22nd Jyaishta, 1945  
CRL.M.APPL.NO.1/2023 IN CRL.MC NO. 3197 OF 2023

ST 1357/2020 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, ANGAMALY, ERNAKULAM

PETITIONERS/ACCUSED NOS 1 TO4:

1. MARY ROCKY AGED 55 YEARS W/O. ROCKY, RESIDING AT THAYYIL HOUSE, MEYKKAD P.O., ANGAMALY, ERNAKULAM, PIN - 683589
2. VARGHESE SEBASTIAN AGED 70 YEARS S/o Sebastian RESIDING AT 207, MOOLAN HOUSE, KALLUPALAM NAGAR,ANGAMALY P.O., ERNAKULAM, PIN - 683572
3. MARGARET VARGHESE AGED 69 YEARS W/O. VARGHESE SEBASTIAN, RESIDING AT 207, MOOLAN HOUSE, KALLUPALAM NAGAR,ANGAMALY P.O., ERNAKULAM., PIN - 683572
4. VIJAY MOOLAN AGED 39 YEARS S/O. VARGHESE SEBASTIAN, RESIDING AT 207, MOOLAN HOUSE, KALLUPALAM NAGAR,ANGAMALY P.O., ERNAKULAM, PIN - 683572

RESPONDENTS/STATE/DEFACTO COMPLAINANT:

1. STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031
2. THE FOOD SAFETY OFFICER OFFICE OF THE FOOD SAFETY OFFICER, ANGAMALY CIRCLE, NAYATHODU P.O, ERNAKULAM, PIN - 683572

Application praying that in the circumstances stated therein the High Court be pleased to stay all further proceedings pursuant to A1-complaint and all further proceedings in ST.No.1357/2020 pending on the files Judicial First Class Magistrate Court, Angamaly till the disposal of the above Crl.MC.

This Application coming on for orders upon perusing the application and upon hearing the arguments of M/S. MILLU DANDAPANI, RAMEEZ NOOH, Advocates for the petitioners,and PUBLIC PROSECUTOR for the respondents, the court passed the following:

p.t.o.

Crl.MC No.3197/2023

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RAJA VIJAYARAGHAVAN V, J.

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Crl.M.C No. 3197 of 2023  
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Dated this the 12th day of June, 2023

ORDER

I have heard Sri. Millu Dandapani, the learned counsel appearing for the petitioners and the learned Public Prosecutor.

The learned counsel appearing for the petitioners would point out that in terms of the provisions of Section 42 of the Food Safety and Standards Act, 2006, the Food Analyst, after receiving the sample from the Food Safety Officer, is required to analyze the sample and send the analysis report mentioning methods of sampling within a period of 14 days to the designated officer with a copy to the Commissioner of Food Safety. It is further submitted that under Sub-Section 3 of Section 42, the designated officer, after scrutiny of the report of the Food Analyst, is to decide as to whether the contravention is punishable with imprisonment or fine only and in the case of contravention punishable with imprisonment he is required to submit recommendation within 14 days to the Commissioner of Food Safety for sanctioning the prosecution. The learned counsel submits that in the case on hand, the prosecution sanction order was issued from the office of the Commissioner of Food Safety only on 11.08.2020, though the report issued by the Food Analyst was on 05.03.2020. Reliance is placed on the order rendered by the Madurai Bench of the Madras High Court to bolster his contention that the delay is fatal and the proceedings are liable to be quashed.

Having regard to the submissions advanced, further proceedings in ST No.1357/2020 on the files of the Judicial First Class Magistrate Court, Angamaly will stand stayed for a period of six weeks.

Sd/-

RAJA VIJAYARAGHAVAN V.,  
JUDGE

NS

12-06-2023

/True Copy/

Assistant Regi

Annexure A1

CERTIFIED COPY OF THE COMPLAINT ALONG WITH DOCUMENTS

FILED BY THE 2ND RESPONDENT WHICH IS NOW PENDING AS ST NO. 1357/2020 ON THE FILES JUDICIAL FIRST CLASS MAGISTRATE COURT, ANGAMALY 12-06-2023 /True Copy/  
Assistant Registrar