



2026:KER:46786

*Crl.R.P.No.346/2026*

-:1:-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE G.GIRISH

WEDNESDAY, THE 1<sup>ST</sup> DAY OF JULY 2026 / 10TH ASHADHA, 1948

CRL.REV.PET NO. 346 OF 2026

AGAINST THE ORDER DATED 13.02.2026 IN CRMP 1006/2026 IN  
COMPLAINT NO. OF 2026 OF CHIEF JUDICIAL MAGISTRATE, THRISSUR

REVISION PETITIONER/COMPLAINANT:

TATA COFFEE LIMITED  
MALAKIPARAI ESTATE,  
PARIYARAM POST,  
THRISSUR, KERALA,  
REPRESENTED BY ITS MANAGER HR & IR MR. P. JAYAN,  
PIN - 680721

BY ADVS.SHRI.ABEL TOM BENNY  
SRI.D.PREM KAMATH  
SHRI.AARON ZACHARIAS BENNY  
SRI.V.G.SANKARAN  
SHRI. MATHEW ANGELO DAVIS  
SMT.JYOTHIKA KRISHNA  
SMT.TESSA ROSE  
SHRI.AKHIL JAMES

RESPONDENTS/ACCUSED & STATE:

1 RAMLA  
W/O ABOOBACKER,  
DOOR NO. 413, 133,  
3RD UNIT, WARD NO.10,  
WEST DIVISION,  
MALAKIPARAI ESTATE THRISSURE,  
PIN - 680721

2 STATE OF KERALA  
REPRESENTED BY PUBLIC PROSECUTOR  
HIGH COURT OF KERALA ERNAKULAM,  
PIN - 682031

BY ADV SMT.V.A.HARITHA  
SRI. GITHESH.R, SR. PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON  
23.06.2026, THE COURT ON 01.07.2026 PASSED THE FOLLOWING:

**ORDER**

The order dated 13.02.2026 of the Chief Judicial Magistrate court, Thrissur returning a complaint filed by the petitioner herein, a Private Limited Company, is under challenge in this revision petition. The aforesaid complaint was about the commission of offence under Section 452 of the Companies Act, 2013 by the first respondent herein, a former employee of the petitioner company. The allegation was that the first respondent wrongfully withheld the residential accommodation provided to her and refused to vacate the premises in spite of repeated demands by the petitioner.

2. The learned Magistrate, upon a preliminary hearing on maintainability, held that as per the amended statutory scheme of the Companies Act, the penalties under Section 452 of the Companies Act are to be adjudicated by the Adjudicating Officer appointed under the Companies Act, and not by any criminal Court. The learned Magistrate went on to the extent of declaring that no criminal Court has jurisdiction to take cognizance of an allegation under Section 452 of the Companies Act after the amendment made to the Companies Act in the year 2020.

3. Though the notice in this revision petition was duly served on the first respondent, she did not turn up.



4. Heard the learned counsel for the petitioner, and the learned Public Prosecutor representing the State of Kerala.

5. Section 452 of the Companies Act, 2013 as it exists now, is extracted hereunder:

***"452. Punishment for wrongful withholding of property.—***

*(1) If any officer or employee of a company—*

*(a) wrongfully obtains possession of any property, including cash of the company; or*

*(b) having any such property including cash in his possession, wrongfully withholds it or knowingly applies it for the purposes other than those expressed or directed in the articles and authorised by this Act,<sup>3</sup> he shall, on the complaint of the company or of any member or creditor or contributory thereof, be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.*

*(2) The Court trying an offence under sub-Section (1) may also order such officer or employee to deliver up or refund, within a time to be fixed by it, any such property or cash wrongfully obtained or wrongfully withheld or knowingly misapplied, the benefits that have been derived from such property or cash or in default, to undergo imprisonment for a term which may extend to two years.*

*[Provided that the imprisonment of such officer or employee, as the case may be, shall not be ordered for wrongful possession or withholding of a dwelling unit, if the court is satisfied that the company has not paid to that officer or employee, as the case may be, any amount relating to--*

*(a) provident fund, pension fund, gratuity fund or any other fund for the welfare of its officers or employees, maintained by the company;*



*(b) compensation or liability for compensation under the Workmen's Compensation Act, 1923 (19 of 1923) in respect of death or disablement.]”*

6. The amendment made to the aforesaid provision of law by Act 29 of 2020 with effect from 22.01.2021 was in respect of the proviso restricting imprisonment of the former employee in wrongful possession of the property, if the Court is satisfied that the Company has not paid the provident fund, pension fund, gratuity and similar entitlements to that former employee. Except for the aforesaid change of inclusion of a proviso, the Amendment Act 29 of 2020 had not made any change to Section 452 of the Companies Act, 2013. As regards the changes made to Section 454 of the Companies Act, there was a substitution of Sub Section (3) by Act 22 of 2019, as per which, the Adjudicating Officer appointed under the aforesaid provision was given power to impose penalty upon the Company, the Officer who is in default or any other person, as the case may be for non-compliance or default under the relevant provisions of the Companies Act, 2013. Obviously, the penalty provided thereunder was in no way related to the penal offences envisaged under the Companies Act. On the other hand, the said provision of law was in respect of the penalties which the Adjudicating Officer was empowered to decide for non-compliance of the statutory



requirements stipulated under various provisions of the said Act. It appears that the learned Magistrate was carried away with the impression that the provisions contained in Section 454 of the Companies Act, 2013 for the adjudication of penalties by the Adjudicating Officers take within its sweep the punishments provided under various Sections like 36, 38, 57, 76A, 86, 127, 147 etc. of the Companies Act for the commission of acts which amount to criminal offences. The aforesaid conclusion of the learned Magistrate is totally unfounded. Penalties are provided under various Sections like 159, 172 etc. of the Companies Act with the objective to enforce rules, encourage compliance and recover damages. Those provisions relating to penalties are generally related to administrative, civil or contractual contexts, and not about the penal consequences of acts which amount to criminal offence. As far as Section 452 of the Companies Act is concerned, it is apparent from the punishment provided thereunder that only a Magistrate not below the rank of Chief Judicial Magistrate, is competent to decide the matter and impose punishment. This is especially so in view of the provisions contained in Sub Section (2) of Section 452 which stipulates imprisonment for a term which may extend to two years to those defaulters who failed to deliver back the property or refund the cash



within a fixed time as ordered by the Court trying the offence. By no stretch of imagination could it be said that an Adjudicating Officer appointed under Section 454 of the Companies Act, has to be considered as the Court trying the offence under Sub Section (1) of Section 452, and capable of imposing the imprisonment extending to two years for the failure to abide by the direction to deliver back the property to the complainant.

7. In this context, it is worth to note that the offence under Section 452 of the Companies Act, 2013 is expressly excluded from the offences which the Special Courts constituted under Section 435 of the said Act are to proceed with for the purpose of speedy trial. A reading of Sections 435 and 436 of the Companies Act, 2013, would make it clear that the various offences envisaged under the said Act, except the one under Section 452 are to be dealt with by the Special Court. The express exclusion of the offence under Section 452 from the purview of the Special Courts would make it clear that it is the competent Judicial Magistrate empowered to impose the fine of not less than Rs.1,00,000/- and extending to Rs.5,00,000/-, which is to try the aforesaid offence. Therefore, the observation of the court below that no criminal court has jurisdiction to take cognizance of an allegation under Section 452 of the



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Companies Act, 2013, after the amendment made to the said Act in the year 2020, is apparently erroneous. Likewise, the finding of the learned Magistrate that Section 452 of the Companies Act, 2013, has been decriminalised by the Amendment Act of 2020 is baseless and unsustainable. Therefore, the impugned order of the court below is liable to be set aside.

In the result, the revision petition stands allowed as follows:

- (i) The order dated 13.02.2026 of the Chief Judicial Magistrate Court, Thrissur, in Crl.M.P.(Complaint) No.1006/2026 returning the said complaint, is hereby set aside.
- (ii) The learned Magistrate is directed to receive the complaint, and proceed with the same in accordance with the relevant provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023.

(sd/-)  
**G. GIRISH, JUDGE**

jsr/DST



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**APPENDIX**

**PETITIONER ANNEXURES**

**ANNEXURE 1**

**THE RELEVANT PAGE FROM THE REPORT OF THE  
EXPERT COMMITTEE ON COMPANY LAW DATED 14TH  
NOV' 2019**