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Bishop Franco Mulakkal of Jalandhar, center, enters the portico of the Additional District and Sessions Court in Kottayam, Kerala, Nov. 30, 2019. (File photo/M.A. Salam)



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The lawyer for Bishop Franco Mulakkal of Jalandhar, India, filed an application in district court here on Jan. 25 to dismiss all charges against the prelate in the alleged rapes of a Catholic sister.

Mulakkal, however, did not appear in the district court in Kottayam in the southwestern Indian state of Kerala.

The bishop, accused of sexually assaulting the nun multiple times from 2014 to 2016, has repeatedly missed appearing in court since the case was filed in June 2018. His recent absence prompted social activists and supporters of the survivor to suggest he is indulging in delay tactics.

In his petition, Mulakkal, who is free on bail, asked the court to dismiss the charges without making him stand trial. C.S. Ajay, Mulakkal's lawyer, argued that the charges in the case will not stand because they are based only on the statements of witnesses who have resentment against the bishop.

Ajay also stated that most witnesses against Mulakkal in the case do not have a good relationship with the church.

P.P. Chacko, Mulakkal's brother-in-law who accompanied the lawyer in court, said to Global Sisters Report outside the courtroom, "We have filed a discharge petition in the court urging it to discharge the bishop from the case."

He said their plea for the case's dismissal was based on evidence the prosecution has produced. "No case be can be made out against the bishop based on those documents," Chacko said. "We have full faith in the judiciary and the truth will come out. Their lies will be exposed and the bishop will get justice."

Mulakkal is accused of wrongful confinement, rape of a woman incapable of giving consent, causing grievous bodily harm during rape, unnatural offense (or sodomy) and criminal intimidation.

The court had summoned the prelate to appear before it on Jan 25 to hear the charges against him. Mulakkal had not appeared for his court date on Jan. 6, forcing the court to postpone the case to Jan. 25.

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His next appearance is scheduled for Feb 4.

The trial was supposed to begin on Nov. 11, 2019, but was adjourned to Nov 30, which was again extended to Jan 6.

Mulakkal's attorney told GSR that the prelate did not appear on Jan. 6 because he could not get flight tickets to Kerala. Mulakkal lives in Jalandhar, 1,970 miles north of Kottayam.

In India, which has a backlog of millions of cases, an attorney may represent the accused in court without the defendant appearing in person unless the court specifically orders otherwise. The defendant must be present when charges are "framed," or read aloud to him in court.

In the meantime, an accused person is allowed to pursue numerous options under the law to defend himself, legal officials say. After repeated absences, the court may issue a mandatory order to appear, but the Kottayam district court has not yet taken that step in the Mulakkal case.

Fr. Augustine Vattoly, a social activist and supporter of the victim, says Mulakkal's plea is "a ploy" to delay the trial.

"Any delay in delivering justice is as good as denying justice," bemoans the priest of the Archdiocese of Ernakulam-Angamaly who had earlier headed Save Our Sisters, a grassroots movement started in 2018 to support the victim's demand for action against Mulakkal.

"Influential and powerful people like Mulakkal always try to delay judicial process with various means," the priest told GSR.

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Fr. Augustine Vattoly of the Ernakulam-Angamaly Archdiocese (GSR file photo/Saji Thomas)

He said the victim and the five nuns who support her now live like "dead people" as the official church treats them like traitors.

The victim and the five nuns are members of the Missionaries of Jesus, a congregation under the Jalandhar diocese in the northern Indian state of Punjab, where Mulakkal is bishop.

The case is being tried in Kerala because the alleged crimes took place in the congregation's convent in Kuravilangad near Kottayam.

Vattoly expressed the fear that the rape case would drag on endlessly like the case of a nun who was murdered in Kottayam 28 years ago.

The body of Sister Abhaya, a member of the St. Joseph's Congregation*, an indigenous congregation under the Syro-Malabar Church, was found in a well on the premises of the Pius X Convent in Kottayam on March 27, 1992. The convent is a few meters away from the court that is handling the Mulakkal case.

The crime branch of the Kerala police initially dismissed it as a suicide case, but a federal investigation later determined it was murder.

The agency in 2008 charged Fr. Thomas Kottoor of Kottayam archdiocese and Sister Sephy of the same congregation with murder, destruction of evidence, criminal conspiracy and other charges. (A second priest also faced charges, but they were dropped 10 years later.)

"Even after 28 years, the trial has not been completed. Sister Abhaya died and has gone away and she, therefore, did not need to face any humiliation," Vattoly explains.

He urged the Kerala government to instruct the public prosecutor to intervene in the Mulakkal case and stall any attempt by him to delay the trial indefinitely.

Vattoly also said, unlike Mulakkal, the six nuns remain helpless as they have no support from "the powerful Catholic Church" or any political party. "They depend on the judiciary for justice, therefore, delays in the trial are attempts to demoralize them so that they give up their fight," he added.

Sr. Anupama Kelamangalathuveli, the spokesperson for the survivor and her supporters, says they are "indeed disappointed. We want the court to complete the trial as fast as possible so that everyone will come to know the truth."

She told GSR that people look at them with suspicion after the church leaders in India "openly supported" Mulakkal.

"As the case gets delayed, our chance to live in freedom is delayed. We are leading a sort of isolated life comforting each other as we cannot move around freely until we record our statements in the court," she explained.

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Srs. Alphy Pallasseril and Anupama Kelamangalathuveli,at St. Francis Mission Home, the convent of Missionaries of Jesus at Kuravilangad in the Kottayam district of Kerala, India. (File photo/Saji Thomas)

She, however, asserted that no amount of delaying tactics would deter them from speaking the truth in court.

Kelamangalathuveli and others, who live in the Kuravilangad convent, have round-the-clock police protection. The Kerala government instructed three police to guard the convent after the nuns said they feared for their lives.

Some legal experts disagree that Mulakkal indulges in delaying tactics. Mulakkal "has only exercised his right to defend himself," Supreme Court lawyer Govind Yadav told GSR.

He says the bishop's acts may look like delaying tactics to an outsider, "but he can and should use every avenue available to prove his innocence."

Courts generally entertain such pleas from an accused as part of their resolve to ensure fair justice.

However, Yadav agrees the court could cancel the bishop's bail and arrest him if he continues to avoid court proceedings. "But that will happen only when the court is convinced Mulakkal is deliberately avoiding the trial," he explains.

The lawyer says the prosecution could "effectively approach the court to fast-track the proceedings and avoid such delays."

"The court will now hear the discharge application before framing the charges against Mulakkal," Yadav says, though he clarified that the courts generally would dismiss such applications.

"Mulakkal can exploit such legal options for a couple of times and finally will have to face the trial as the charges against him are serious criminal offenses," he adds.

The Special Investigation Team that probed the Mulakkal case submitted a 2,000-page chargesheet in April 2019 to a lower court in Palai near Kuravilangad. The Palai court then transferred the case to the district court in Kottayam.

Mulakkal was arrested on Sept 21, 2018, but was released on bail on Oct 15, 2018. The case has 83 witnesses, including Cardinal George Alencherry, head of the Syro-Malabar Church.

**An earlier version of this story incorrectly identified Sister Abhaya's community.*

[Saji Thomas is a freelance journalist based in Bhopal, a central Indian city. He has worked for several mainstream newspapers such as The Times of India. This article is part of a collaboration between GSR and Matters India, a news portal that focuses on religious and social issues in India.]

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