

(2021) 01 KL CK 0540

In the High Court Of Kerala

Case No : Criminal Miscellaneous Case No. 4159 Of 2019

Jose Kurian Thomas And Ors

APPELLANT

Vs

State Of Kerala And Ors

RESPONDENT

Date of Decision : 22-01-2021

Acts Referred:

Indian Penal Code, 1860 — Section 34, 406, 420

Citation : (2021) 01 KL CK 0540

Hon'ble Judges : V.G. Arun, J

Bench : Single Bench

Advocate : S. Rajeev, K.K. Dheerendrakrishnan, V. Vinay, D. Feroze, K. Anand, Biju Joseph, C.S. Hrithwik

Final Decision : Allowed

Judgement

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1. Petitioners are accused Nos. 1 to 3 in Crime No.1639/15 registered at the Cantonment Police Station, Trivandrum City for offences punishable

under Sections 406 and 420 read with Section 34 of IPC, now pending as C.C.No.772/2018 on the files of the Judicial Magistrate of First Class -III,

Thiruvananthapuram. The de facto complainant, at whose instance the crime was registered, is arrayed as the 2nd respondent. Annexure-3 affidavit

has been filed by 2nd respondent stating that the dispute, which was the reason for the incident and registration of the crime, has been resolved

amicably and he has no subsisting grievance against the petitioners. Annexure-4 to Annexure-135 are affidavits submitted by the other aggrieved

persons stating that their money has been refunded and they have no subsisting grievance against the petitioners.

2. Heard the learned Public Prosecutor also, who, on instructions, submits that

the petitioners have no criminal antecedents and all pending claims/disputes have been settled/resolved by the accused.

3. Having considered the gravity of the offences alleged, nature of the injury caused and having perused the affidavit filed by the 2nd respondent, the contents of which are submitted to be true and voluntary, I am satisfied that the dispute is settled and no public interest is involved in this matter.

Moreover, in view of the settlement, possibility of the criminal proceedings ending in conviction is remote. As such, continuance of the proceedings will amount to an abuse of process of court and hence, in view of the legal position set out by the Honourable Supreme Court in *Madan Mohan Abbot v.*

State of Punjab [(2008) 4 SCC 582] and *Gian Singh v. State of Punjab and another* [(2012) 10 SCC 303], there is no impediment in granting the relief sought.

In the result, this Crl.M.C is allowed. The proceedings in C.C.No.772/2018 on the files of the Judicial Magistrate of First Class-III,

Thiruvananthapuram is quashed.