

**(2010) 05 KAR CK 0017**

**In the Karnataka High Court**

**Case No : Criminal Petition No. 2025 of 2010**

Pushpam Appala Naidu and Others

APPELLANT

Vs

State of Karnataka and Another

RESPONDENT

**Date of Decision : 06-05-2010**

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 482  
Penal Code, 1860 (IPC) — Section 406, 420

**Citation :** (2011) 2 Crimes 646 : (2011) 1 KarLJ 172 : (2011) 4 KCCR 410 SN :  
(2011) 8 RCR(Criminal) 368

**Hon'ble Judges :** Jawad Rahim, J

**Bench :** Single Bench

**Advocate :** Pramila Associates, for the Appellant; P.M. Nawaz, Additional State Public Prosecutor, for the Respondent

**Final Decision :** Allowed

## Judgement

Jawad Rahim, J.—This petition u/s 482 of the Code of Criminal Procedure, 1973 is directed against the proceedings in Cr. No. 28 of 2008 on the file of the I Additional Chief Metropolitan Magistrate, Bangalore, which after investigation is registered as CC No. 13035 of 2010 for the offence punishable under Sections 406 and 420 of the Indian Penal Code, 1860.

2. Petitioners are arraigned as accused. The circumstances leading to registration of such a case is that one Smt. Ayisha Begum, Petitioner 12, filed a report alleging that her neighbour Vazeer Vayathyulla Sharieff, had introduced her to M/s. Quest Net Company on the basis that he was working for it. He persuaded her to invest Rs. 30,000/- on the promise that she would get Rs. 1,000/- income per month. Believing his assurance she deposited the amount. He had actually assured other benefits also, but later it was found it was a trick to defraud the complainant. Cheating Was the main offence alleged apart from the charge u/s 406 of IPC.

3. On the basis of her report, investigation by CID resulted in filing of the final

report. Petitioners 1 to 11 are summoned. They are ranked as accused 1 to 11. After lodging of the complaint the complainant-Smt. Ayisha Begum on her own volition sought to withdraw her report, but police officers have not allowed her since the final report has already been filed. Pursuant to filing of the final report case is registered in Criminal Case.

4. In the circumstance, the Petitioners have applied to this Court and the complainant has joined them as party array to support their cause. The complainant has also filed an affidavit in this case indicating that she has no interest in prosecuting the case as she has already received the entire amount invented. The learned Counsel for Petitioners would submit that in view of the fact situation there is no case made out to try them for the offence punishable u/s 420 or 406 of IPC or for Sections 4, 5 and, 6 of Prize Chits and Money Circulation Schemes (Banning) Act, 1978.

5. On behalf of the State there is little or nothing to say in the matter because the complainant on whose complaint the case was registered and investigation was carried out by the CID, Bangalore has now recalled and withdrawn all allegations. This Court in similar circumstances accepted the plea of the accused and has quashed the proceedings as is evident from the order passed in Cri. P. No. 5607 of 2009, dated 13-11-2009 and also in Cri. P. No. 6600 of 2009, dated 18-12-2009. Since the same issue has arisen for consideration in this case and in view of the Complainant's stand that she does not intend to prosecute her complaint as she has already received the amount and as there was no intention to Petitioners 1 to 11 to defraud her, I am satisfied that no fruitful purpose would be served in continuing prosecution, which will undoubtedly fail in view of the stand taken by the complainant.

6. In the result, the petition is allowed. The proceedings in CC No. 13035 of 2010 on the file of the I Additional Chief Metropolitan Magistrate, Bangalore, are quashed.

At this stage, the learned Additional State Public Prosecutor Mr. Nawaz, submits that the order may be confined only to the Petitioners in this case.

Accordingly, the order would confine only to the Petitioners herein.