

Anil Napoleon vs State of Kerala

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Court : Kerala

Decided On : Feb-27-2024

Judge : Honourable Mr. Justice Bechu Kurian Thomas

Appeal No. : Crl.MC/572/2024

Appellant : Anil Napoleon

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS TUESDAY, THE 27TH DAY OF FEBRUARY 2024 / 8TH PHALGUNA, 1945 CRIME NO.2436/2021 OF Kothamangalam Police Station, Ernakulam AGAINST THE ORDER/JUDGMENT CC 195/2022 OF JUDICIAL FIRST MAGISTRATE COURT, KOTHAMANGALAM PETITIONER/ACCUSED: ANIL NAPOLEAN AGED 35 YEARS PUTHUVALPURAYIDAM HOUSE,MENAMKULAMKARA, MENAMKULAM VILLAGE, NEAR KINFRA, KAZHAKOOTTAM, THIRUVANANTHAPURAM DISTRICT, PIN - 695582 BY ADV NEETHU S. RESPONDENTS: 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 2

JINTO PAUL AGED 34 YEARS S/O PAUL, THUDUMEL HOUSE,
PINDIMANA P.O., PINDIMANA VILLAGE,
KOTHAMANGALAM, ERNAKULAM DISTRICT, PIN - 686692 3
STATION HOUSE OFFICE KOTHAMANGALAM POLICE STATION,
KOTHAMANGALAM, ERNAKULAM DISTRICT, PIN - 686691 BY ADV
Bharat Vijay P OTHER PRESENT: SRI. M.C. ASHI (PP) THIS
CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
27.02.2024, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

BECHU KURIAN THOMAS, J.

----- Crl.M.C. No. 572 of 2024
----- Dated this the 27th day of February, 2024

ORDER

Petitioner has invoked the jurisdiction under Section 482 of Code of Criminal Procedure, 1973 to quash all proceedings against him.

2. Petitioner is the accused in C.C. No.195 of 2022 on the

files of the Judicial First Class Magistrates Court, Kothamangalam arising out of Crime No.2436 of 2021 of Kothamangalam Police Station registered for the offences under Sections 406 and 415 r/w Section 420 of the Indian Penal Code, 1860 apart from Section 24 r/w Section 10 of Emigration Act, 1983. Second respondent is the defacto complainant.

3. According to the prosecution, the accused had

committed criminal breach of trust and cheating by promising to provide an employment visa to the petitioner at Greece and thereby collecting a large amount of money, and thereafter failing to provide the visa or return the amount, and thereby committed the offences alleged.

4. Heard the learned counsel for the petitioner and the learned counsel for the respondent, apart from the learned Public Prosecutor.

5. The learned counsel for the petitioner submitted that

the matter has been settled and hence the proceedings against the petitioner ought to be quashed. It was also submitted that, considering the nature of offences alleged, no purpose would be served by continuing the proceedings.

6. In *Gian Singh v. State of Punjab and Another* [(2012)

10 SCC 303], the Apex Court has held that in appropriate cases, the High Court can take note of the amicable resolution of disputes between the victim and the wrongdoer to put an end to the criminal proceedings. This view was reiterated in *Narinder Singh and Others v. State of Punjab and Another* [(2014) 6 SCC 466] and *Yogendra Yadav and Others v. State of Jharkhand and Another* [(2014) 9 SCC 653].

7. I have perused Annexure A3 affidavit filed by the 2 nd

respondent. The learned Public Prosecutor has submitted that upon verification, it is understood that the affidavit is genuine, and the defacto complainant stands by the contents thereof. I am satisfied that the matter has been settled and no public interest is involved in this case. There is no impediment for granting the prayer for quashing. The continuance of the proceedings will only be an exercise in futility.

8. Accordingly, all proceedings against the petitioner in

C.C. No.195 of 2022 on the files of the Judicial First Class Magistrates Court, Kothamangalam are quashed. This Crl.M.C is allowed as above. Sd/- BECHU KURIAN THOMAS JUDGE AJM APPENDIX OF CRL.MC 572/2024 PETITIONER ANNEXURES Annexure A1 THE CERTIFIED COPY OF THE FIRST INFORMATION REPORT DATED 01/10/2021 IN CRIME NO. 2436/2021 OF KOTHAMANGALAM POLICE STATION NOW PENDING AS C.C NO 195/2022 BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT-1, KOTHAMANGALAM Annexure A2 THE CERTIFIED COPY OF THE FINAL

REPORT DATED 31/10/2021 IN CRIME NO.2436/2021OF KOTHAMANGALAM
POLICE STATION NOW PENDING AS C.C NO CLASS MAGISTRATE COURT-1,
KOTHAMANGALAM Annexure A3 AN AFFIDAVIT SWORN BY THE SECOND
RESPONDENT STATING THE SETTLEMENT OF ALL THE DISPUTES TRUE
COPY

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