

**Aboobacker @ Bava, vs State of Kerala,**

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**SooperKanoon Citation :** [sooperkanoon.com/1290571](http://sooperkanoon.com/1290571)

**Court :** Kerala

**Decided On :** Dec-18-2024

**Judge :** Honourable Mr.Justice V.G.Arun

**Appeal No. :** Crl.MC/2268/2020

**Appellant :** Aboobacker @ Bava,

**Respondent :** State of Kerala,

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE V.G.ARUN TUESDAY,  
THE 25TH DAY OF AUGUST 2020 / 3RD BHADRA, 1942  
Crl.MC.No.2268 OF 2020(C) AGAINST THE ORDER/JUDGMENT IN CC  
1611/2015 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-II,  
TIRUR CRIME NO.1283/2015 OF Tirur Police Station , Malappuram  
PETITIONER/1ST ACCUSED: ABOOBACKER @ BAVA AGED 69  
YEARS S/O.MOHAMMEDKUTTY, MATHOOR HOUSE, KAVANCHERY,  
MANGALAM.P.O, TIRUR TALUK, MALAPPURAM -676561 BY ADV.  
SRI.K.K.MOHAMED RAVUF RESPONDENT/STATE, DE FACTO  
COMPLAINANT AND CW2:

1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM-682031(C.C.NO.1611/2015  
ON THE FILES OF JUDICIAL FIRST CLASS MAGISTRATE COURT,  
TIRUR IN CRIME NO.932/2015 OF TIRUR POLICE STATION 2  
MOHAMMED @ MON HAJI AGED 60 YEARS S/O.MOIDEENKUTTY,  
MATHOOR HOUSE, CHAMARAVATTAM.P.O, TIRUR TALUK,  
MALAPPURAM-676102 3 ISHAQ AGED 46 YEARS  
S/O.MOIDEENKUTTY, MATHOOR HOUSE, CHAMRAVATTAM.P.O,  
TIRUR TALUK, MALAPPURAM-676102 R2-3 BY ADV. K.P.SHEREEF

OTHER PRESENT: PP SREEJA V. THIS CRIMINAL MISC. CASE  
HAVING COME UP FOR ADMISSION ON 25.08.2020, THE COURT ON  
THE SAME DAY PASSED THE FOLLOWING: CrI.MC.No.2268 OF  
2020(C) ..2..

## **ORDER**

Dated this the 25th day of August 2020 Petitioner is the 1st accused in  
Crime No.1283/2015 registered at the Tirur Police Station for offences  
punishable under Sections 447, 427, 294(b) r/w 34 of IPC, now pending  
as C.C.No.1611/2015 on the files of the Judicial First Class Magistrate  
Court, Tirur. The de facto complainant and the other person injured in the  
accident are arrayed as respondents 2 and 3. Annexures-A2 and A3  
affidavits have been filed by the said respondents stating that the reason  
for the incident, which led to registration of the crime has been resolved  
amicably and they have no subsisting grievance in the matter.

CrI.MC.No.2268 OF 2020(C) ..3..

2. Heard the learned Public Prosecutor also,

who, on instructions, submits that the petitioner has no criminal  
antecedents. It is pointed out that based on the same incident, Crime  
No.932/2015 was registered at the Tirur Police Station against

respondents 2 and 3, pursuant to a complaint submitted by the petitioner herein and that Criminal M.C. 2262/2020 is filed by respondents 2 and 3 seeking to quash that criminal proceedings on the strength of the settlement.

3. Even though, this Criminal M.C. is filed by

only one among the two accused, the entire dispute having been settled and the case, in which the accused and the de facto complainant and injured in both cases figure as parties and both crimes are sought to be quashed, the Criminal M.C. is entertained. CrI.MC.No.2268 OF 2020(C) ..4..

4. Having considered the gravity of the offences

alleged, nature of the injury caused and having perused the affidavit filed by the respondents 2 and 3, 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.

CrI.MC.No.2268 OF 2020(C) ..5.. In the result, this CrI.M.C is allowed. The proceedings in C.C.No.1076/2015 on the files of the Judicial First Class Magistrate Court, Tirur is quashed. Sd/- V.G.ARUN SB/25/08/2020 JUDGE CrI.MC.No.2268 OF 2020(C) ..6.. APPENDIX PETITIONERS EXTS. ANNEXURE A1 CERTIFIED COPY OF FIR IN CRIME NO.1283/2015 OF TIRUR POLICE STATION DTD. 19.08.2015 ANNEXURE A2 ORIGINAL OF THE AFFIDAVIT SWORN BY THE 2ND RESPONDENT DATED 3.3.2020 ANNEXURE A3 ORIGINAL AFFIDAVIT SWORN BY THE 3RD RESPONDENT DATED 3.3.2020 // true copy // P.A TO

Judge

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