

**Pradeep vs State of Kerala**

**Pradeep vs State of Kerala**

**SooperKanoon Citation :** [sooperkanoon.com/1341137](https://sooperkanoon.com/1341137)

**Court :** Kerala

**Decided On :** Dec-19-2023

**Judge :** Honourable Mr. Justice P.V.Kunhikrishnan

**Appeal No. :** Crl.MC/1549/2023

**Appellant :** Pradeep

**Respondent :** State of Kerala

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN  
TUESDAY, THE 19TH DAY OF DECEMBER 2023 / 28TH  
AGRAHAYANA, CRL.MC NO. 1549 OF 2023 CRIME NO.1358/2012 OF  
Ottapalam Police Station, Palakkad AGAINST THE ORDER/JUDGMENT  
CC 105/2013 OF JUDICIAL MAGISTRATE OF FIRST CLASS - I,  
OTTAPPALAM

PETITIONER/S: PRADEEP AGED 50 YEARS S/O PRABAKARAN ,  
RENUKA SADHANAM KAVALPADU P.O PALAKADU TALUK  
PALAKADU DISTRICT ., PIN - 678002 BY ADV K.S.DHANESH KUMAR  
RESPONDENT/S: 1 STATE OF KERALA REPRESENTED BY PUBLIC

PROSECUTOR,HON'BLEHIGH COURT OF KERALA ERNAKULAM.,  
PIN - 682031 2 INSPECTOR OF POLICE OTTAPALAM POLICE  
STATION, PALAKKAD DISTRICT, PIN - 679101 OTHER PRESENT:  
SRI HRITHWIK CS, PP THIS CRIMINAL MISC. CASE HAVING COME  
UP FOR ADMISSION ON 19.12.2023, THE COURT ON THE SAME  
DAY PASSED THE FOLLOWING: -2-

**P.V.KUNHIKRISHNAN, J.**

=====  
=====

Dated this the 19th day of December, 2023

**ORDER**

This Crl.M.C is filed to quash the proceedings in CC No.105 of 2013 on the file of the Judicial First Class Magistrate Court-I, Ottappalam, arising from Crime No.1358 of 2012 of Ottappalam Police Station, Palakkad. The offencesalleged against the petitioner are under Sections 10 and 24 of the Emigration Act. The short point raised by the petitioner is that no sanction for prosecution is obtained as per the Emigration Act, 1983 and hence, the proceeding against the petitioner is unsustainable. Hence, this Crl.M.C is filed

2. Heard counsel for the petitioner and the Public Prosecutor.

3. When this Crl.M.C came up for consideration, this Court

directed the Public Prosecutor to find out whether any sanction is obtained under Section 27 of the Emigration Act. The Public Prosecutor, based on the instructions submitted by the Inspector of Police, Station House Officer, Ottappalam Police Station, dated -3- 14.12.2023 submitted that there is no prosecution sanction obtained by the Investigating Officer in this case under Section 7 of the Emigration Act.

4. In Aboobacker v. State of Kerala [2020 (3) KHC 20] this Court considered this point in detail. The relevant paragraphs are extracted here:

8. The prosecution on hand was not initiated by an emigrant or intending emigrant so as to evade from obtaining sanction from the Central Government or an authorised authority prescribed by the said Government. The prosecution being originated by the police against an alleged recruiting agent, sanction must inevitably be procured from the Central Government or an officer authorised by the Central Government. The prosecution is liable to fail if cognizance is taken by the court without sanction being accompanied by the Final Report filed by the investigating agency.

9. The learned Public Prosecutor obtained a report from

the investigating officer and this Court is convinced from the contents of the report that sanction as contemplated under S.27 of the Act was not available for consideration while cognizance was taken on the Final Report. Therefore, act of taking cognizance is vitiated. Even if the trial is let to proceed, it will not serve the intended purpose of the prosecution. -  
4-

5. In the light of the above principle, this prosecution is

unsustainable. Therefore, this Crl.M.C is allowed. All further proceedings against the petitioner in CC No.105 of 2013 on the file of the Judicial First Class Magistrate Court-I, Ottappalam, arising from Crime No.1358 of 2012 of Ottappalam Police Station, Palakkad, are quashed. sd/- P.V.KUNHIKRISHNAN JUDGE  
das -5- APPENDIX OF CRL.MC 1549/2023 PETITIONER ANNEXURES  
Annexure 1 TRUE COPY OF THE FIRST INFORMATION REPORT IN CRIME NO. 1358/2012 DATED 15,10,2012 OF OTTAPALAM POLICE STATION, PALAKKAD DISTRICT. Annexure 2 TRUE COPY OF THE FINAL REPORT IN CRIME NO. 1358/2012 DATED 28.12.2012 OF OTTAPALAM POLICE STATION, PALAKKAD DISTRICT. Annexure 3 TRUE COPY OF LETTER DATED 09.08.2012 ISSUED BY PROTECTOR OF EMIGRANTS , KOCHI