

**Abdul Arshad vs State of Kerala**

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**SooperKanoon Citation :** [sooperkanoon.com/1478921](https://sooperkanoon.com/1478921)

**Court :** Kerala

**Decided On :** Jul-29-2022

**Judge :** Honourable Mr.Justice Ziyad Rahman a.a.

**Appeal No. :** Crl.MC/2969/2022

**Appellant :** Abdul Arshad

**Respondent :** State of Kerala

**Judgement :**

Crl.M.C.No.2969/2022 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A. FRIDAY, THE 29TH DAY OF JULY 2022 / 7TH SRAVANA, 1944 CRL.MC NO. 2969 OF 2022 CRIME NO.CR/396/CR/EOW/2011 OF CBCID, KOLLAM, Kollam AGAINST THE ORDER/JUDGMENTCC 20/2017 OF CHIEF JUDICIAL MAGISTRATE PATHANAMTHITTA PETITIONERS/ACCUSED NO.1 TO 20: 1 ABDUL ARSHAD, AGED 45 YEARS, MANAGING DIRECTOR, BIZARRE GLOBAL MARKETING SYSTEMS LTD, S/O.SAYEED MOHAMMED, KANJIRIKKAPALLIL HOUSE, UDAYANAPURAM P.O, VAIKOM, KOTTAYAM, PIN - 686 143. 2 ABDUL ARSHAD, AGED 45 YEARS, MANAGING DIRECTOR, BIZARRE BUSINESS CORPORATION LTD., S/O.SAYEED MOHAMMED, KANJIRIKKAPALLIL

HOUSE, UDAYANAPURAM P.O., VAIKOM, KOTTAYAM, PIN - 686 143. 3 ABDUL ARSHAD, AGED 45 YEARS, DIRECTOR, BIZARRE INTERNATIONAL BUSINESS PRIVATE LTD., AGED 45 YEARS, S/O.SAYEED MOHAMMED, KANJIRIKKAPALLIL HOUSE, UDAYANAPURAM P.O, VAIKOM, KOTTAYAM, PIN - 686 143.

4 ABDUL ARSHAD, AGED 45 YEARS, S/O.SAYEED MOHAMMED, KANJIRIKKAPALLIL HOUSE, UDAYANAPURAM P.O, VAIKOM, KOTTAYAM, PIN - 686 143. CrI.M.C.No.2969/2022 2 5 EDISON, S/O.PORINJU UNNI, AGED 54 YEARS, MOOZHIPARAMBIL HOUSE, CHOVOOR VILLAGE, THRISSUR DISTRICT, PIN - 680 027. 6 KUNHI MUHAMMED, AGED 50 YEARS, S/O.KUNHALAN, POOVAMTHODI HOUSE, VATTALLOOR, KURUVA, MALAPPURAM., PIN - 676 507. 7 NOUSHAD S., AGED 40 YEARS, S/O.SAYEED MUHAMMED, KANJIRIKKAPALLIL HOUSE, UDAYANAPURAM P.O, VAIKOM, KOTTAYAM, PIN - 686 143. 8 MAYA K.P., AGED 40 YEARS, D/O.THANKAMMA, KONALIL HOUSE, T.V. PURAM, VAIKOM, KOTTAYAM, PIN - 686 606. 9 NIJI ARSHAD, AGED 40 YEARS, W/O.ABDUL ARSHAD, KANJIRIKKAPALLIL HOUSE, UDAYANAPURAM P.O, VAIKOM, KOTTAYAM, PIN - 686 143. 10 BEENA, AGED 48 YEARS, D/O.NANDINI,NANDANAM HOUSE, KOLAZHY P.O, THRISSUR, PIN - 680 010. 11 RENJU EDISON, AGED 43 YEARS, W/O.EDISON MOOZHIPARAMBIL HOUSE, CHOVOOR VILLAGE, THRISSUR DISTRICT, PIN - 680 563. CrI.M.C.No.2969/2022 3 12 JISHA BAIJU, AGED 46 YEARS, D/O.KUNJUMANI, KOTTAYIL HOUSE, CHARAMANGALAM, MAYITHARA P.O, CHERTHALA, ALAPPUZHA, PIN - 688 539. 13 GOPINATHAN, AGED 60 YEARS, S/O.VELAYUDHAN NAIR, NANDANAM, KOLAZHY P.O, THRISSUR, PIN - 680 010. 14 SUDHAKARAN, AGED 60 YEARS, S/O.VELAYUDHAN, NEYYISERRI VEEDU, PALLILAKARA, THRIKKAKARA, ERNAKULAM, PIN - 683 104. 15 SANTHOSH KUMAR, AGED 57 YEARS, S/O.APPUKUTTAN NAIR, KONAGANTH VEEDU, MULLAKKAD, PULLOOR VILLAGE, THRISSUR, PIN - 680 121. 16 SIVIN, AGED 41 YEARS, S/O.VARGHESE KOONAN HOUSE, THURUVALKODU, MUKUNDAPURAM, THRISSUR, PIN - 680 733. 17 ANEESH, AGED 34 YEARS, S/O.GOPALAKRISHNAN, SAI KRISHNA, MAMMIYOOR, GURUVAYOOR, THRISSUR, PIN - 680 103. 18 RADHAKRISHNAN, AGED 50 YEARS,

S/O.MADHAVAN,ERAD VEEDU, CHETTIPURATHU DESOM,  
MALAVANASERRY, MUKUNDAPURAM, THRISUR, PIN - 680 733.  
Crl.M.C.No.2969/2022 4 BY ADVS. S.RAJEEV V.VINAY M.S.ANEER SARATH  
K.P. RESPONDENTS/DE FACTO COMPLAINANT/WITNESSES/STATE:

1 STATE OF KERALA, REP BY PUBLIC PROSECUTOR, HIGH COURT OF  
KERALA, ERNAKULAM. (CRIME NO CBCID/CR/396/CR/EOW ERNAKULAM -  
682017), PIN - 682 018. 2 K.SIVARAJAN, AGED 71 YEARS, S/O.KUNJU  
PANICKAN, KAROOR THARAYIL, PALLIKKAL P.O, KATTANAM, VETTICODU,  
ALAPPUZHA, PIN - 690 503. 3 SHAJI S., AGED 59 YEARS, S/O.SUKUMARAN  
VAIDYAN, SHEELA BHAVAN, PAZHAKULAM P.O, PALLIKKAL, NEAR  
PAZHAKULAM JUNCTION ADOOR, PATHANAMTHITTA, PIN - 691 554. 4  
JYOTHISH S., S/O.SASIDHARAN, JYOTHISH BHAVANAM, MANNADI P.O,  
KADAMPANADU, NEAR KAVIYIL GOVT L P SCHOOL, ADOOR,  
PATHANAMTHITA, PIN - 691 530.

5 THULASEEDHARAN PILLAI, AGED 59 YEARS, S/O.GOVINDAPANICKER,  
THULASEENIVASAN, PAYYANALLOOR P.O, PALAMEL, NOORANAD  
Crl.M.C.No.2969/2022 5 ALAPPUZHA, PIN - 690 505. 6 VENU K., AGED 58  
YEARS, S/O.KRISHNAN ACHARI KRISHI NIVAS, PAYYANALLOR P.O.,  
PALAMEL, NOORANAD, ALAPPUZHA, PIN - 690 505. 7 RADHAKRISHNAN P.S,  
AGED 67 YEARS, S/O.SANKARA PILLA, PULIPRAZHIKATHU HOUSE,  
IVERKALA W/N, VTC: KUNNATHUR KOLLAM, PIN - 690 540.

8 R.BINDHU LEKHA, AGED 52 YEARS, W/O.DECEASED CHANDRASEKARAN  
PILLAI, KAALAYIL PUTHANVEETIL, PALLIKKAL P.O, ADOOR,  
PATHANAMTHITTA, PIN - 690 522.

9 UNNIKRISHNA PILLAI R., AGED 54 YEARS, S/O.RAGHAVAN PILLAI,  
SREENILAYAM, PUTHUPALLY SOUTH, KAYAMKULAM, ALAPPUZHA, PIN -  
690 502. 10 SARALA LAL, AGED 52 YEARS, W/O.LALKUMAR, KAILASAM,  
MANNADI P.O., KADAMPANADU, MANNADI, PATHANAMTHITTA, PIN - 690  
530. 11 BIJU RAJ K.S, AGED 48 YEARS, S/O.P.S SUKUMARAN VAIDYAN,  
KRISHNA VILASAM, PERINGANADU P.O, ADOOR, PATHANAMTHITTA, PIN -  
691 551. Crl.M.C.No.2969/2022 6 12 SREEVIDYA D.V., AGED 33 YEARS,

W/O.BIJU RAJ K.S, KRISHNAVILASAM, PERINGANADU P.O, ADOOR, PATHANAMTHITTA, PIN - 691 551.

13 ROSAMMA JOHNSON, AGED 52 YEARS, W/O.DECEASED JOHNSON, PUTHEN VEETIL, THUVAYOOR SOUTH, KADAMBNATTU, ADOOR, PATHANAMTHITTA, PIN - 691 523. 14 RADHAKRISHNA PILLAI, AGED 56 YEARS, RAGHAVAN PILLAI, AMBADIYIL, MANNADI KAALAKK PADINJARE MURIYIL, KADAMBANATTU, ADOOR, PATHANAMTHITTA, PIN - 691 523. 15 K.R.GOPAKUMAR, AGED 48 YEARS, S/O.K K RAGHAVAN, SREEPADMAM, THUVAYOOR SOUTH, KADAMBANADU, THUVAYOOR, PATHANAMTHITTA, PIN - 691 551. 16 SALIM C.K, AGED 48 YEARS, S/O.C.N KUMARAN, KUMARAMANGALATHU, MANNADI P.O., KADAMBANADU, MANNADI POST OFFICE JUNCTION ADOOR, PATHANAMTHITTA, PIN - 691 530.

17 RAJESH R, AGED 43 YEARS, S/O.RAGHAVAN PILLAI, NAMBONAKUNN VEETIL' MANNADI P.O, MANNADI HIGH SCHOOL JUNCTION CrI.M.C.No.2969/2022 7 KADAMBANADU, PATHANAMTHITTA, PIN - 691 530. 18 RAJAN B., AGED 40 YEARS, S/O.BHASKARAN, RAVIRAJ BHAVANAM, KARUVATTA, NEAR ADOOR FIRE STATION, ADOOR, PATHANAMTHITTA, PIN - 691 523. 19 AJAYKUMAR S, AGED 51 YEARS, S/O.SREEDHARA KURUP, KURUMPOLIL, PAYYANALLUR, PALAMEL, MAVELIKKARA, ALAPPUZHA, PIN - 690 101.

20 RATHEESH G., AGED 40 YEARS, S/O.T.K GOPI, MANIYATTUPUTHEN VEETIL, VADAKKADATHUKAVU P.O., ERATHU VADAKKADATHU JUNCTION, PATHANAMTHITTA, PIN - 691 551. 21 MURALEEDHARAN S., AGED 68 YEARS, S/O.SANK VAIDYAN, MURALIKA VEETIL, KADAMBANADU NORTH P.O., GANESAVILASAM, KADAMBANADU, THUVAYOOR SOUTH, PATHANAMTHITTA, PIN - 691 551. 22 JAYARAJ K.S., AGED 51 YEARS, S/O.SUKUMARAN VIADYAN, KRISHNAVILASAM VEETIL, PERINGANADU P.O, THIRICHENDAMANAGALAM TEMPLE, PERINGANADU, ADOOR, PATHANAMTHITTA, PIN - 691 551. 23 G.S.NANDAKUMAR, AGED 52 YEARS, S/O.GOVINDAN VAIDYAN NISI VILLA, VANATHUM CrI.M.C.No.2969/2022 8 ALAYAMON, KOLLAM, PIN - 691 306. 24 SUNILKUMAR

T.R., AGED 43 YEARS, S/O.THULASEEDHARA KURUP, VALLYAYYATHU, PAYYANALLOOR, PALAMEL, ALAPPUZHA, PIN - 689 512. 25 PADMAKUMARI, AGED 59 YEARS, D/O.GOPINATHAN PILLAI, ELAVANKUZHIYIL VEEDU, MANNADI P.O., KADAMBANADU MANNADI, PATHANAMTHITTA, PIN - 691 530. 26 RAHIM RAWTHER, AGED 54 YEARS, S/O.MOHAMMED ISMAIL RAWTHER, THURUVILA THEKKETHIL, ATHIKATTU KULANGARA, NOORANAD,PALAMEL, ALAPPUZHA, PIN - 689 512.

27 C.K.RADHA., AGED 68 YEARS, W/O.SIVARAJAN, KAROOR THARAYIL, KATTANAM, PALLIKKAL P.O, ALAPPUZHA, PIN - 690 503. 28 RAMADEVI, AGED 41 YEARS, W/O.RADHAKRISHNA PILLAI, AMBADIYIL, MANNADI P.O., KADAMBANADU, ADOOR, PATHANAMTHITTA, PIN - 691 530. 29 AJITH KUMARI S., AGED 53 YEARS, W/O.SREEKUMAR, KUNNUMPURATH VEEDU, MANCHALLOOR, PATHANAPURAM, KOLLAM, PIN - 689 695. Crl.M.C.No.2969/2022 9

30 BIJU KUMAR, AGED 37 YEARS, S/O.K K RAGHAVAN, NAMBONAZHIKATH VEETIL, MANNADI H S JUNCTION, KADAMBANADU VILLAGE, ADOOR, PATHANAMTHITTA, PIN - 691 530. 31 PRASANNAKUMARI, AGED 55 YEARS, D/O.GOPINATHAN PILLAI, ELAVANKUZZHI VEEDU, MANNADI P.O., KADAMBANADU VILLAGE, PATHANAMTHITTA, PIN - 691 530. 32 RAJENDRAN PILLAI, AGED 54 YEARS, S/O.MADHAVAN PILLAI, ARAPURAVILA CHITTIRA, NEAR MANNADI H S JUNCTION, KADAMBANADU VILLAGE, ADOOR, PATHANAMTHITA, PIN - 691 530. 33 RAMADEVI, AGED 51 YEARS, W/O.DECEASED RAMACHANDRAN NAIR RAMNIVAS, MANNADI P O, KADAMBANADU, ADOOR, PATHANAMTHITTA, PIN - 691 530. BY ADV.KARJET KODUVATH THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 29.07.2022, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Crl.M.C.No.2969/2022 10

## **ORDER**

The petitioners are the accused Nos.1 to 20 in Crime No.CBCID/CR/396/CR/EOW of Crime Branch Police Station. Originally the aforesaid crime was registered by Adoor Police Station as Crime No.420 of 2010. Later, the investigation thereof was

entrusted with the Crime Branch. The offence alleged against the petitioners are under Sections 120B and 420 read with Section 34 IPC and also under Sections 4, 5 and 6 of Price Chits and Money Circulation Scheme (Banning Act), 1972.

2. The prosecution case is that, the petitioners have

conducted money circulation scheme under the name Bizarre Business Corporation and collected amounts from various persons who are impleaded as respondents Nos.2 to 33 in this CrI.M.C. Later, they cheated the said persons. A1 is the final report submitted by the Police. This CrI.M.C. is filed for quashing all further proceedings pursuant thereto.

3. Heard Sri.S.Rajeev, learned counsel for the petitioners, Smt.Sreeja V., learned Public Prosecutor for the State and Sri.Karjet Koduvath, learned counsel for the respondents 2 to 33.

4. Prayer for quashing the proceedings is sought mainly on

the ground that the dispute between the parties has been settled. CrI.M.C.No.2969/2022 11 Annexure-2 to Annexure-33 affidavits sworn by the respondents 2 to 33 are filed along with this CrI.M.C. to substantiate the settlement. In the said affidavit, the respondents 2 to 33 had specifically acknowledged the aforesaid settlement and also conveyed the no- objection to quash the proceedings against the petitioners herein. The learned counsel appearing for respondents 2 to 33 also confirms the same. The learned Public Prosecutor, upon instructions, submitted that the Station House Officer concerned has verified the veracity of the same and found it to be genuine.

5. The allegations would reveal that the dispute is purely

private in nature. In such circumstances, by applying the principles laid down by the Honourable Supreme Court in Gian Singh v. State of Punjab and Another [(2012) 10 SCC 303], proceedings can be quashed by invoking the powers of this Court under Section 482 Cr.P.C. This is particularly because, on account of the settlement, no fruitful purpose would be served by allowing the prosecution to continue.

6. It is true that the offence alleged includes the offence

under the provisions of Price Chits and Money Circulation Scheme (Banning Act), 1972. The learned counsel for the petitioners brought my attention to Annexure-34 order passed by this Court in CrI.M.C.No.2969/2022 12 CrI.M.C.No.941 of 2017, wherein crime registered against some of the accused persons herein on the very same set of allegations were quashed by this Court on the basis of settlement arrived at between the parties. In this case, the learned Public Prosecutor points out that, except respondent No.23, all the other persons were contacted by the Station House Officer and the genuineness of the settlement was verified. As regards the respondent No.23, it is pointed out that, he could not be traced out. However, it is discernible from the records that, the said respondent has already submitted an affidavit confirming his settlement and the learned counsel appearing for him also confirms the same. In such circumstances, I am inclined to invoke the jurisdiction of this Court under Section 482 Cr.P.C to quash the proceedings against the petitioner. In the result, this CrI.M.C. is allowed, and Annexure-1 final report submitted in Crime No.CBCID/CR/396/CR/EOW and all further proceedings in C.C.No.20 of 2017 on the files of the Judicial First Class Magistrate Court, Pathanamthitta, as against the petitioners are hereby quashed. Sd/- ZIYAD RAHMAN A.A. JUDGE DG/30.7.22 CrI.M.C.No.2969/2022 13 APPENDIX OF CRL.MC 2969/2022 PETITIONER ANNEXURES Annexure1 ACCUSED COPY OF THE FINAL REPORT IN CRIME NO CBCID/CR/396/CR/EOW Annexure2 COPY OF THE AFFIDAVIT DATED 09.12.2021 SWORN BY RESPONDENT NO 2 WHO IS A WITNESS Annexure3 COPY OF THE AFFIDAVIT DATED 09.12.2021 SWORN BY RESPONDENT NO 3 WHO IS A WITNESS Annexure4 COPY OF THE AFFIDAVIT DATED 09.12.2021 SWORN BY RESPONDENT NO 4 WHO IS A WITNESS Annexure5 COPY OF THE AFFIDAVIT DATED 09.12.2021 SWORN BY RESPONDENT NO 5 WHO IS A WITNESS Annexure6 COPY OF THE AFFIDAVIT SWORN BY RESPONDENT NO 6 WHO IS A WITNESS IN THE FINAL REPORT DATED 09.12.2021 Annexure7 COPY OF THE AFFIDAVIT DATED 09.12.2021 SWORN BY RESPONDENT NO 7 WHO IS A WITNESS Annexure8 COPY OF THE AFFIDAVIT DATED 09.12.2021 SWORN BY RESPONDENT NO 8 WHO IS A WITNESS Annexure9 COPY OF THE AFFIDAVIT DATED 09.12.2021 SWORN BY RESPONDENT NO 9 WHO IS A

WITNESS Annexure10 COPY OF THE AFFIDAVIT DATED 09.12.2021 SWORN BY RESPONDENT NO 10 WHO IS A WITNESS Annexure11 COPY OF THE AFFIDAVIT DATED 09.12.2021 CrI.M.C.No.2969/2022 14 SWORN BY RESPONDENT NO 11 WHO IS A WITNESS Annexure12 COPY OF THE AFFIDAVIT DATED 09.12.2021 SWORN BY RESPONDENT NO 12 WHO IS A WITNESS Annexure13 COPY OF THE AFFIDAVIT DATED 09.12.2021 SWORN BY RESPONDENT NO 13 WHO IS A WITNESS Annexure14 COPY OF THE AFFIDAVIT DATED 09.12.2021 SWORN BY RESPONDENT NO 14 WHO IS A WITNESS Annexure15 COPY OF THE AFFIDAVIT DATED 09.12.2021 SWORN BY RESPONDENT NO 15 WHO IS A WITNESS Annexure16 COPY OF THE AFFIDAVIT DATED 09.12.2021 SWORN BY RESPONDENT NO 16 WHO IS A WITNESS Annexure17 COPY OF THE AFFIDAVIT DATED 09.12.2021 SWORN BY RESPONDENT NO 17 WHO IS A WITNESS Annexure18 COPY OF THE AFFIDAVIT DATED 09.12.2021 SWORN BY RESPONDENT NO 18 WHO IS A WITNESS Annexure19 COPY OF THE AFFIDAVIT DATED 09.12.2021 SWORN BY RESPONDENT NO 19 WHO IS A WITNESS Annexure20 COPY OF THE AFFIDAVIT DATED 09.12.2021 SWORN BY RESPONDENT NO 20 WHO IS A WITNESS Annexure21 COPY OF THE AFFIDAVIT DATED 09.12.2021 SWORN BY RESPONDENT NO 21 WHO IS A WITNESS Annexure22 COPY OF THE AFFIDAVIT DATED 09.12.2021 CrI.M.C.No.2969/2022 15 SWORN BY RESPONDENT NO 22 WHO IS A WITNESS Annexure23 COPY OF THE AFFIDAVIT DATED 09.12.2021 SWORN BY RESPONDENT NO 23 WHO IS A WITNESS Annexure24 COPY OF THE AFFIDAVIT DATED 09.12.2021 SWORN BY RESPONDENT NO 24 WHO IS A WITNESS Annexure25 COPY OF THE AFFIDAVIT DATED 09.12.2021 SWORN BY RESPONDENT NO 25 WHO IS A WITNESS Annexure26 COPY OF THE AFFIDAVIT DATED 09.12.2021 SWORN BY RESPONDENT NO 26 WHO IS A WITNESS Annexure27 COPY OF THE AFFIDAVIT DATED 09.12.2021 SWORN BY RESPONDENT NO 27 WHO IS A WITNESS Annexure28 COPY OF THE AFFIDAVIT DATED 09.12.2021 SWORN BY RESPONDENT NO 28 WHO IS A WITNESS Annexure29 COPY OF THE AFFIDAVIT DATED 09.12.2021 SWORN BY RESPONDENT NO 29 WHO IS A WITNESS Annexure30 COPY OF THE AFFIDAVIT DATED 09.12.2021 SWORN BY RESPONDENT NO 30 WHO IS A WITNESS Annexure31 COPY OF THE

AFFIDAVIT DATED 09.12.2021 SWORN BY RESPONDENT NO 31 WHO IS A WITNESS Annexure32 COPY OF THE AFFIDAVIT DATED 09.12.2021 SWORN BY RESPONDENT NO 32 WHO IS A WITNESS Annexure33 COPY OF THE AFFIDAVIT DATED 09.12.2021 Crl.M.C.No.2969/2022 16 SWORN BY RESPONDENT NO 33 WHO IS A WITNESS Annexure34 A COPY OF THE ORDER PASSED BY THIS HON'BLE COURT IN CRL MC NO 941/2017

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