

**Welsh, vs State of Kerala,**

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**SooperKanoon Citation :** [sooperkanoon.com/1558703](https://sooperkanoon.com/1558703)

**Court :** Kerala

**Decided On :** Jan-24-2022

**Judge :** Honourable Dr. Justice Kauser Edappagath

**Appeal No. :** Crl.MC/6273/2021

**Appellant :** WELSH,

**Respondent :** State of Kerala,

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH  
MONDAY, THE 24TH DAY OF JANUARY 2022 / 4TH MAGHA, 1943 AGAINST  
THE ORDER/JUDGMENT IN CC 637/2019 OF ADDITIONAL CHIEF JUDICIAL  
MAGISTRATE , ERNAKULAM CRIME NO. 1099/2019 OF ERNAKULAM TOWN  
NORTH POLICE STATION, KOCHI CITY

PETITIONERS/ACCUSED NOS.2 TO 4: 1 WELSH, AGED 48 YEARS S/O.  
LAWRENCE, KURIYAPPILLY HOUSE, MUTHIRAPPADOM, THAIKATTUKARA  
P.O, ALUVA, ERNAKULAM-683 106 2 BINU, AGED 44 YEARS S/O.  
APPUKKUTTAN NAIR, BINDU BHAVAN, PUNNAMOODU, VARKALA,  
THIRUVANANTHAPURAM-695 141. 3 BINOY JOY, AGED 41 YEARS S/O. K.P.  
JOY, KAITHARETHU HOUSE, PATTEDUPADAM ROAD, THAIKATTUKARA P.O,

ALUVA 683 106.

BY ADVS. ABDUL JALEEL.A M.A.SULFIA  
RESPONDENTS/COMPLAINANT/DEFACTO COMPLAINANT: 1 STATE OF  
KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF  
KERALA, ERNAKULAM. 2 THE SUB INSPECTOR OF POLICE, ERNAKULAM  
TOWN NORTH POLICE STATION, KOCHI CITY-682 025. 3 JUSHA ABRAHAM,  
AGED 38 YEARS D/O. P.K. ABRAHAM, G-3 FLAT, PADMASREE APARTMENT,  
'BLUE MOON LINE' JANATHA ROAD, ELAMKULAM VILLAGE, PALARIVATTOM  
SOUTH 682025. OTHER PRESENT: SRI.M.P.PRASANTH -PP THIS CRIMINAL  
MISC. CASE HAVING COME UP FOR ADMISSION ON 24.01.2022, THE COURT  
ON THE SAME DAY PASSED THE FOLLOWING:

## **ORDER**

This CrI.M.C. has been preferred to quash the proceedings in Crime No.1099/2019 of Ernakulam Town North Police Station in Kochi City and all further proceedings in C.C. No. 637/2019 on the file of the Additional Chief Judicial Magistrate Court, Ernakulam.

2. The petitioners are accused Nos. 2 to 4. It is submitted that the first accused is no more. The offences alleged against the petitioners are under Sections 341, 294(b), 506(1), 509 read with Section 34 of the IPC.

3. The petitioners seek to quash the proceedings on the

ground that even if the entire allegations in the F.I. statement together with other materials collected during the investigation are taken at their face value they would not constitute the offence alleged.

4. I have heard Sri. Abdul Jaleel, the learned counsel appearing for the petitioners and Sri. M.P.Prasanth, the learned Public Prosecutor.

5. It is settled that jurisdiction under Section 482 of Cr.P.C.

which saves the inherent power of the High Court, to make such orders as may be necessary to prevent abuse of the process of any court or otherwise to secure the ends of justice, has to be exercised sparingly and with circumspection. In a catena of decisions, the Apex Court has deprecated the interference by the High Court in exercise of its inherent powers under Section 482 Cr.P.C in a routine manner. It has been consistently held that power under Section 482 must be exercised sparingly with great caution and in rarest of rare cases.

6. The learned counsel for the petitioners submitted that the

entire allegations are as against the first accused who is no more and there are no allegations against the petitioners. I went through the F.I. statement as well as the additional statement. It would show that there are clear allegations against them to constitute the offences alleged against them. When a prima facie offence under Sections alleged are made out, there is no justification invoking power under section 482 of Cr.P.C. Accordingly, the CrI.M.C is dismissed. Sd/- DR. KAUSER EDAPPAGATH JUDGE al/- APPENDIX OF CRL.MC 6273/2021 PETITIONER ANNEXURES Annexure A1 CERTIFIED COPY OF THE FIR AND FIS. Annexure A2 CERTIFIED COPY OF THE FINAL REPORT TOGETHER WITH S. 161 STATEMENTS.

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