

**Vipin Kumar vs State of Kerala**

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**SooperKanoon Citation :** [sooperkanoon.com/1580287](https://sooperkanoon.com/1580287)

**Court :** Kerala

**Decided On :** Dec-23-2022

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

**Appeal No. :** Crl.MC/8579/2022

**Appellant :** Vipin Kumar

**Respondent :** State of Kerala

**Judgement :**

Crl.M.C.No.8579/22 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A. FRIDAY,  
THE 23RD DAY OF DECEMBER 2022 / 2ND POUSHA, 1944 CRL.MC NO. 8579  
OF 2022 AGAINST THE ORDER/JUDGMENTCC 580/2019 OF JUDICIAL  
MAGISTRATE OF FIRST CLASS -II,PALAKKAD PETITIONERS/ACCUSED:

1 VIPIN KUMAR, AGED 32 YEARS, S/O.APPUKUTTAN, PANTHAL  
THODI HOUSE, MALAMPALLAM, MANNUR WEST.P.O., PALAKKAD  
DISTRICT, PIN - 678 842. 2 SANTHOSH, AGED 45 YEARS, S/O MANI,  
MALAMPALLAM HOUSE, MANNOOR WEST.P.O, PALAKKAD  
DISTRICT, PIN - 678 842. 3 KRISHNANDAS, AGED 32 YEARS,

S/O.SWAMINATHAN, PULAYKKAL HOUSE, MANNOOR WEST.P.O  
PALAKKAD DISTRICT, PIN - 678 842. BY ADVS. DINESH MATHEW  
J.MURICKEN VINOD S. PILLAI NAYANA VARGHESE AHAMMAD  
SACHIN K.

RESPONDENTS/COMPLAINANT & DE FACTO COMPLAINANT: 1 STATE OF  
KERALA, Crl.M.C.No.8579/22 2 REP. BY THE PUBLIC PROSECUTOR, HIGH  
COURT OF KERALA, ERNAKULAM, PIN - 682 031. 2 K.MUJEEB RAHMAN,  
AGED 52 YEARS, S/O.KAJAHUSSAIN, CHOLAKKAL HOUSE, 21/211, AKG  
NAGAR, VENNAKKARA, PALAKKAD DISTRICT, PIN - 678 004. BY ADV  
AHAMMAD SACHIN K. SRI.VIPIN NARAYAN - PUBLIC PROSECUTOR THIS  
CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23.12.2022,  
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:  
Crl.M.C.No.8579/22 3

## **ORDER**

Petitioners are the accused in Crime No.196 of 2019 of Mankara Police Station,  
which is now pending as C.C.No.580 of 2019 on the file of the Judicial First Class  
Magistrate Court-II, Palakkad. The offences alleged against the petitioners are  
under Sections 341, 323, 326, 427, read with Section 149 IPC.

2. Annexure-A1 is the FIR, and Annexure-A2 is the final

report submitted by the Police. The 2 nd respondent is the de facto complainant.  
This Crl.M.C. is filed for quashing all further proceedings pursuant to Annexure-A2.

3. Heard Sri.Dinesh Mathew J. Murikkan, learned counsel for the petitioners,  
Sri.Vipin Narayanan, learned Public Prosecutor for the State and Ahammad  
Sachin K., learned counsel for the 2nd respondent.

4. Prayer for quashing the proceedings is sought mainly on the ground that the  
dispute between the parties has been

settled. Annexure-A3 affidavit sworn by the 2 nd respondent/de facto complainant  
is filed along with this Crl.M.C. to substantiate the settlement. In the said affidavit,

the 2 nd respondent/de facto CrI.M.C.No.8579/22 4

complainant had explicitly acknowledged the aforesaid settlement and also conveyed the no-objection to quash the proceedings against the petitioners herein. The learned counsel appearing for the 2nd respondent/de facto complainant 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 learned Public Prosecutor, upon instruction

submitted that the 3rd petitioner is involved in two other cases in which offence under Section 307 IPC as well as offences under the Arms Act are also incorporated. It is pointed out that the case in which the offence under Section 307 IPC is incorporated is of the year 2022. Therefore, considering the criminal antecedents of the 3rd petitioner, the jurisdiction of this Court under Section 482 Cr.P.C need not be invoked, contends the learned Public

Prosecutor. It is further pointed out that, as far as the other petitioners are concerned, they are not involved in any other cases.

6. After considering all the relevant aspects, I find some

force in the contention put forward by the learned Public CrI.M.C.No.8579/22 5 Prosecutor. It is seen that the offences in which the 3 rd petitioner is involved are serious in nature. When a person is repeatedly

getting involved in serious cases, exercising this Court's jurisdiction under Section 482 Cr.P.C and granting the benefit of quashing the proceedings against such a person based on settlement is improper. Such powers are to be exercised only in cases where dispute is private, and no public interest is involved. However, quashing the prosecution against a person with serious criminal antecedents, on the basis of settlement, would be against the public interest. It can sometimes provide confidence to such persons, to commit crimes and get away with the same, by arriving at a settlement with the affected parties.

7. In such circumstances, I am not inclined to invoke the

powers of this Court in respect of the prosecution against the 3<sup>rd</sup> petitioner herein. However, as it is pointed out that the 1<sup>st</sup> and 2<sup>nd</sup> petitioners are not involved in any other criminal cases, I deem it appropriate to quash the proceedings against them.

In such circumstances, this CrI.M.C. is allowed. Annexure- A2 final report submitted in Crime No.196 of 2019 of Mankara Police Station and all further proceedings pursuant to the same as CrI.M.C.No.8579/22 6 against the petitioners 1 and 2 who are accused Nos.1 and 2, including the proceedings in C.C.No.580 of 2019 as against them

are hereby quashed. Prosecution against the 3<sup>rd</sup> petitioner/3<sup>rd</sup> accused can be continued. Sd/- ZIYAD RAHMAN A.A. JUDGE DG/23.12.22 CrI.M.C.No.8579/22 7  
APPENDIX OF CRL.MC 8579/2022 PETITIONER ANNEXURES Annexure A1  
TRUE COPY OF THE FIRST INFORMATION REPORT IN CRIME NO.196/2019  
OF MANKARA POLICE STATION DATED 20.06.2019 Annexure A2 TRUE COPY  
OF THE FINAL REPORT IN CRIME

NO:196/2019 OF MANKARA POLICE STATION, PALAKKAD DISTRICT NOW  
PENDING AS C.C.NO: 580 OF 2019 BEFORE THE JUDICIAL FIRST CLASS  
MAGISTRATE COURT-II PALAKKAD. DATED 12.07.2019 Annexure A3 TRUE  
COPY OF THE AFFIDAVIT SWORN BY THE 2<sup>ND</sup> RESPONDENT/DE-FACTO  
COMPLAINANT DATED 04.11.2022

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