

Jacob Vs State Of Kerala

Court: High Court Of Kerala

Date of Decision: Oct. 9, 2024

Acts Referred: Indian Penal Code, 1860 " Section 34, 120B, 406, 420, 468, 471

Hon'ble Judges: P.V.Kunhikrishnan, J

Bench: Single Bench

Advocate: Millu Dandapani, C.C.Anoop, Joseph Joy, Renjith T.R

Final Decision: Disposed Of

Judgement

P.V.Kunhikrishnan, J

1. This Criminal Miscellaneous Case is filed to quash the proceedings in C.C.No.112/2018 on the file of the Chief Judicial Magistrate Court,

Thodupuzha, arising from Crime No.1747/2017 of Thodupuzha Police Station. The above case is charge sheeted alleging offences punishable under

Sections 120B, 406, 468, 471 and 420 read with Section 34 of the Indian Penal Code.

2. The counsel for the petitioners submitted that even if the entire allegations are accepted, no offence is made out. According to the petitioners, the

case is civil in nature. The counsel for the petitioners relied on the judgments of the Apex Court in Subbiah C @ Kadambur Jayaraj v. Superintendent

of Police [2024 KHC 6288] and Sharif Ahmed v. State of Uttar Pradesh [2024 KHC 6251], and submitted that the prosecution against the petitioners

is without any basis and it may be quashed.

3. Heard the learned counsel for the petitioners and the learned Public Prosecutor.

4. After hearing both sides, I am of the considered opinion that the petitioners can be allowed to file a discharge petition before the trial court, if

charge is not framed. If such a discharge petition is filed, there can be a direction to consider the same, in the light of the dictum laid down by the

Apex Court in Subbiah C @ Kadambur Jayaraj v. Superintendent of Police (supra) and Sharif Ahmed v. State of Uttar Pradesh (supra), without insisting the presence of the petitioners.

Therefore, this Criminal Miscellaneous Case is disposed of in the following manner:

1. The petitioners are free to file a discharge petition before the jurisdictional court within thirty days from the date of receipt of a stamped certified copy of this order,

if charge is not framed.

2. Once such a discharge petition is received, the jurisdictional court will consider the same and pass appropriate orders in it, after giving an opportunity of hearing to

the petitioners and the Prosecutor concerned, as expeditiously as possible, at any rate, within a period of six weeks from the date of receipt of the discharge petition.

3. If a discharge petition is filed as directed above, the presence of the petitioners shall not be insisted, till final orders are passed in the discharge petition.

4. While deciding the discharge petition, the learned Magistrate will also consider the dictum laid down by the Apex Court in Subbiah C @ Kadambur Jayaraj v.

Superintendent of Police [2024 KHC 6288] and Sharif Ahmed v. State of Uttar Pradesh [2024 KHC 6251].

5. All the contentions raised by the petitioners in this criminal miscellaneous case are left open and the petitioners are free to agitate the same in the discharge

petition.