



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

MONDAY, THE 10TH DAY OF JUNE 2024 / 20TH JYAISHTA, 1946

CRL.MC NO. 1262 OF 2024

CRIME NO.0299/2017 OF Palarivattom Police Station,
Ernakulam

AGAINST CC NO.1504 OF 2017 OF JUDICIAL MAGISTRATE OF FIRST
CLASS - IX, ERNAKULAM

PETITIONER/ACCUSED:

DR.PRAMOD JOHN
AGED 58 YEARS, S/O. M.R. MANI,
2B-12, PENTA QUEEN APARTMENT,
PADIVATTOM KARA, EDAPALLY SOUTH,
ERNAKULAM, PIN - 682025

BY ADVS.
SRI.K.R.VINOD
SMT.M.S.LETHA
SRI.NABIL KHADER
SRI.RAHUL.S

RESPONDENT/COMPLAINANT:

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - 682031

SRI.ASHI M.C., PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 10.06.2024, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:



CrI.M.C. No.1262/24

-:2:-

“C.R.”

BECHU KURIAN THOMAS, J.

CrI.M.C No.1262 of 2024

Dated this the 10th day of June, 2024

ORDER

Petitioner challenges the proceedings in C.C. No.1504 of 2017 on the files of Judicial First Class Magistrate's Court- IX, Ernakulam.

2. Petitioner is facing an indictment for the offence under section 20(3) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short 'the Act').

3. The prosecution alleges that on 30.11.2016 petitioner had without taking care of his father while residing at Ernakulam, put him in a taxi and sent him off to Thiruvananthapuram when he was not able to take care of himself and was suffering from old age diseases and thereby abandoned the parent and committed the offence under the Act.

4. Sri. K.R.Vinod, learned counsel for the petitioner, contended that the prosecution allegations are totally false and do not make out any of the offences alleged. It was further submitted that the complaint was filed by the sister of the petitioner, who is the daughter of the senior citizen, that



CrI.M.C. No.1262/24

-:3:-

too after three months of the alleged incident, and the reason behind the filing of the complaint is totally malafide.

5. Sri.M.C.Ashi, learned Public Prosecutor on the other hand contended that the allegations are required to be adjudicated after trial and therefore invocation of section 482 Cr.P.C ought not to be entertained.

6. It is necessary to mention that in the FIR registered on 17.02.2017 offence is shown as section 20(3) of the Act, while in the final report the offence alleged against the petitioner is not mentioned at all. There is no provision as section 20(3) in the Act. Section 20 deals with medical support for senior citizen and is not a penal provision. The penal provision relating to abandonment of a senior citizen is mentioned in section 24 of the Act. Therefore notwithstanding the non-mention of the penal provision in the final report and wrong mention of the penal provision in the FIR, this Court proceeds to consider the allegation as falling within section 24 of the Act. Section 24 of the Act reads as below:

“24. Exposure and abandonment of senior citizen.—Whoever, having the care or protection of senior citizen leaves, such senior citizen in any place with the intention of wholly abandoning such senior citizen, shall be punishable with imprisonment of either description for a term which may extend to three months or fine which may extend to five thousands rupees or with both.”

7. It is evident that the offence arises when a senior citizen or a parent is abandoned wholly by a person who is bound to take care of the senior citizen/parent. The complaint filed by the defacto complainant



CrI.M.C. No.1262/24

-:4:-

indicates that the petitioner had arranged a taxi for the parent to travel from Ernakulam to Thiruvananthapuram to reach the daughter's house of the senior citizen. The very fact that a taxi was arranged to transport the senior citizen/parent to his daughter's house indicates that there was no abandonment as contemplated by law.

8. The term 'abandoning' requires total neglect. The said term when prefixed by the word 'wholly' indicates absolute and complete abandonment. The word 'wholly' is explained in P Ramanatha Aiyer's Law Lexicon 4th Edition as "entirely, completely, fully, totally and in every respect". Thus unless there is a total and complete abandonment of the parent by leaving him in a place without any arrangement for taking care of the senior citizen, the offence cannot be said to have been committed. The transportation of a parent between the children could be for various purposes and even based on an understanding arrived at either between the children or between the parent and the child.

9. Apart from the above, the complaint in the instant case did not emanate from the parent. On the other hand, the complaint was filed by the daughter of the senior citizen, that too, after three months.

10. Taking into consideration the aforesaid aspects, this Court is of the view that the prosecution of the petitioner for the offence under section 20(3) of the Act is an abuse of the process of the court.

Accordingly, all proceedings against the petitioner in C.C. No.1504



CrI.M.C. No.1262/24

-:5:-

of 2017 on the files of Judicial First Class Magistrate's Court-IX, Ernakulam arising out of Crime No.299 of 2017 of Palarivattom Police Station, Ernakulam, are hereby quashed.

CrI.M.C is allowed as above .

Sd/-

**BECHU KURIAN THOMAS
JUDGE**

vps



CrI.M.C. No.1262/24

-:6:-

APPENDIX

PETITIONER ANNEXURES

Annexure A1 THE COPY OF THE FINAL REPORT IN
C.C.NO.1504/2017 IN THE FILES OF
JUDICIAL FIRST CLASS MAGISTRATE COURT
NO.9, ERNAKULAM,