

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE,  
WADAKKANCHERY**

Present: Naseeb. A. Abdul Razak  
Judicial First Class Magistrate, Wadakkanchery

**Dated this, the 22<sup>nd</sup> Day of August, 2025**

**CMP 2714/25 in C.C. 1269/2016**

Petitioner/Accused : Babu Joseph, aged 50 years, S/o Joseph,  
Muthiraparambil House, Peruva,  
Piravam, Vaikom Taluk, Kottayam.  
  
(Repd. by Adv. M.A. Swalih)

Complainant : State: Repd.by the Sub Inspector,  
Wadakkanchery in Cr. No. 767/2015.  
  
(Repd.by APP, Wadakkanchery)

Offence : u/s. 420 IPC.

This petition, filed u/s.239 of Cr.P.C, by Adv. M.A. Swalih, counsel for the sole accused, having heard on 21.08.2025, the court has passed the following:-

**ORDER**

1. The averments in this petition are that the entire prosecution allegations, even if taken into consideration, will not make any offence against the accused. Because the final report itself reveals that the petitioner had arranged a valid job visa and genuine employment opportunity for CW2 in U K. He facilitated the entire process, including the issuance of certificate of sponsorship, enabling CW2 to enter U.K on lawful visa. Upon arrival in U.K, CW2 joined Marx Ayurveda World Ltd., and was gainfully employed for several months. Hence, this petition.

2. The prosecution allegation is that the accused induced the son of defacto

complainant at U.K promising him job of Ayurveda Technician with higher remuneration and thereby induced his son to pay total amount of Rs. 15,84,400/-. But, he did not pay the assured salary and allowances to CW2 and thereby committed the offence of cheating.

3. Heard both sides and perused the prosecution records.

4. Earlier the petitioner had filed a similar application mainly raising objection regarding lack of jurisdiction and sanction for taking cognizance by this court. The said petition was dismissed by this court. Against the said order, the petitioner had approached the Hon'ble High Court with a revision petition as CRL.REV.PET NO.767 of 2025. By the order in the said revision petition, the Hon'ble High Court has permitted the petitioner to file a fresh discharge petition with liberty to raise the contentions raised in the said revision petition.

5. The learned counsel for the petitioner would submit that since the prosecution case itself shows that the assured job was secured by CW2 and he was given accommodation also, there is no offence of cheating made out. But it has come out during arguments and from the records of the case that the accused herein was the Managing partner of the institution in which the job was assured. There is nothing to show that CW2 was paid the salary and emoluments as assured as per the prosecution case. The learned counsel for the petitioner/accused would submit that in the absence of any contract to the quantum of salary etc., it cannot be said that there was any cheating done by the accused. Reliance was placed on the decision in **The State of Arunachal Pradesh vs Kamal Agarwal and Others Etc. (Criminal appeal arising out of SLP (Crl.) Nos.8663-8665 of 2023) decided on 18.04.2024.**

6. It is to be noted that the decision relied upon by the accused was upon a

case in which there was a property transaction wherein the amount was allegedly advanced and the property was not conveyed. In the present case, the accused who was the Managing partner of the institution in which CW2 was assured job was not paid salary and emoluments for years. Therefore, in my considered view, the facts of the case considered in the cited decision and those in the present case are entirely different. Therefore, it cannot be readily said that the accused had no intention to cheat CW2 when he induced him to pay the amount as alleged in this case. Therefore, I am of the considered view there are prima facie materials in the allegation to put frame a charge against the accused. Whether the allegations are true or not is a matter of evidence to be considered at the time of trial. Therefore, I am of the considered view that there is prima facie material to put the accused on trial. Hence, I am of the considered view that the grounds raised in this petition are not tenable and this petition is thus, liable to be dismissed.

7. **In the result**, this petition is dismissed.

*(Dictated to the Confidential Assistant, transcribed by her, corrected and pronounced by me in open Court on this the 22<sup>nd</sup> Day of August, 2025)*

Sd/-  
Judicial First Class Magistrate,  
Wadakkanchery

Judicial First Class Magistrate,  
Wadakkanchery

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