

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.D.RAJAN

THURSDAY, THE 30TH DAY OF JULY 2015/8TH SRAVANA, 1937

CRL.A.No. 905 of 2009 ()

AGAINST THE JUDGMENT IN Cr1.L.P. 870/2008 of HIGH COURT OF KERALA
DATED 17-03-2009

AGAINST THE ORDER/JUDGMENT IN CC 570/2002 of J.M.F.C.-I, THRISSUR
DATED 21-03-2005

APPELLANT/COMPLAINANT:

SHAJI.K.T.
M/S. L.G. SHOPPE, POTTEKKAT BUILDINGS
VADAKKE BUS STAND, THRISSUR - 20.

BY ADV. SMT.A.A.SHIBI (LEGAL AID)

RESPONDENT(S)/ACCUSED AND STATE:

1. SUVARNATHARA (ITSCS) AND OTHERS
NO.R. 339, REPRESENTED BY ITS, SECRETARY
JANCY, THIRUVANKULAM, IRANIKULAM.P.O
THRISSUR DISTRICT.

2. JANCY, SUVARNATHARA (ITSCS),
THIRUVANKULAM, IRANIKULAM.P.O, THRISSUR DISTRICT.

3. MOHANAN, PRESIDENT,
SUVARNATHARA (ITSCS), THIRUVANKULAM, IRANIKULAM.P.O
THRISSUR DISTRICT.

4. THE STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM
KOCHI -31.

R,R3 BY ADV. SRI.KKM.SHERIF
R,R3 BY ADV. SRI.LAL K.JOSEPH
R,R3 BY ADV. SRI.A.A.ZIYAD RAHMAN
R,R3 BY ADV. SMT.SHEENA SAMUEL
R,R3 BY ADV. SRI.V.R.REKESH
BY PP SMT SAREENA GEORGE

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 30-07-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.D.RAJAN, J

.....
Crl. A.No.905 of 2009

.....
Dated 30th July, 2015

JUDGMENT

This appeal is preferred against the judgment in C.C.No.570 of 2002 of Judicial First Class Magistrate-I, Thrissur against the acquittal of the accused under Section 256(1) Cr.P.C. On 31.5.2002, the complaint was filed and the case was posted for several times. On 21.3.2005, the case was posted for appearance of the accused. The complainant not being present either in person or through pleader, the trial court acquitted the accused under Section 256(1) Cr.P.C. Hence the defacto complainant approached this court. Leave was granted on 17.3.2009. After that, this court directed to give notice to the respondents. No steps were taken against the respondents even after repeated directions. Finally, there was no representation for the appellant and learned counsel was also absent. In the circumstance on 14.7.2015, Adv.A.A.Shibi was appointed to provide legal aid to the appellant for disposing the matter.

2. Heard the learned counsel. Learned counsel submitted that the principles of natural justice has to be considered while disposing the petition under Section 256(1) Cr.P.C. The records show that there was laches from the side of the appellant in prosecuting the matter. Here also several opportunities were given to the appellant to prosecute the matter, but there was no response. In such

circumstances, considering the facts and conduct of the appellant, I dispose of the matter in view of the decision of the Supreme Court in **Khaili V. State of UP** (1982 SCC CrI.143). Since the appellant is not interested in prosecuting the matter, this appeal is dismissed for non prosecution.

P.D.RAJAN, JUDGE

lgk