

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 6TH DAY OF JANUARY 2015/16TH POUSHA, 19361

Crl.MC.No. 9 of 2015 ()

CC 1587/2013 of JUDICIAL FIRST CLASS MAGISTRATE COURT-I,HOSDRUG

PETITIONER/ACCUSED:

**P.SHAMSUDEEN, AGED 34 YEARS,
S/O.ABOOBACKER, BAVA NAGAR, NEW BAVAKKAPPALLI
KANHANGAD VILLAGE, KASARAGOD DISTRICT.**

BY ADV. SRI.K.P.HARISH

RESPONDENTS/STATE & DEFACTO COMPLAINANT(CW1 INJURED):

- 1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.**
- 2. C.P.MAHAMOOD, AGED 26 YEARS,
S/O.BAPPUNHI, R/S.PAZHAYAKADAPPURAM, P.O.,
KANHANGAD, KANHANGAD VILLAGE, HOSDURG TALUK,
KASARAGOD DISTRICT - 671 315.**

**R1 BY PUBLIC PROSECUTOR SMT.P.MAYA
R2 BY ADV. KUM.K.SASIKALA**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 06-01-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- ANNEXURE-A1:** THE TRUE COPY OF FIR DATED 16.10.2005 IN CRIME \ NO.631 OF 2005 OF HOSDURG POLICE.
- ANNEXURE-A2:** TRUE COPY OF THE CHARGE SHEET DATED 16.10.2005 IN CRIME NO.631 OF 2005 FILED BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT-I, HOSDURG.
- ANNEXURE-A3:** THE TRUE COPY OF THE JUDGMENT DATED 13.5.2008 IN CC NO.161/2006 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT - I, HOSDURG.
- ANNEXURE-A4:** THE TRUE COPY OF THE JUDGMENT DATED 24.1.2011 IN C.C.NO.612/2008.
- ANNEXURE-A5:** THE TRUE COPY OF THE JUDGMENT IN CRL.M.C. NO.369 OF 2013 DATED 8.2.2013 OF THIS HON'BLE COURT.
- ANNEXURE-A6:** THE TRUE COPY OF THE ORDER DATED 13.6.2013 IN CC NO.67/2011 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT - I, HOSDURG.
- ANNEXURE-A7:** TRUE COPY OF THE AFFIDAVIT SIGNED BEFORE AN ADVOCATE NOTARY.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.S. TO JUDGE

bp

P.UBAID, J.

Crl.M.C..No. 9 OF 2015

Dated this the 6th day of January, 2015

O R D E R

The petitioner herein is the original second accused in C.C. No.161/2006 of the Judicial First Class Magistrate Court-I, Hosdurg. Of the ten accused in the case, seven faced trial in C.C. No.161/2006 and obtained a judgment of acquittal when the prosecution failed to procure the presence of the material witnesses during trial. The case against the original accused Nos.2,4 & 5 was split up and refiled as C.C. No.612/2008. Later, the original accused No.5 also got acquittal in C.C. No.612/2008 on 24/1/2011 when the material witness did not support the prosecution. The case against the original accused Nos. 2 & 4 was again split up and refiled. Later, the case against the original 4th accused was quashed by this Court as per the order dated 8/2/2013 in Crl.M.C. No.369/2013. Now, the case against the petitioner is pending as C.C. No.1587/2013. He also seeks orders quashing the prosecution on the ground that he and the de facto complainant have come to terms amicably out of Court. The de facto

complainant C.P.Mahamood is the 2nd respondent in this proceeding. He has filed affidavit to the effect that he has settled the whole dispute with the accused, and he has no grievance or complaint. The offence involved in this case are under Sections 143,147,148 & 324 read with Section 149 of IPC. Since composition is not possible, orders are sought under Section 482 of the Code of Criminal Procedure. All the other accused in the crime stand acquitted. In such a situation, continuance of the prosecution, as against the petitioner herein, will not serve any purpose other than wasting the precious time of the court. Nobody will support the prosecution if the case goes to trial.

In the result, the Crl.M.C. is allowed. The prosecution against the petitioner in C.C. No.1587/2013 of the Judicial First Class Magistrate Court-I, Hosdurg, will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioner will stand released from the prosecution, and the bail bond, if any, executed by him will stand discharged.

Sd/-

P.UBAID, Judge.

PS to Judge.

dpk

/True copy/

