

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 8TH DAY OF JANUARY 2015/18TH POUSHA, 1936

Crl.MC.No. 93 of 2015 ()

**SC 281/2005 NOW PENDING AS L.P.R.NO.64/2008 of ADDITIONAL SESSIONS COURT
(ADHOC)-II, THRISSUR
CRIME NO. 391/2004 OF VALAPPAD POLICE STATION, THRISSUR DISTRICT
=====**

PETITIONER/5TH ACCUSED:

**SANEESH, AGED 30 YEARS
S/O. NARENDRAN, VADAYERI HOUSE
ENGANDIYOOR VILLAGE
VADANAPALLY, THRISSUR DISTRICT.**

BY ADV. SRI.A.HAROON RASHEED

RESPONDENTS/STATE & COMPLAINANT:

- 1. STATE OF KERALA
REPRESENTED BY THE SUB INSPECTOR OF POLICE
VALAPPAD POLICE STATION, THRISSUR DISTRICT
THROUGH THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM.**
- 2. SABEESH, AGED 34 YEARS
S/O. SHANMUGHAN, KAKKANATT HOUSE, ENGANDIYOOR VILLAGE
CHAVAKKAD, THRISSUR DISTRICT-680526.**
- 3. NIDHEESH MON, AGED 31 YEARS
S/O. MURALI, KARIPARAMBIL HOUSE, THALIKUAM VILLAGE
EDASSERI, THRISSUR DISTRICT-680527.**

**R2,R3 BY ADV. SRI.C.R.REKHESH SHARMA
R1 BY PUBLIC PROSECUTOR SMT. P.MAYA**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 08-01-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

- | | |
|--------------------|---|
| ANNEXURE-A1 | CERTIFIED COPY OF THE FINAL REPORT S.C.NO.281/2005 NOW REFILED AS L.P.R.NO.64/2008 ON THE FILE OF THE ADDITIONAL SESSIONS JUDGE, FAST TRAK COURT NO.II-(ADHOC), THRISSUR |
| ANNEXURE-A2 | CERTIFIED COPY OF THE JUDGMENT DATED 5.9.2009 |
| ANNEXURE-A3 | CERTIFIED COPY OF THE JUDGMENT DATED 4.5.2010 |
| ANNEXURE-A4 | COPY OF THE AFFIDAVIT REGARDING SETTLEMENT SIGNED BY THE 2ND RESPONDENT |
| ANNEXURE-A5 | COPY OF THE AFFIDAVIT REGARDING SETTLEMENT SIGNED BY THE 3RD RESPONDENT |

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY //

P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No. 93 of 2015

Dated this the 8th day of January, 2015

O R D E R

The petitioner herein is the original 5th accused in S.C.No.281/2005 of the Court of Session, Thrissur. The offences involved in the case are under Sections 143, 147, 148 and 324 IPC read with Section 149 IPC. The original accused Nos 1 to 4 faced trial before the learned Additional Sessions Court (Adhoc)-II, Thrissur in S.C.No.281/2005, and obtained a judgment of acquittal on 05.09.2009 when none of the material witnesses examined by the prosecution including the first informant supported the prosecution. The case against the accused Nos 5 and 6 was split up and refiled when they remained consistently absent. Thereafter, the original 6th accused faced trial in S.C.No. 1053/2009 before the same court, and he also obtained a judgment of acquittal on 04.05.2010, when all the material witnesses turned hostile. The case against the petitioner herein was again split up, and now it stands transferred to the register of long pending cases as L.P.No.64/2008. He now seeks orders

quashing the prosecution on the ground that the substratum of the prosecution case stands lost, and continuance of the prosecution against him will not serve any purpose. Annexure-A2 and A3 judgments will show that the others obtained judgment of acquittal when nobody supported the prosecution. All the material witnesses including the injured first informant turned hostile during trial. The defacto complainant, Sabeesh, who sustained injuries in the incident is the 2nd respondent herein, and the other person who sustained injuries is the 3rd respondent. They have filed affidavit to the effect that they have settled the whole dispute with the accused including the petitioner herein, and that they have no grievance or complaint. In fact, on a perusal of the records, I find that there is absolutely nothing to attract Section 308 IPC in this case. It appears that the said section was incorporated by the police on the basis of a purely hypothetical statement. Any way, the whole dispute stands settled, and the parties have come to terms. It is definite that in such a situation, continuance of prosecution against the petitioner will not serve any purpose, other than wasting the

precious time of the court, because nobody will support the prosecution, and the prosecution cannot, in any manner, improve the case, when the case against the petitioner goes to trial.

In the result, this Crl.M.C. is allowed. The prosecution against the petitioner in S.C.No.281/2005, now pending before the Additional Sessions Court (Adhoc)-II, Thrissur as L.P.R.No.64/2008, will stand quashed under Section 482 Cr.P.C.

Sd/-

P. UBAID, JUDGE

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