

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 14TH DAY OF JANUARY 2015/24TH POUSHA, 1936

Crl.MC.No. 97 of 2015 ()

AGAINST CC 1302/2013 of J.M.F.C.,VAIKOM
CRIME NO. 1360/2010 OF VAIKOM POLICE STATION , KOTTAYAM

PETITIONER/3RD ACCUSED:

MINI @ MINIMOL AGED 32 YEARS
W/O REJIMON, MANAPPALLITHURUTHEL HOUSE
VAIKAPRAYAR KAR, VADAKKEMURI VILLAGE, VAIKOM TALUK
KOTTAYAM DISTRICT.

BY ADVS.SRI.K.M.SATHYANATHA MENON
SMT.KAVERY S THAMPI

RESPONDENTS/COMPLAINANT & STATE:

1. THE SUB INSPECTOR O POLICE
VAIKOM POLICE STATION, VAIKOM, KOTTAYAM DISTRICT
PIN:686141.
2. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-682031.

R BY PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
14-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 97 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A: TRUE COPY OF THE FIRST INFORMATION REPORT IN CRIME NO.1360 OF 2010 OF VAIKOM POLICE STATION.

ANNEXURE B: TRUE COPY OF THE FINAL REPORT IN CRIME NO.1360 OF 2010 OF VAIKOM POLICE STATION.

ANNEXURE C: CERTIFIED COPY OF THE JUDGMENT DATED 30.11.2013 IN C.C.540 OF 2011 OF THE COURT OF THE JUDICIAL MAGISTRATE OF THE IST CLASS-I, VAIKOM.

RESPONDENT(S)' EXHIBITS

/TRUE COPY/

P.S TO JUDGE

P.UBAID, J.

~~~~~

**Crl.M.C No.97 of 2015**

~~~~~

Dated this the 14th January, 2015

ORDER

The petitioner herein is the original 3rd accused in C.C No.540 of 2011 of the Judicial First Class Magistrate Court-I, Vaikom. The accused Nos.1 and 2 faced trial before the learned Magistrate in C.C No.540 of 2011 and obtained a judgment of acquittal on 30.11.2013. The case against the petitioner herein was split up and refiled as C.C No.1302 of 2013. Now the petitioner seeks orders quashing the prosecution against her on the ground that the very substratum of the prosecution is totally lost by the acquittal of the others on merits, and that continuance of prosecution in such a situation will not serve any purpose. Annexure – C judgment in C.C No.540 of 2011 shows that the prosecution examined two witnesses in the said case including the complainant Sarada, but the trial court on appreciation of evidence found that the said evidence is not satisfactory at all and that it cannot be acted upon in the absence of independent corroboration. PW2 examined by the

prosecution did not support PW1. As regards the inordinate delay of 11 months in making the complaint, the learned Magistrate found that the prosecution does not have any explanation and that the whole case is suspicious. Finding that the evidence given by PW1, the complainant, cannot be believed in the absence of corroborating evidence, the learned Magistrate acquitted the accused Nos.1 and 2. On a perusal of the Annexure-C judgment, I find that the prosecution cannot in fact improve the case as against the petitioner herein, if it goes to trial, and the de facto complainant Sarada also cannot say anything more than what she stated during trial in C.C No.540 of 2011. Thus, I find that the very substratum of the prosecution case stands totally lost by the acquittal of the others on merits on the finding that there is no incriminating evidence or circumstance against the accused. I find that continuance of prosecution as against the petitioner herein in such a situation will not serve any purpose other than wasting the precious time of the court. The State has not admittedly preferred appeal against the judgment of acquittal in C.C

No.540 of 2011.

In the result, this petition is allowed. The prosecution against the petitioner in C.C No.1302 of 2013 of the Judicial First Class Magistrate Court-I, Vaikom will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioner will stand released from prosecution, and the bail bond, if any, executed by her will stand discharged.

**Sd/-
P.UBAID
JUDGE**

ma

/True copy/

P.S to Judge