

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 9TH DAY OF JANUARY 2015/19TH POUSHA, 1936

Cr1.MC.No. 118 of 2015

IN CC 2901/2013 of JUDICIAL FIRST CLASS MAGISTRATE COURT I,
TIRUR

CRIME NO. 142/2010 OF VALANCHERY POLICE STATION , MALAPPURAM

PETITIONERS/ACCUSED 2, 6 & 7:

1. HAIDER, AGED 25 YEARS,
S/O.MUHAMMED, KUTTOORTHODI HOUSE, ATHAVANAAD POST,
MALAPPURAM DISTRICT.
2. SHAHUL HAMEED, AGED 28 YEARS,
S/O.ABU, KAYALMADATHIL HOUSE, ATHAVANAD POST,
MALAPPURAM DISTRICT.
3. GAFOOR, AGED 27 YEARS,
S/O.MUHAMMED, KAYALMADATHIL HOUSE, ATHAVANAD POST,
MALAPPURAM DISTRICT.

BY ADV. SRI.C.M.MOHAMMED IQUABAL

RESPONDENTS/STATE & INJURED:

1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
2. MOIDEENKUTTY, AGED 57 YEARS,
S/O.ABU HAJI, KIZHAKKEPATTU HOUSE, POST ATHAVANAD,
MALAPPURAM DISTRICT, PIN - 676 301.
3. MUHAMMED, AGED 52 YEARS,
S/O.MARAKAR HAJI, KIZHAKKEPATTU HOUSE, POST ATHAVANAD,
MALAPPURAM DISTRICT, PIN - 676 301.
4. MOIDEEN HAJI, AGED 60 YEARS,
S/O.MARAKAR HAJI, KIZHAKKEPATTU HOUSE, POST ATHAVANAD,
MALAPPURAM DISTRICT, PIN - 676 301.
5. KADEEJA, AGED 44 YEARS,
W/O.MOHAMMED, KIZHAKKEPATTU HOUSE, POST ATHAVANAD,
MALAPPURAM DISTRICT, PIN - 676 301.

R1 BY PUBLIC PROSECUTOR SMT.S.HYMA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 09-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 118 of 2015

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE A1:- COPY OF THE FIR IN CRIME NO.142/2010 OF VALANCHERRY
POLICE STATION DATED 10.04.2010.

ANNEXURE A2:- COPY OF THE STATEMENT OF THE DEFACTO COMPLAINT IN
CRIME NO.142/2010 OF VALANCHERRY POLICE STATION DATED 10.04.2010.

ANNEXURE A3:- COPY OF THE FINAL REPORT IN CRIME NO.142/2010 OF
VALANCHERRY POLICE STATION DATED 08.05.2010.

ANNEXURE A4:- COPY OF THE MEMORANDUM OF EVIDENCE IN CRIME
NO.142/2010 OF VALANCHERRY POLICE STATION DATED 08.05.2010.

ANNEXURE A5:- COPY OF THE JUDGMENT IN C.C.NO.291/2010 OF JFCM
COURT TIRUR DATED 30.09.2013.

ANNEXURE A6:- COPY OF THE EVIDENCE OF CW 1 IN C.C.291/10 OF JFCM
COURT TIRUR DATED 23.09.2013.

ANNEXURE A7:- COPY OF THE EVIDENCE IN CW 1 IN C.C.291/10 JFCM
COURT TIRUR DATED 23.09.2013.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.118 of 2015

Dated this the 9th day of January, 2015

O R D E R

The petitioners herein are the original accused Nos.2, 6 and 7 in C.C No.2901/2013 of the Judicial First Class Magistrate Court I, Tirur. The offences involved in the case are under Sections 143, 147, 148, 323 and 324 r/w 149 of the Indian Penal Code. The other six accused in the case faced trial before the learned Magistrate and obtained a judgment of acquittal on 30.9.2013 when all the material witnesses, including the first informant turned hostile in view of an amicable settlement made by the parties out of court. The case against these petitioners was split up and refiled as C.C No.2901/2013 when they consistently remained absent during trial. Now they seek orders quashing the prosecution on the ground that continuance of prosecution against them will not serve any purpose. Annexure A5 judgment in C.C No.291/2010 shows that the prosecution examined five witnesses in the said case including the first informant, but none of them supported the prosecution. The judgment also shows that they turned hostile in view of an

amicable settlement made out of court. I find that in the above situation, where the material witnesses will not in any manner support the prosecution, if the case against the petitioners goes to trial, continuance of prosecution against them will be a sheer waste of time. The parties have really come to terms amicably, and now they are on quite cordial terms.

In the result, this Criminal Miscellaneous Case is allowed. The prosecution against the petitioners herein in C.C No.2901/2013 before the Judicial First Class Magistrate Court I, Tirur, will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioners will stand released from prosecution, and the bail bond, if any, executed by them will stand discharged.

**P.UBAID
JUDGE**

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