

**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**

**Crl.MC.No. 137 of 2015 ()**

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**SC 413/2014 of ASSISTANT SESSIONS COURT, TIRUR**  
**SC 153/2006 of ADDITIONAL SESSIONS COURT FAST TRACK COURT-III (ADHOC),**  
**MANJERI**  
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**PETITIONER/ACCUSED:**

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**ASHARAF**  
**S/O. HAMZA, HAJIYARAKATH HOUSE, THEVARKADAPURAM**  
**UNNIYAL, MALAPPURAM DISTRICT.**

**BY ADVS.SRI.BABU S. NAIR**  
**SRI.K.RAKESH**

**RESPONDENT/STATE :**

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**STATE OF KERALA**  
**REPRESENTED BY THE PUBLIC PROSECUTOR**  
**HIGH COURT OF KERALA, ERNAKULAM, KOCHI-682031.**

**BY PUBLIC PROSECUTOR SMT. P. MAYA**

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

**APPENDIX**

**PETITIONER'S EXHIBITS**  
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**ANX.A.            TRUE COPY OF THE FINAL REPORT/CHARGE IN CRIME NO. 278/2004  
                     OF THE TANUR POLICE STATION.**

**ANX.B.            TRUE COPY OF THE JUDGMENT IN S.C. NO. 153/2006 OF ADDL.  
                     SESSIONS JUDGE(FAST TRACK) NO.III DATEDD 23-1-2008.**

**RESPONDENT'S EXHIBITS**  
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**NIL**

**// TRUE COPY //      P.A. TO JUDGE**

**SD**

P. UBAID, J.

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Crl.M.C. No. 137 of 2015  
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Dated this the 9<sup>th</sup> day of January, 2015

O R D E R

The petitioner herein is the original 3<sup>rd</sup> accused in crime No. 278/04 of the Tanur Police Station registered under Sections 323, 324 and 308 IPC. The said crime was registered on the complaint of one Razak. The accused Nos. 1 and 2 faced trial before the learned Additional Sessions Judge Fast Track Court No.III (Adhoc), Manjeri, in S.C.No. 153/2006, and obtained a judgment of acquittal on 23.01.2008 under Section 232 Cr.P.C., when all the material witnesses turned hostile during trial. The case against the petitioner herein was split up and refiled when he consistently remained absent during the process. It is now pending as S.C.No.413/2014 before the learned Assistant Sessions Judge, Tirur. The petitioner now seeks orders quashing the prosecution, on the ground that in the above circumstances of acquittal of the others in view of an amicable settlement, continuance of prosecution as against him will not serve any purpose. Annexure-B judgment of the trial court in

S.C.No.153/06 shows that in the said case where the accused Nos. 1 and 2 faced trial, the prosecution examined five witnesses including the first informant, Razak, and marked Ext.P1. None of the material witnesses supported the prosecution. The judgment also shows that all the witnesses turned hostile in view of an amicable settlement made between the parties out of court. In such a situation where there is no possibility of any of the witnesses supporting the prosecution, and the prosecution cannot in any manner improve the case when case goes to trial, continuance of prosecution will be a sheer waste of time.

In the result, this Crl.M.C. is allowed. The prosecution against the petitioner in S.C.No.413/14 before the learned Assistant Sessions Judge, Tirur, will stand quashed under Section 482 Cr.P.C. Accordingly, the petitioner will stand released from prosecution. The bail bond, if any, executed by him will stand discharged.

Sd/-

P. UBAID, JUDGE

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