

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 13TH DAY OF JANUARY 2015/23RD POUSHA, 1936

Cr1.MC.No. 174 of 2015

IN CC 233/2010 OF THE CHIEF JUDICIAL MAGISTRATE COURT, ALAPPUZHA

CRIME NO. 404/2009 OF ALAPPUZHA NORTH POLICE STATION, ALAPPUZHA

PETITIONERS/ACCUSED 2 TO 6:

1. SYAM, AGED 27 YEARS,
S/O.SURESH, KANDATHIL VEEDU, SOUTH ARYAD,
ALAPPUZHA.
2. WILLIAMS,
S/O.THANKACHAN @ PHILIPPOSE,
CHARAMBARAMBIL PADINJAREKKARA VEEDU, WARD NO.16,
ARYADU PANCHAYATH, ALAPPUZHA DISTRICT.

BY ADV. SRI.A.D.SHAJAN

RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.
2. SUB INSPECTOR OF POLICE,
NORTH POLICE STATION, ALAPPUZHA.

BY SR. PUBLIC PROSECUTOR SMT.SAREENA GEORGE.P

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 13-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 174 of 2015

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE-1. COPY OF THE DISCHARGE SHEET DATED 10/12/2010 IN (FIR NO.404/2009), BEFORE THE CHIEF JUDICIAL MAGISTATE COURT, ALAPPUZHA.

ANNEXURE-II. COPY OF THE JUDGMENT DATED 4/9/2014 IN CC NO.233/2010 CASE AGAINST A2 AND A6 IS REFILED AS CC 161/2014 OF THE CHIEF JUDICIAL MAGISTATE COURT, ALAPPUZHA.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.174 of 2015

Dated this the 13th day of January, 2015

O R D E R

The petitioners herein are the original accused Nos.2 to 6 in C.C No.233/2010 before the Chief Judicial Magistrate Court, Alappuzha. The offences involved in the crime are under Sections 143, 147, 148, 149, 452, 323, 294(b) and 427 r/w Section 149 of the Indian Penal Code. The other six accused faced trial before the learned Magistrate in C.C No.233/2010 and obtained a judgment of acquittal on 4.9.2014 when all the material witnesses including the first informant turned hostile to the prosecution. The case against the petitioners was split up and refiled as C.C No.161/2014. They now seek orders quashing the prosecution as against them on the ground that in the circumstances of amicable settlement and also acquittal of the other accused in view of settlement, continuance of the prosecution will not serve any purpose. Annexure II judgment in C.C No.233/2010 shows that the prosecution examined two material witnesses and marked Ext.P1 during trial. These two witnesses did not in any manner support the prosecution. In

such a situation, the learned Assistant Public Prosecutor did not examine the remaining witnesses and the learned Magistrate closed the prosecution. The judgment also shows that the material witnesses turned hostile in view of an amicable settlement made by the parties out of court. I am well satisfied that in the above circumstance continuance of the prosecution as against the petitioners will not serve any purpose other than wasting the precious time of the court. There is reason to believe that the parties have really come to terms amicably out of court and it is definite that nobody will support the prosecution if the case against the petitioners goes to trial.

In the result, this Criminal Miscellaneous Case is allowed. The prosecution against the petitioners herein in C.C No.233/2010 before the Chief Judicial Magistrate Court, Alappuzha 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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