

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

Crl.MC.No. 183 of 2015 ()

**IN CC 188/2014 of J.M.F.C.-V,KOZHIKODE
CRIME NO. 194/2011 OF BEYPORE POLICE STATION , KOZHIKODE**

PETITIONER(S)/PETITIONER/2ND ACCUSED:

**HAMMED AGED 36 YEARS
S/O ALI, OLASSERY NARAKKAT HOUSE, NADUVATTOM
NORTH BEYPORE, KOZHIKODE DISTRICT.**

BY ADV. SRI.P.DEEPAK

RESPONDENT(S)/RESPONDENTS/COMPLAINANT AND STATE:

- 1. STATE OF KERALA
THROUGH THE STATION HOUYSE OFFICER
BEYPORE POLICE STATION, BEYPORE, KOZHIKODE
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.**
- 2. K.P.SALEEM
S/O K.P.MAMMU, KALLIYATTU PARAMBU HOUSE
PUTHALATH PARAMBA, THAVALAKULAM, BEYPORE VILLAGE
KOZHIKODE-673015.**

R1 BY PUBLIC PROSECUTOR SMT. P. MAYA

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

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A: A TRUE COPY OF THE FIRST INFORMATION REPORT IN CRIME NO:194 OF 2011 OF BEYPORE POLICE STATION.

ANNEXURE B: A TRUE COPY OF THE FINAL REPORT FILED IN CRIME NO:194 OF 2011 OF BEYPORE POLICE STATION.

ANNEXURE C: CERTIFIED COPY OF THE JUDGMENT DATED 28.1.2014 IN C.C.NO.576 OF 2011 ON THE FILES OF THE JFCM-V, KOZHIKODE.

ANNEXURE D: CERTIFIED COPY OF THE DEPOSITION OF PW1 (2ND RESPONDENT HEREIN) IN C.C.NO:576 OF 2011 ON THE FILES OF THE JFCM-V, KOZHIKODE.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

PA TO JUDGE
sab

P.UBAID, J.

Crl. M.C No. 183 of 2015

Dated this the 13th day of January, 2015.

ORDER

The petitioner herein is the original second accused in C.C No.576/11 of the Judicial First Class Magistrate Court-V, Kozhikode. The offences involved in the case are under Sections 323 and 324 IPC. The said crime was registered on the complaint of one Saleem. The other three accused in the case faced trial before the learned Magistrate in C.C No.576/2011, and obtained a judgment of acquittal on 28.1.2014, when the de facto complainant turned hostile to the prosecution during trial, in view of an amicable settlement made by the parties out of court. The case against the petitioner herein was split up and refiled as C.C 188/2014. He now seeks orders quashing the prosecution on the ground that continuance of proceeding against him in the above circumstance will not serve any purpose. The Annexure C Judgment in C.C No.576/2011 shows that, when examined as the material witness in the said case, the de facto complainant Saleem did not in any manner support the prosecution. He fully turned hostile in view of an amicable settlement made out of court. Definite it is that

continuance of prosecution against the petitioner herein in the above circumstance will not serve any purpose, because the prosecution cannot in any manner improve the case as against him, if the case goes to trial. Practically, such continuance will be a sheer waste of time.

In the result, this petition is allowed. The prosecution against the petitioner in C.C No.188/2014 of the Judicial First Class Magistrate -V, Kozhikode will stand quashed under Section 482 Cr.P.C. Accordingly, the petitioner will stand released from prosecution and the bail bond, if any, executed by him will stand discharged.

P.UBAID,
JUDGE