

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. 227 of 2015 ()

**SC 41/2011 of ADDITIONAL DISTRICT COURT (ADHOC), KOTTAYAM
CP 7/2010 of JUDICIAL FIRST CLASS MAGISTRATE COURT-II, KANJIRAPPALLY
CRIME NO. 229/2009 OF PONKUNNAM POLICE STATION , KOTTAYAM DISTRICT
=====**

PETITIONER/FIRST ACCUSED:

**AKHIL, AGED 23 YEARS
S/O.SUKUMARAN, THALAVALA HOUSE, OTHERAMURI
ERAVIPEEROOR VILLAGE, PATHANAMTHITTA DISTRICT.**

BY ADV. SRI.K.N.RADHAKRISHNAN(THIRUVALLA)

RESPONDENT/STATE/COMPLAINANT:

**STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT. P. MAYA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 14-01-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 227 of 2015 ()

APPENDIX

PETITIONER'S EXHIBITS

**ANNEXURE 1: CERTIFIED COPY CHARGE IN CRIME NO.229/2009 OF PONKUNNAM
POLICE STATION.**

**ANNEXURE 2: CERTIFIED COPY OF THE JUDGMENT IN SC.41/2011 OF ADDITIONAL
SESSIONS COURT DATED 03-01-2012.**

**ANNEXURE 3: CERTIFIED COPY OF THE JUDGMENT IN SC 370/2011 OF ADDITIONAL
SESSIONS COURT DATED 22-01-2013.**

RESPONDENT'S EXHIBITS

NIL

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

SD

P. UBAID, J.

Crl.M.C.No. 227 of 2015

Dated this the 14^h day of January, 2015

O R D E R

The petitioner herein is the original 1st accused in Crime No.229/09 of the Ponkunnam Police Station, involving the offences under Sections 323, 324, 341, 452 and 308 read with 34 IPC. Out of the four accused in the crime, the original 2nd accused faced trial before the learned Additional Sessions Judge, Kottayam in S.C.No.41/2011, and obtained a judgment of acquittal on 03.01.2012, when the material witnesses turned hostile during trial in view of an amicable settlement made by the parties. Thereafter, the original accused Nos.3 and 4 faced trial before the learned trial Judge in S.C.No.370/2011 as a split up case, and they also obtained a judgment of acquittal on 22.06.2013 under Section 232 Cr.P.C. when nobody supported the prosecution. The case against the petitioner herein was split up, and it is now pending before the learned Judicial First Class Magistrate Court-II, Kanjirappally in the committal stage as C.P.No.52/2010. He now seeks orders quashing the prosecution

as against him, on the ground that continuance of the prosecution in the above situation will not serve any purpose, when the whole dispute stands amicably settled. Annexure-3 judgment of acquittal by which the others obtained a judgment of acquittal would show that none of the material witnesses examined by the prosecution during trial supported the prosecution, in any manner, and that the trial court acquitted the others in the absence of any incriminating material or evidence. This judgment will also show that the material witnesses turned hostile during trial in view of an amicable settlement made by the parties out of court. In such a situation, I find that continuance of the prosecution as against the petitioner herein will not serve any purpose. No doubt, the prosecution cannot, in any manner, improve the case, and the witnesses also cannot help the prosecution, if the case goes to trial. Practically, continuance of the prosecution will not serve any purpose, other than wasting the precious time of the court.

In the result, this Crl.M.C. is allowed. The prosecution against the petitioner herein, now pending in committal

proceeding before the learned Judicial First Class Magistrate Court-II, Kanjirappally in C.P.No.52/2010, 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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