

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

Crl.MC.No. 251 of 2015 ()

**IN CC 618/2003 of JUDICIAL FIRST CLASS MAGISTRATE COURT,CHAVAKKAD
CRIME NO. 412/2002 OF GURUVAYOOR POLICE STATION , TRISSUR**

PETITIONER(S)/ACCUSED:

**PRADEEP
S/O.BALAKRISHNAN, THARAYIL VEETIL, PERAKAM DESOM
POOKKODE VILLAGE, CHAVAKKAD TALUK, THRISSUR DISTRICT.**

**BY ADVS.SRI.RAJIT
SRI.V.V.JOY**

RESPONDENT(S)/STATE:

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

R BY PUBLIC PROSECUTOR SMT. P. MAYA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 15-01-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 251 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNX A- TRUE COPY OF THE FINAL REPORT IN CRIME NO.412/2002 FILED BY THE GURUVAYUR POLICE BEFORE THE LEARNED JUDICIAL FIRST CLASS MAGISTRATE COURT, CHAVAKKAD

ANNX B- TRUE COPY OF THE JUDGMENT DATED 25.11.2005 IN C.C.618/2003 OF THE LEARNED JFCM, CHAVAKKAD

ANNX C- TRUE COPY OF THE JUDGMENT DATED 24.01.2008 C.C. NO.1322/2005 OF THE LEARNED JFCM, CHAVAKKAD

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

PA TO JUDGE
sab

P.UBAID, J.

Crl. M.C No.251 of 2015

Dated this the 15th day of January, 2015.

O R D E R

The petitioner herein is the original accused No. six in C.C No. 618/2003 of the Judicial First Class Magistrate Court, Chavakkad. The offences involved in this case are under Sections 143, 147, 148, 323, 324, 326 r/w Section 149 of IPC. The original accused Nos. 1 to 4 and 7 faced trial before the trial court and obtained a judgment of acquittal under Section 248(1) Cr.P.C, when all the material witnesses including the de facto complainant turned hostile to the prosecution in view of an amicable settlement made by the parties out of court. The prosecution examined five witnesses in the said case including the de facto complainant (injured) and also marked Ext.P1. None of the material witnesses examined in the case supported the prosecution. In such a circumstance, examination of the others was dispensed with and evidenced was closed by the trial court. In the absence of any evidence or incriminating circumstance, the learned Magistrate acquitted the accused Nos.1 to 4 and 7. The case against the petitioner herein was split up and refiled as C.C No.1322/2005, and it is now pending as C.C No. 169/2013 before the Judicial First Class Magistrate Court,

Chavakkad. The petitioner now seeks orders quashing the prosecution as against him on the ground that the very substratum of the prosecution case is totally lost by the acquittal of the others, and continuance of prosecution against him will not serve any purpose. Annexure B judgment in C.C 618/2003 shows that all the material witnesses examined by the prosecution in the said case turned hostile in view of an amicable settlement made by the parties out of court. In such a situation, it is quite definite that the prosecution cannot in any manner improve the case, and the witnesses also cannot in any manner help the prosecution, if the case against the petitioner goes to trial. In short, such proceeding will be a sheer waste of time.

In the result, this petition is allowed. The prosecution against the petitioner in C.C No.169/2013 before the Judicial First Class Magistrate Court, Chavakkad, will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioner will stand released from prosecution, and the bail bond, if any, executed by him will stand discharged.

P.UBAID,
JUDGE