

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. 252 of 2015 ()

**IN CC 426/2011 of JUDICIAL FIRST CLASS MAGISTRATE COURT -I, MAVELIKKARA
CRIME NO. 45/2002 OF MAVELIKKARA POLICE STATION , ALAPPUZHA**

PETITIONER(S)/ACCUSED NO.1:

**RAJESH KUMAR AGED 42 YEARS
S/O.RADHAKRISHNAN NAIR, KOTTINATTU KIZHAKKETHIL
ACKANATTUKARA MURI, THEKKEKARA, ALLAPUZHA**

BY ADV. SRI.RAAJESH S.SUBRAHMANIAN

RESPONDENT(S)/STATE & DEFACTO COMPLAINANT:

- 1. THE STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, KOCHI, ERNAKULAM - 682 031**
 - 2. MADHUSUDHANAN PILLAI, , AGED 47 YEARS
S/O.DAMODARA KURUP, SANTHINIKETHAN, ACKANATTUKARA MURI
THAZHEKKARA, ALLAPUZHA - 690 102**
- R2 BY ADV. SRI.V.R.RAJESH
R1 BY PUBLIC PROSECUTOR SMT. S. HYMA**

**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. 252 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

**ANNX A1- CERTIFIED COPY OF THE FIR DATED 03.02.2002 IN CRIME NO.45 OF 2002
OF MAVELIKKARA POLICE STATION**

**ANNX A2- TRUE COPY OF THE FINAL REPORT DATED 03.04.2002 IN CRIME NO.45 OF
2002 OF MAVELIKKARA POLICE STATION**

**ANNX A3- TRUE COPY OF THE JUDGMENT DATED 29.08.2005 IN S.C.NO.183 OF 2005
OF THE ADDITIONAL SESSIONS JUDGE, FAST TRACK (ADHOC-I) ALLAPPUZHA**

**ANNX A4- TRUE COPY OF THE JUDGMENT DATED 21.02.2005 IN S.C.NO.428 OF 2003
OF THE ADDITIONAL SESSIONS JUDGE, FAST TRACK (ADHOC-1), ALLAPUZZHA**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

PA TO JUDGE
sab

P.UBAID, J.

Crl. M.C No. 252 of 2015

Dated this the 15th day of January, 2015.

O R D E R

The petitioner herein is the first accused in S.C No. 183/2005 of the Additional Sessions Court, Allappuzha. The offences involved in this case are under Sections 341 and 324 IPC. The accused Nos. 1 to 3 faced trial before the trial court and obtained a judgment of acquittal under Section 235(1) Cr.P.C, when all the material witnesses turned hostile to the prosecution in view of an amicable settlement made by the parties out of court. The prosecution examined 5 witnesses in the said case and also marked Exts.P1 to P7. 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 trial judge acquitted the accused Nos. 1 to 3. The case against the petitioner herein was split up and refiled before the committal of the case against the others. It was refiled as C.C No.426/2011, and it now stands transferred to the register of long pending cases as L.P No.11/2014. 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 the prosecution against him will not serve any purpose. Annexure 3 judgment in S.C. 183/2005, 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.426/2011 (L.P No.11/2014) before the Judicial First Class Magistrate Court – I, Mavelikkara 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