

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

CrI.MC.No. 276 of 2015 ()

**SC. NO.847/2011 OF ADDITIONAL SESSIONS COURT (ADHOC-I), THRISSUR.
CRIME NO. 380/2004 OF PUDUKKAD POLICE STATION.**
.....

PETITIONER/ACCUSED:

**MUHAMMED KOYA,
S/O.MARAKKAR MASTER, PATTANATH VEEDU,
PANDIKKADU DESOM VILLAGE, MALAPPURAM DISTRICT.**

**BY SRI.P.VIJAYA BHANU, SENIOR ADVOCATE.
ADVS. SRI.M.REVIKRISHNAN,
SRI.VIPIN NARAYAN.**

RESPONDENT/COMPLAINANT:

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

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:**

rs.

APPENDIX

PETITIONER'S ANNEXURES:-

- ANNEXURE A.** COPY OF THE FINAL REPORT IN CRIME NO.380/2004 OF PUTHUKKAD POLICE STATION, THRISSUR DISTRICT.
- ANNEXURE B.** COPY OF THE JUDGMENT OF ACQUITTAL IN SC NO.444 OF 2009 PASSED BY THE COURT OF THE ADDITIONAL SESSIONS JUDGE (ADHOC 1) THRISSUR DATED 27.09.2012.
- ANNEXURE C.** COPY OF THE DEPOSITION OF PW3 RECORDED IN SC. NO.444 OF 2009 OF THE COURT OF THE ADDITIONAL SESSIONS JUDGE (ADHOC 1) THRISSUR.

RESPONDENT'S ANNEXURES:- NIL.

//TRUE COPY//

P.A TO JUDGE

rs.

P. UBAID, J.

Crl.M.C.No. 276 of 2015

Dated this the 15th day of January, 2015

O R D E R

The petitioner herein is the original first accused in S.C.No. 444/2009 of the Court of Additional Sessions Judge (Adhoc)-I, Thrissur. The offence involved in this case is under Section 395 IPC. The original accused Nos. 3 and 4 faced trial before the trial court and obtained a judgment of acquittal under Section 232 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 eleven witnesses in the said case including the de facto complainant, 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 evidence was closed by the trial court. In the absence of any evidence or incriminating circumstance, the learned trial judge acquitted the accused Nos. 3 and 4. The case against the petitioner herein was split up and refiled as S.C.No.847/2011. 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 S.C.No.444/2009 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 S.C.No.847/2011 of the Court before the Additional Sessions Judge (Adhoc)-I, Thrissur, 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.

Sd/-

P. UBAID, JUDGE

sd