

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. 278 of 2015

**CC 1846/2011 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, KOZHIKODE
CRIME NO. 302/2011 OF CHEVAYUR POLICE STATION , KOZHIKODE**
.....

PETITIONER(S):

**ASHIQUE K., AGED 27 YEARS,
S/O.ABBAS, PRESENTLY RESIDING AT KANIYATT HOUSE,
MORIKKARA P.O., KAKKODI, KOZHIKODE.**

**BY ADVS.SRI.J.R.PREM NAVAZ
SRI.RAHUL VENUGOPAL
SRI.P.T.SHEEJISH**

RESPONDENT(S):

**STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM -682 031.**

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:**

msv/

Crl.MC.No. 278 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES:

ANNEXURE A. TRUE COPY OF THE CHARGE SHEET IN CRIME NO.302/2011.

**ANNEXURE B. CERTIFIED COPY OF THE JUDGMENT IN CC 573/2011 IN THE COURT
OF THE JUDICIAL FIRST CLASS MAGISTRATE - 1, KOZHIKODE.**

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

P. UBAID, J.

Crl.M.C.No. 278 of 2015

Dated this the 15th day of January, 2015

O R D E R

The petitioner herein is the original first accused in C.C.No. 573/2011 of the Judicial First Class Magistrate Court-I, Kozhikode. The offences involved in this case are under Sections 143, 147, 148, 323 and 324 read with 149 IPC. The original accused Nos. 2 to 5 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, 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 evidence was closed by the trial court. In the absence of any evidence or incriminating circumstance, the learned Magistrate acquitted the accused Nos. 2 to 5. The case against the petitioner herein was split up and refiled as C.C.No.1846/2011, and it is now pending before the Judicial First

Class Magistrate Court-I, Kozhikode. 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.No.573/2011 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.1846/2011 before the Judicial First Class Magistrate Court-I, Kozhikode, 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

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