

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 5TH DAY OF FEBRUARY 2015/16TH MAGHA, 1936

Crl.MC.No. 293 of 2015 ()

**CC.NO. 489/2012 OF JUDICIAL FIRST CLASS MAGISTRATE COURT -II,
PERINTHALMANNA**

PETITIONER/ACCUSED:

**SHINIOS V.P.,
S/O.SHAMSUDHEEN, VADAKKUPARAMBIL HOUSE,
WANDOOR AMSOM, MALAPPURAM DISTRICT.**

BY ADV. SRI.SUNIL KUMAR A.G

RESPONDENT/COMPLAINANT & STATE :

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

BY PUBLIC PROSECUTOR SMT. P.MAYA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 05-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

sts

Crl.MC.No. 293 of 2015 ()

APPENDIX

PETITIONER(S)' ANNEXURES:

ANNEX A1: TRUE COPY OF THE F.I.R.

ANNEX A2: TRUE COPY OF THE FINAL REPORT

ANNEX A3: TRUE COPY OF THE JUDGMENT DATED 11.07.2012 IN C.C. NO.200/09

ANNEX A4: TRUE COPY OF THE DEATH CERTIFICATE DATED 28.11.2013

RESPONDENT(S)' ANNEXURES:

NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

P. UBAID, J.

Crl.M.C. No. 293 of 2015

Dated this the 5th day of February, 2015

O R D E R

The petitioner herein is the original accused No.3 in C.C.No.200/2009 of the Judicial First Class Magistrate Court-II, Perinthalmanna. The offences involved in this case are under Sections 323,324 and 427 IPC read with 34 IPC. The original accused Nos. 1 and 2 faced trial before the trial court and obtained a judgment of acquittal under Section 248(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 two witnesses in the said case. 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. 1 and 2. The case against the petitioner herein was split up and refiled as C.C.No.489/2012, and it is now pending before the Judicial First Class Magistrate Court-II, Perinthalmanna. 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-A3 judgment in C.C.No.200/2009 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 C.C.No.489/2012 before the Judicial First Class Magistrate Court-II, Perinthalmanna, 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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