

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 20TH DAY OF JANUARY 2015/30TH POUSHA, 1936

Crl.MC.No. 348 of 2015

C.C.NO.3541/2014 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-1, KASARAGOD

CRIME NO. 109/2010 OF BADIADKA POLICE STATION , KASARGOD DISTRICT

PETITIONER(S)/5TH ACCUSED :

**RATHEESAN.P, AGED 32 YEARS,
S/O.PAKKEERAN, RESIDING AT PAIKA, NEKRAJE VILLAGE,
KASARAGOD TALUK, KASARAGOD DISTRICT.**

**BY ADVS.SRI.T.MADHU
SMT.C.R.SARADAMANI**

RESPONDENT(S)/STATE :

**THE STATE OF KERALA
THROUGH THE STATION HOUSE OFFICER,
BADIADKA POLICE STATION, KASARAGOD DISTRICT,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.**

BY PUBLIC PROSECUTOR SMT.S.HYMA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 20-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' ANNEXURES :

- A1: THE TRUE CERTIFIED COPY OF THE FIR IN CRIME NO. 109/2010 OF BADIADKA POLICE STATION.
- A2: THE TRUE CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.109/2010 OF BADIADKA POLICE STATION.
- A3: THE TRUE CERTIFIED COPY OF THE JUDGMENT DATED 25.09.2014 IN C.C.NO. 751/2010 ON THE FILE OF THE LEARNED JUDICIAL FIRST CLASS MAGISTRATE'S COURT- I, KASARAGOD.

RESPONDENT(S)' ANNEXURES :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

P. UBAID, J.

Crl.M.C. No.348 of 2015

Dated this the 20th day of January, 2015

O R D E R

The petitioner herein is the 5th accused in C.C. No.751/2010 of Judicial First Class Magistrate Court-I, Kasaragod. The offences involved in this case are under Sections 143, 147, 148, 447, 427 and 153 read with 149 IPC. The original accused Nos.1 to 4, 6 and 7 faced trial before the trial court and obtained a judgment of acquittal under Section 248(1) Cr.P.C. when the prosecution did not succeed in proving the guilt of the accused. The prosecution examined four witnesses in the said case, and also marked Exts. P1 to P2. 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, 6 and 7. The case against the petitioner herein was split up and refiled as C.C.No.3541/2014, and it is now pending before the Judicial First Class Magistrate's Court-I, Kasaragod. 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. 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.3541/2014 of Judicial First Class Magistrate's Court-I, Kasaragod 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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