

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

Cr1.MC.No. 363 of 2015

IN CC 1127/2014 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT,
NADAPURAM

CRIME NO. 9/2012 OF KUTTIYADI POLICE STATION , KOZHIKODE

PETITIONERS/ACCUSED NOS.5 AND 6:

1. THASNIM, AGED 22 YEARS,
S/O.ABDULKHAREEM,
ONDAMMAL HOUSE, CHERAPURAM,
VATAKARA TALUK, KOZHIKODE DIST.
2. MUHAMMED FYSAL, AGED 23 YEARS,
S/O.SOOPPY, PYANGAKULANGARA HOUSE,
CHERAPURAM, VATAKARA TALUK,
KOZHIKODE DIST.

BY ADV. SRI.ZUBAIR PULIKKOOL

RESPONDENTS/ DE FACTO COMPLAINANT/STATE:

1. SAJEESH, AGED 31 YEARS,
S/O.KUNHIRAMAN, MUNDAKKAL HOUSE, AROOR,
PURAMERI, VATAKARA TALUK,
KOZHIKODE DIST. PIN - 673 101.
2. PRAJEESH, AGED 41 YEARS,
S/O.KANNAN, EAREMKUNNUMMAL HOUSE,
AROOR, PURAMERI, VATAKARA TALUK,
KOZHIKODE, PIN - 673 101.
3. STATE OF KERALA, REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
PIN - 682 031.

R1 & 2 BY ADV. SMT.P.A.ANEESHA
R1 & 2 BY ADV. SMT.SUMA A.GAFOOR
R3 BY PUBLIC PROSECUTOR SMT.P.MAYA

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

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE I: COPY OF THE FIR AND POLICE CHARGE IN CRIME NO.9/2012 OF KUTTIADY POLICE STATION.

ANNEXURE II: COPY OF THE JUDGMENT IN C.C NO.210/2012 ON THE FILE OF JFCM COURT, NADAPURAM.

ANNEXURE III: COPY OF THE SWORN AFFIDAVIT OF THE 1ST RESPONDENT.

ANNEXURE IV: COPY OF THE SWORN AFFIDAVIT OF THE 2ND RESPONDENT.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.363 of 2015

Dated this the 20th day of January, 2015

O R D E R

The petitioners herein are the original accused Nos. 5 and 6 in C.C No.210/2012 of the Judicial First Class Magistrate Court, Nadapuram. The offences involved in this case are under Sections 143, 147, 148, 341, 324, 294(b) and 427 r/w 149 of the Indian Penal Code. The original accused Nos. 1 to 4 and 7 faced trial before the trial court and obtained a judgment of acquittal under Section 248(1) of the Code of Criminal Procedure when all the material witnesses including the first informant turned hostile to the prosecution in view of an amicable settlement made by the parties out of court. The prosecution examined four witnesses in the said case including the first informant 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.1 to 4 and 7. The case against the petitioners herein was split up and refiled, and it is now pending as C.C No.1127/2014

before Judicial First Class Magistrate Court, Nadapuram. The petitioners now seek orders quashing the prosecution as against them 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 them will not serve any purpose. Annexure II judgment in C.C No.210/2012 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 petitioners 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 petitioners in C.C No.1127/2014 before Judicial First Class Magistrate Court, Nadapuram will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioners will stand released from prosecution, and the bail bond, if any, executed by them will stand discharged.

**P.UBAID
JUDGE**

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