

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 21ST DAY OF JANUARY 2015/1ST MAGHA, 1936

Crl.MC.No. 410 of 2015

**AGAINST THE ORDER/JUDGMENT IN SC 310/2011 of ADDITIONAL SESSIONS COURT
(ADHOC), MANJERI
CP.NO.94/2009 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, MALAPPURAM
CRIME NO. 656/2004 OF KONDOTTY POLICE STATION , MALAPPURAM**

PETITIONER(S)/ACCUSED:

**POOKKODAN ABDUL NAZAR, AGED 44 YEARS
S/O.MOOSA, KARAPPANCHERY, MONGAM
MORAYOOR AMSOM, MALAPPURAM DISTRICT.**

**BY ADVS.SRI.BABU S. NAIR
SRI.K.RAKESH**

RESPONDENT(S)/STATE:

**THE STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-682031.**

BY PUBLIC PROSECUTOR SMT.S.HYMA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 21-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' ANNEXURES

**ANNEXURE A : COPY OF THE CHARGE IN CRIME 656/2004 OF THE KONDOTTY
POLICE STATION.**

**ANNEXURE B : COPY OF THE JUDGMENT IN SC 203/2010 DT.29-9-2010 OF THE
ADDL.SESIONS JUDGE (ADHOC)-1.**

**ANNEXURE C : COPY OF THE JUDGMENT IN SC 310/2011 DT.26-11-2011 OF THE
ADDL.SESIONS JUDGE (ADHOC)-I, MANJERI.**

**ANNEXURE D : COPY OF THE JUDGMENT IN SC 200/2012 DT.20-6-2012 OF THE
ADDL.SESIONS JUDGE (ADHOC)-1, MANJERI.**

RESPONDENT(S)' ANNEXURES

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P. UBAID, J.

Crl.M.C.No.410 of 2015

Dated this the 21st day of January, 2015

O R D E R

The petitioner herein is the original accused No.4 in Crime No.656/2004 of the Kondotty Police Station. The original 1st accused faced trial in S.C.No.203/2010, the original 2nd accused faced trial in S.C.No.310/2011, and the original 3rd accused faced trial in S.C.No.200/2012 before the Court of Session, Manjeri, and they obtained judgment of acquittal under Section 232 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 four witnesses in S.C.No.203/2010, three witnesses in S.C.No.310/2011, and four witnesses in S.C.No.200/2012, and also marked Ext. P1 in all cases. None of the material witnesses 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. 1 to 3. The case against the petitioner herein was split up and refiled in the committal court itself as C.P.No.94/2009, and now it stands transferred to the

register of long pending cases as L.P.No.43/2011. 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. Annexures B, C and D judgments in S.C.Nos.203/2010, 310/2011 and 200/2012 show that all the material witnesses examined by the prosecution in the said cases 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 L.P.No.43/2011 before the Judicial First Class Magistrate Court, Malappuram 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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