

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 11TH DAY OF FEBRUARY 2015/22ND MAGHA, 1936

Crl.MC.No. 422 of 2015 ()

**CC 5429/2012 of JUDICIAL FIRST CLASS MAGISTRATE COURT, IRINJALAKUDA
CRIME NO. 122/2008 OF IRINJALAKUDA POLICE STATION , TRISSUR DISTRICT**
=====

PETITIONER/6TH ACCUSED/3RD RESPONDENT:

**NOUPHAL, AGED 30 YEARS
S/O.MUHAMMED, PADINJARE THOTTUKAYIL HOUSE
CHUNDUPURAM DESOM, KOTTUVALLY, KOZHIKODE DISTRICT.**

**BY ADVS.SRI.G.SREEKUMAR (CHELUR)
SRI.N.L.BITTO**

**RESPONDENT/STATE OF KERALA AND THE COMPLAINANT,
PETITIONER, ACCUSED NOS 1 AND 2, RESPONDENTS 1 AND 2:**

**THE STATE OF KERALA
REP.BY THE SUB INSPECTOR OF POLICE
IRINJALAKUDA POLICE STATION
THROUGH THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA AT ERNAKULAM, 682031.**

BY PUBLIC PROSECUTOR SMT. S. HYMA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 11-02-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONERS' EXHIBITS

**ANNEXURE-I: A TRUE COPY OF THE FIR FILED BY THE SI OF POLICE IRINJALAKUDA
DATED 31/1/2008.**

**ANNEXURE-II: A TRUE COPY OF THE CHARGE SHEET FILED IN CC.5429/2012 OF
MAGISTRATE COURT, IRINJALAKUDA DATED 30/4/2008.**

**ANNEXURE-III: A TRUE COPY OF THE JUDGMENT PASSED BY THE MAGISTRATE
COURT IRINJALAKUDA IN CC.2561 OF 2008 DATED 25/8/2012.**

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY // P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.422 of 2015

Dated this the 11th day of February, 2015

O R D E R

The petitioner herein is the original 6th accused in C.C. No.2561/2008 of Judicial First Class Magistrate Court, Irinjalakkuda. The offences involved in this case are under Sections 406 and 420 IPC. The original accused Nos. 1 to 5,7,11 and 12 faced trial, and obtained a judgment of acquittal under Section 248(1) Cr.P.C. when the prosecution failed to adduce any evidence. In spite of the repeated process and coercive steps the prosecution failed to produce the material witnesses in court. In such a situation, the trial court acquitted the accused Nos.1 to 5,7,11 and 12. It is definite that the prosecution cannot in any manner improve the case against the petitioner herein. The petitioner's case was split up and refiled now, and it is pending as C.C.No.5429/2012. Appeal was not preferred against the said acquittal. 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 -III judgment in C.C.2561/2008 shows that the police could not produce any witnesses in court in spite of repeated opportunities given. In such a situation, it is quite definite that the prosecution cannot in any manner improve the case, 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.5429/2012 of Judicial First Class Magistrate Court, Irinjalakkuda 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

sd