

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 30TH DAY OF JANUARY 2015/10TH MAGHA, 1936

Crl.MC.No. 583 of 2015

IN C.C NO. 898/2013 OF THE JUDICIAL FIRST CLASS MAGISTRATE
COURT, VADAKARA

CRIME NO. 1168/2010 OF VATAGARA POLICE STATION , KOZHIKODE

PETITIONERS/ACCUSED NO. 2 & 4:

1. K. RIYAS, AGED 36 YEARS,
S/O. ABDURAHIMAN, KINATTINGANTAVIDA (H) ,
PUTHUPPANAM P.O., VATAKARA TALUK.
2. T.P.SIDQUE, AGED 32 YEARS,
S/O. MAMMU HAJI, MUSALIYARAPARAMBATH, SAYMAS (H)
PUTHUPPANAM P.O., VATAKARA TALUK.

BY ADV. SRI.ZUBAIR PULIKKOOL

RESPONDENT(S) /COMPLAINANT:

1. SAJIR, AGED 24 YEARS,
S/O. SAKKIR, KANJAVALLAPPIL HOUSE, PUTHUPPANAM P.O.,
VATAKARA TALUK, KOZHIKODE DIST,
PI N - 673 105.
2. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM - 682 031.

R1 BY ADV. SMT.SUMA A.GAFOOR
R2 BY PUBLIC PROSECUTOR SMT.P.MAYA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 30-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 583 of 2015

APPENDIX

PETITIONERS' ANNEXURES:

A1 - CERTIFIED COPY OF THE FIR AND CHARGE SHEET IN CRIME NO.
1168/10 OF VATAKARA POLICE STATION.

A2 - CERTIFIED COPY OF THE JUDGMENT IN CC 1110/10.

A3 - COPY OF SWORN AFFIDAVIT OF FIRST RESPONDENT.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.583 of 2015

Dated this the 30th day of January, 2015

O R D E R

The petitioners herein are the accused Nos.2 and 4 in C.C No.1110/2010 of the Judicial First Class Magistrate Court, Vatakara. The offences involved in this case are under Sections 143, 147, 148, 341, 323 and 324 r/w 149 of the Indian Penal Code. The original accused Nos.1, 3, 5, 6 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 de facto complainant turned hostile to the prosecution in view of an amicable settlement made by the parties out of court. The prosecution examined six witnesses in the said case including the de facto complainant injured 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, 3, 5, 6 and 7. The case against the petitioners herein was split up and refiled as C.C No.898/2013 and it

is now pending before the same court. 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.1110/2010 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.898/2013 before the Judicial First Class Magistrate Court, Vatakara 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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