

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 10TH DAY OF FEBRUARY 2015/21ST MAGHA, 1936

Crl.MC.No. 605 of 2015 ()

**IN SC 1492/2014 of SUB COURT, NEDUMANGAD
CRIME NO. 329/2002 OF NEDUMANGAD POLICE STATION, THIRUVANANTHAPURAM**

PETITIONER(S)/ACCUSED 6,8 AND 9:

- 1. THANKAPPAN AGED 54 YEARS
S/O.NANAN NADAR, THOPPIL CHARUVILA VEEDU, KOOTTAPARA
CHEKKAKONAM, KARAKULAM, THIRUVANANTHAPURAM-695564.**
- 2. KIRAN AGED 38 YEARS
S/O.MANIYAN ASARI, KALAPPURA PUTHEN VEEDU, KOOTTAPARA
CHEKKAKONAM, KARAKULAM, THIRUVANANTHAPURAM-695564.**
- 3. SANTHOSH
S/O.PRABHAKARAN, SANGEETHA NIVAS
NEAR KARAKULAM SCHOOL, PURAVOORKONAM, KARAKULAM
THIRUVANANTHAPURAM-695564.**

BY ADV. SRI.A.S.SHAMMY RAJ

RESPONDENT(S):

- 1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.**
- 2. VIJILAL
S/O.VIJAYAN, CHARUVILAKATHU VEEDU, KOOTTAPARA
PURAVOORKONAM, KARAKULAM, THIRUVANANTHAPURAM-695564.**
- 3. VINESH, AGED 32 YEARS
S/O.VIJAYAN, CHARUVILAKATHU VEEDU, KOOTTAPARA
PURAVOORKONAM, KARAKULAM, THIRUVANANTHAPURAM-695564.**

**R2-R3 BY ADV. SRI.K.RAJESH KANNAN
R1 BY PUBLIC PROSECUTOR SMT. P.MAYA**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 10-02-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONERS ANNEXURES:

- 1: CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.329 OF 2002 OF NEDUMANGAD POLICE STATION
- 2: CERTIFIED COPY OF THE JUDGMENT IN S.C NO.748/2005 DATED 3.7.2014, ON THE FILE OF ASST. SESSIONS COURT, NEDUMANGADU
- 3: COMPROMISE AFFIDAVIT SWORN BY THE 2ND RESPONDENT
- 4: COMPROMISE AFFIDAVIT SWORN BY THE 3RD RESPONDENT

RESPONDENTS ANNEXURES: NIL

/TRUE COPY/

PATO JUDGE
sab

P.UBAID, J.

Crl. M.C No.605 of 2015

Dated this the 10th day of February, 2015.

O R D E R

The petitioners herein are the original accused Nos.6, 8 and 9 in crime No. 329 of 2002 of Nedumangad police station, Thiruvananthapuram. The offences involved in this case are under Sections 143, 147, 148, 149, 324 and 308 of IPC and under Section 27 of Arms Act. The other accused except the original first accused faced trial before the learned Assistant Sessions Judge, Nedumangad in S.C No.748 of 2005, and obtained a judgment of acquittal under Section 232 Cr.P.C when all the material witnesses turned hostile to the prosecution. The prosecution examined 3 witnesses in the said case. None of the material witnesses examined in the case supported the prosecution. In the absence of any evidence or incriminating circumstance, the learned trial judge acquitted the accused Nos. 5, 7,10 and 11. The case against the petitioners herein was split up, and now it is pending as S.C 1492 of 2014 before the Assistant Sessions Court Nedumangadu. 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 the

prosecution against them will not serve any purpose. Annexure 2 judgment in S.C. No. 748 of 2005 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 S.C No.1492 of 2014 of the Assistant Sessions Court, Nedumangad 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