

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE P.UBAID**

**MONDAY, THE 2ND DAY OF FEBRUARY 2015/13TH MAGHA, 1936**

**Crl.MC.No. 636 of 2015 ()**  
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**IN CC 1597/2011 of JUDICIAL FIRST CLASS MAGISTRATE COURT, CHAVAKKAD  
CRIME NO. 149/2007 OF VADANAPPALLY POLICE STATION, TRISSUR**

**PETITIONER(S)/ACCUSED 1 AND 5:**  
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- 1. SHAKKEER ALI, AGED 28 YEARS  
S/O.MOHAMMED, RAYAMARAKKAR VEEDU, K.P.NAGAR  
CHETTUVA, ENGANDIYOOR, THRISSUR DISTRICT.**
- 2. SHAFEEQUE AGED 38 YEARS  
S/O.MUHAMMED UNNI, PANIKKAVEETIL VEEDU, CHETTUVA  
ENGANDIYOOR, THRISSUR DISTRICT.**

**BY ADVS.SRI.S.U NAZAR  
SRI.MANSOOR.B.H.**

**RESPONDENT(S)/COMPLAINANT/STATE:**  
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**STATE OF KERALA  
REPRESENTED BY PUBLIC PROSECUTOR  
HIGH COURT OF KERALA REPRESENTING THROUGH STATION HOUSE  
OFFICER, VATANAPILLY POLICE STATION, THRISSUR DISTRICT.**

**R BY PUBLIC PROSECUTOR SMT. S. HYMA**

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

Crl.MC.No. 636 of 2015 ()  
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**PETITIONERS ANNEXURES:**

**A: A COPY OF THE CHARGE SHEET IN CRIME NO.149/2007 OF VATTANAPILLY POLICE STATION**

**B: A TRUE COPY OF THE JUDGMENT DATED 19.11.2009 IN C.C NO.1309/2007 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, CHAVAKKAD**

**RESPONDENTS ANNEXURES: NIL**

/TRUE COPY/

PA TO JUDGE  
sab

**P.UBAID, J.**

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**Crl. M.C No.636 of 2015**  
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Dated this the 2<sup>nd</sup> day of February, 2015.

**O R D E R**

The petitioners herein are the original accused Nos. 1 and 5 in C.C No.1309/2007 of the Judicial First Class Magistrate Court, Chavakkad. The offences involved in this case are under Sections 289, 337, 338, 439 and 427 IPC r/w 34 of IPC. The original accused Nos. 2 to 4, 6 to 8 and 10 faced trial before the trial court, and obtained a judgment of acquittal under Section 248(1) 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 5 witnesses in the said case including the de facto complainant, and also marked Ext.P1 FI statement. None of the material witnesses examined in the case supported the prosecution. In the absence of any evidence or incriminating circumstance, the learned Magistrate acquitted the accused Nos.2 to 4, 6 to 8 and 10. The case against the petitioners herein was split up and refiled as C.C No.1597/2011 . 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 B judgment in C.C No.1309/2007 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. 1597/2011 before the First Class Magistrate's Court, Chavakkad 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