

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 3RD DAY OF FEBRUARY 2015/14TH MAGHA, 1936

Crl.MC.No. 664 of 2015 ()

**IN CC 1010/2014 of JUDICIAL FIRST CLASS MAGISTRATE COURT -II,
PERINTHALMANNA
CRIME NO. 40/2013 OF MANKADA POLICE STATION , MALAPPURAM**

PETITIONER(S):

**NAVAS @ NAVAS KHAN,
S/O.ABDUL KHADER, VALAMBUR, NELLIKKAPARAMBU
TIRURKKAD, MALAPPURAM DISTRICT.**

**BY ADVS.SRI.A.A.ZIYAD RAHMAN
SRI.LAL K.JOSEPH
SRI.V.S.SHIRAZ BAVA
SRI.JOSEPH KURIAN VALLAMATTAM**

RESPONDENT(S):

- 1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM**
- 2. THE SUB INSPECTOR OF POLICE,
MANKADA, MALAPPURAM DISTRICT.**
- 3. NOUFAL,
S/O.MUHAMMED, KIZHIKATTIL HOUSE, THIRURKAD.**
- 4. SHAFEEK,
S/O.HANEEFA, NOTTATH HOUSE, THIRURKAD
MALAPPURAM DISTRICT.**
- 5. MUHAMMED FAIZAL,
S/O.MUHAMMEDALI, MUCHIKKAL HOUSE, VALAMBUR AMSOM
THIRURKAD, MALAPPURAM DISTRICT.**

R BY PUBLIC PROSECUTOR SMT. S. HYMA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 03-02-
2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 664 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

**A1: TRUE COPY OF THE JUDGMENT DATED 29/10/2014 PASSED BY THE JUDICIAL
FIRST CLASS MAGISTRATE COURT II, PERINTHALMANNA**

**A2: TRUE COPY OF THE CHARGE SHEET IN CRIME 40/2013 OF MANKADA POLICE
STATION, THE COGNIZANCE OF WHICH WAS TAKEN AS C.C 511/2013 ON THE FILE OF
JFCM-II, PERINTHALMANNA AND WHICH WAS SPLIT UP AGAINST THE PETITIONER
HEREIN AND REFILLED AS C.C. 1010/2014.**

A3: TRUE COPY OF THE DEPOSITION OF THE PW1

A4: TRUE COPY OF THE DEPOSITION OF THE PW2

A5:TRUE COPY OF THE DEPOSITION OF THE PW3

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

PA TO JUDGE
sab

P.UBAID, J.

Crl. M.C No. 664 of 2015

Dated this the 3rd day of February, 2015.

O R D E R

The petitioner herein is the original accused No.6 in C.C 511/2013 of the Judicial First Class Magistrate Court- II, Perinthalmanna. The offences involved in this case are under Sections 143, 147, 148, 341, 323, 324, 326 and 506(i) r/w 149(1) of IPC. The other 6 accused 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 3 witnesses in the said case, and also marked Ext. P1 FI statement. None of the material witnesses examined in the case supported the prosecution. In such a circumstance, examination of the others was dispensed with and evidenced was closed by the trial court. In the absence of any evidence or incriminating circumstance, the learned Magistrate acquitted the accused Nos.1 to 5 and 7. The case against the petitioner herein was split up and refiled as C.C No.1010/2014. 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 the prosecution against him will not serve any purpose. Annexure I judgment in C.C No.511/2013 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 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.1010/2014 of the Judicial First Class Magistrate Court – II, Perinthalmanna 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.

P.UBAID,
JUDGE