

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. 677 of 2015

C.C.NO.307/2011 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, MALAPPURAM

PETITIONER(S)/ACCUSED NO.1 :

**RADHAKRISHNAN,
SON OF KARAPPAN, PUZHAKKATTIRI HOUSE,
KOTTAKKAL AMSOM DESOM, THEKKAMPARA.**

**BY ADVS.SRI.P.K.NIJOY
SMT.C.PRABITHA**

RESPONDENT(S)/STATE :

**STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT.P.MAYA

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

Msd.

Crl.MC.No. 677 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES :

**ANNEXURE I : CERTIFIED COPY OF THE JUDGMENT DATED 11-03-2011 OF
THE JUDICIAL FIRST CLASS MAGISTRATE COURT,
MALAPPURAM.**

RESPONDENT(S)' ANNEXURES :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

P.UBAID, J.

Crl. M.C No. 677 of 2015

Dated this the 3rd day of February, 2015.

O R D E R

The petitioner herein is the original first accused in C.C No.805 of 2006 of the Judicial First Class Magistrate Court, Malappuram. The offences involved in this case are under Section 292 of IPC and Section 7(1) of the Cinematographic Act. During trial, the learned Magistrate viewed the objectionable cinema, and found that it does not contain any obscene scene or anything arousing lascivious or prurient interest. On the finding that the alleged cinema does not contain anything obscene except some scenes of men women kissing or embracing, the learned Magistrate found the other accused not guilty, and accordingly acquitted him on 11.3.2011 by the judgment in C.C No.805/2006, under Section 248(1) Cr.P.C. The case against the petitioner herein was split up and refiled as C.C No.307/2011. 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 other, and continuance of the prosecution against him will not serve any purpose. Annexure I judgment in C.C No.805 of 2006 shows that the prosecution could not adduce any satisfactory

evidence to prove the case. The substratum of the case stands lost. 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.307 of 2011 of the Judicial First Class Magistrate Court, Malappuram 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