

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 29TH DAY OF JULY 2015/7TH SRAVANA, 1937

Crl.MC.No. 684 of 2015 ()

CRIME NO.519 OF 2001 OF HOSDURG POLICE STATION
C.C 861 OF 2005 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-I,
HOSDURG

PETITIONER(S)/5TH ACCUSED:

RAJESH AGED 35 YEARS,
S/O.MOHANAN, MARAKKAPPUKADAPPURAM, KANHANGAD VILLAGE
HOSDURG TALUK, KASARAGOD DISTRICT

BY ADVS.SRI.RAHUL SASI
SMT.NEETHU PREM

RESPONDENT/COMPLAINANT:

STATE OF KERALA
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM PIN - 682031

BY PUBLIC PROSECUTOR SMT.V.H.JASMINE

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
29-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 684 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A1- TRUE COPY OF THE CHARGESHEET CRIME NO.519/2001 OF
HOSDURG POLICE STATION

ANNEXURE A2- TRUE COPY OF THE JUDGMENT OF JFCM IN CC NO.233/02 DATED
23.8.2005

RESPONDENT(S)' EXHIBITS

/TRUE COPY/

P.S TO JUDGE

P.UBAID, J.
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**Crl.M.C No.684 of 2015**  
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Dated this the 29th July, 2015

ORDER

The petitioner herein is the original 5th accused in C.C No.233 of 2002 of the Judicial First Class Magistrate's Court-I, Hosdurg. The offences involved in this case are under Sections 143, 147, 148, 447, 506 (ii), 323, 324, 354 and 427 read with Section 149 of Indian Penal Code. All the other 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 five witnesses in the said case and also marked Ext.P1 document. 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 all the

accused except the 5th accused.. The case against the petitioner herein was split up and refiled as C.C No.861 of 2005 and after necessary steps, it was transferred to the register of long pending cases as L.P. No.113 of 2006. Later, the petitioner herein was arrested and produced on 8.4.2011. The case was at that time refiled as C.C 432 of 2011, and the petitioner was released on bail. Thus, the case against him is now pending as C.CNo.432 of 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 others, and continuance of the prosecution against him will not serve any purpose. Annexure-A2 judgment in C.C 233 of 2002 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 herein in C.C.432 of 2011 before the Judicial First Class Magistrate's Court-I, Hosdurg 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.

**Sd/-
P.UBAID
JUDGE**

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/True copy/

P.S to Judge

