

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. 686 of 2015 ()

AGAINST CC 589/2009 of C.J.M.,KASARAGOD
CRIME NO. 359/2008 OF CHANDERA POLICE STATION , KASARGOD

PETITIONER(S)/3RD ACCUSED:

NASEER A. AGED 27 YEARS
S/O.T.P.MUHAMMED KUNHI, RESIDING AT AMBATH HOUSE
NEAR BIRICHERY L.P.SCHOOL, SOUTH TRIKARIPUR
HOSDURG TALUK, KASARAGOD DISTRICT

BY ADVS.SRI.T.MADHU
SMT.C.R.SARADAMANI

RESPONDENT(S)/STATE:

THE STATE OF KERALA
THROUGH THE STATION HOUSE OFFICER
CHANDERA POLICE STATION
REPRESENTED BY THE PUBLIC PROSECUTOR HIGH COURT OF KERALA
ERNAKULAM - 682 031

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. 686 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A1- THE TRUE CERTIFIED COPY OF THE FIR IN CRIME NO. 359/2008
OF CHANDERA POLICE STATION

ANNEXURE A2- THE TRUE CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.
359/2008 OF CHANDERA POLICE STATION

ANNEXURE A3- THE TRUE CERTIFIED COPY OF THE JUDGMENT DATED 27.2.2013
IN C.C.NO.589/2009 ON THE FILE OF THE LEARNED CHIEF JUDICIAL
MAGISTRATE COURT, KASARAGOD

RESPONDENT(S)' EXHIBITS

/TRUE COPY/

P.S TO JUDGE

P.UBAID, J.
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**Crl.M.C No. 686 of 2015**  
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Dated this the 3rd February, 2015

ORDER

The petitioner herein is the 3rd accused in C.C No.589 of 2009 of the Chief Judicial Magistrate's Court, Kasaragod. The offences involved in this case are under Section 427 read with 34 of Indian Penal Code and also under Section 3 (1) of the Prevention of Damage to Public Properties Act. The original accused Nos. 1 and 4 faced trial before the trial court and obtained a judgment of acquittal under Section 248 (1) of Cr.P.C when all the material witnesses including the first informant/de facto complainant turned hostile to the prosecution in view of an amicable settlement made by the parties out of court. The prosecution examined six witnesses in the said case including the first informant/de facto complainant and also marked Exts.P1 and P2. 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 the accused Nos.1 and 4. The case against the accused Nos.2 and 3 was split up and refiled, and it is now pending as C.C No.1038 of 2014 before Chief Judicial Magistrate's Court, Kasaragod. 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 prosecution against him will not serve any purpose. Annexure-A3 judgment in C.C No.589 of 2009 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.1038 of 2014 before the

Chief Judicial Magistrate's Court, Kasaragod 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