

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 6TH DAY OF FEBRUARY 2015/17TH MAGHA, 1936

Crl.MC.No. 754 of 2015 ()

**IN CC 586/2014 of JUDICIAL FIRST CLASS MAGISTRATE (FOREST OFFENCES),
NEDUMANGAD
CRIME NO. 696/2011 OF PALODE POLICE STATION , THIRUVANANTHAPURAM**

PETITIONER(S)/ACCUSED:

- 1. ANAS AGED 28 YEARS
ILLIAS KUNJU, MUTHIYANKUZH VILLIPPA, ANADU MURI
THENNOOR VILLAGE, THIRUVANANTHAPURAM.**
- 2. NISHAD AGED 27 YEARS
S/O.NAZARUDEEN, NISHAD MANZIL, DAIVAPURA
ANADU MURI, THENNOOR VILLAGE, THIRUVANANTHAPURAM.**

BY ADV. SRI.LATHEESH SEBASTIAN

RESPONDENT(S)/STATE & COMPLAINANT & VICTIM:

- 1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.**
- 2. SUB INSPECTOR OF POLICE
PALODE POLICE STATION, THIRUVANANTHAPURAM-695609.**
- 3. ANSARI, AGED 28 YEARS
S/O.BASHEER, PUTHENVEEDU, KANNARUKUZH
THENNOOR VILLAGE, NEDUMANGAD TALUK
THIRUVANANTHAPURAM.**

**R3 BY SRI.R.ARUN
R 1-2 BY PUBLIC PROSECUTOR SMT. S. HYMA**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 06-02-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 754 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE-A1: TRUE COPY OF THE FIR IN CRIME NO.696/2011 OF PALODE POLICE STATION.

ANNEXURE-A2: TRUE COPY OF THE FINAL REPORT IN ANNEXURE-A1.

ANNEXURE-A3: COPY OF THE JUDGMENT OF JFMC (FOREST OFFENCES), NEDUMANGAD DATRED 09.10.2014.

ANNEXURE-A4: COPY OF THE AFFIDAVIT OF THE 3RD RESPONDENT.

RESPONDENT(S)' EXHIBITS:NIL

/TRUE COPY/

PA TO JUDGE
sab

P.UBAID, J.

Crl. M.C No.754 of 2015

Dated this the 6th day of February, 2015.

O R D E R

The petitioners herein are the original accused Nos. 2 and 3 in C.C No.318 of 2013 of the Judicial First Class Magistrate Court(Forest Offences), Nedumangad. The offences involved in this case are under Sections 143, 147, 148, 294(b) and 324 of IPC. The original accused Nos.1, 4 and 6 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 the absence of any evidence or incriminating circumstance, the learned magistrate acquitted the accused Nos.1, 4 and 6. The case against the petitioners herein were split up and refiled as C.C No.586 of 2014. 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 3 judgment in C.C No.318

of 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 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.318 of 2013 of the Judicial First Class Magistrate Court(Forest Offences), Nedumangad 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