

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 7TH DAY OF SEPTEMBER 2015/16TH BHADRA, 1937

Crl.MC.No. 768 of 2015 (G)

**CC 445/2014 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, TALIPARAMBA,
KANNUR DISTRICT**

CRIME NO. 132/2012 OF SREEKANTAPURAM POLICE STATION , KANNUR

PETITIONER(S)/ACCUSED :-

**SAMAD, S/O.KHALID,
MEETHALEKATHU HOUSE,
SREEKANDAPURAM,
KANNUR-670 631.**

BY ADV. SRI.MAHESH V RAMAKRISHNAN

RESPONDENT(S)/STATE & DEFACTO COMPLAINANT (SOLE INJURED) :-

- 1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.**
- 2. KAKKARA SEERAKATH RABIYA, AGED 56 YEARS,
W/O.ALI, RESIDING AT NEAR SREEKANTAPURAM HIGH SCHOOL,
SREEKANTAPURAM, KANNUR-670 631.**

R1 BY SRI.JUSTIN JACOB, PUBLIC PROSECUTOR

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 07-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

rkj

Crl.MC.No. 768 of 2015 (G)

APPENDIX

PETITIONER(S)' ANNEXURES :-

- ANNEXURE A1- CERTIFIED COPY OF THE FIRST INFORMATION REPORT DATED 05.03.2012 IN CRIME NO.132/2012 OF THE SREEKANTAPURAM POLICE STATION.**
- ANNEXURE A2- CERTIFIED COPY OF THE CHARGE DATED 31.03.2012 C.C.NO.445 OF 2014 OF THE JUDICIAL FIRST CLASS MAGISTRATE OF TALIPARAMBA.**
- ANNEXURE A3- TRUE COPY OF THE MEMORANDUM OF AGREEMENT ENTERED INTO BETWEEN KHALID AND THE 2ND RESPONDENT.**
- ANNEXURE A4- TRUE COPY OF THE DEPOSITION DATED 22.04.2014 OF THE 2ND RESPONDENT (AS PW1) IN C.C.NO.961/2012 OF THE JUDICIAL FIRST CLASS MAGISTRATE OF TALIPARAMBA.**
- ANNEXURE A5- TRUE COPY OF THE JUDGMENT DATED 22.04.2014 IN C.C.NO.961 OF 2012 OF THE JUDICIAL FIRST CLASS MAGISTRATE OF TALIPARAMBA.**

RESPONDENT(S)' ANNEXURES :- NIL

//TRUE COPY//

P.A. TO JUDGE

rkj

P.UBAID, J.

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Crl.M.C.No.768 of 2015
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Dated this the 7th day of September, 2015

ORDER

The petitioner herein is the original accused No.4 in C.C.No.961 of 2012 of the Judicial First Class Magistrate's Court, Taliparamba. The other accused faced trial before the trial court, and obtained a judgment of acquittal on 22.04.2014. The offences involved in this case are under Sections 143, 147, 148, 323, 324 and 354 read with Section 149 of the Indian Penal Code. The other accused 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 the victim of offence, and also marked Ext.P1. But she did not support 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 trial court acquitted the accused Nos.1 to 3. The case against the petitioner herein was split up and re-filed when he absconded, and it is now pending as

C.C.No.445 of 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-A5 judgment in C.C.No.961 of 2012 shows that the material witness 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.445 of 2014 of the Judicial First Class Magistrate's Court, Taliparamba, Kannur 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**

rkj

//TRUE COPY//

P.A. TO JUDGE