

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 10TH DAY OF FEBRUARY 2015/21ST MAGHA, 1936

Cr1.MC.No. 817 of 2015 ()

CC 1470/2012 of JUDICIAL FIRST CLASS MAGISTRATE COURT -III,
TRIVANDRUM
CRIME NO. 362/2009 OF THAMPANOR POLICE STATION, THIRUVANANDAPURAM

PETITIONER/2ND ACCUSED:

BINDU
D/O.SANTHA, KURUVIKKADU VEEDU, PALAIKKONAM
ARYANADU PANCHAYATH, ARYANADU VILLAGE
THIRUVANANTHAPURAM.

BY ADVS.SRI.ANOOP BHASKAR
SMT.K.R.MONISHA
SRI.BOBY C. BABY

RESPONDENT/STATE:

STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM
REPRESENTING THE CIRCLE INSPECTOR OF POLICE
THAMPANOR POLICE STATION - 695 036.

BY PUBLIC PROSECUTOR SMT. P. MAYA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
10-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 817 of 2015 ()

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE-A1. TRUE COPY OF THE FIR IN CRIME NO.362/2009 OF THAMPANOR
POLICE STATION DATED 27/6/2009.

ANNEXURE-A2. TRUE COPY OF THE FINAL REPORT IN CC 1470/2014 ON THE
FILES OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-III,
THIRUVANANTHAPURAM.

ANNEXURE-A3. TRUE COPY OF THE JUDGMENT DATED 30.08.2014 IN CC
374/2000 PASSED BY THE JUDICIAL FIRST CLASS MAGISTRATE COURT-III,
THIRUVANANTHAPURAM.

RESPONDENT(S) ' ANNEXURES: NIL

//TRUE COPY//

P.A. TO JUDGE

smv

P. UBAID,J.

Crl.M.C No.817 of 2015

Dated this the 10th day of February, 2015

O R D E R

The petitioner herein is the original second accused in C.C. No.1470 of 2014 of the Judicial First Class Magistrate Court - III, Thiruvananthapuram. The first accused faced trial before the learned Magistrate on a charge under Sections 5 and 7 of the Immoral Traffic (Prevention) Act. When the petitioner remained absent consistently, her case was re-filed as C.C. No.1470 of 2014. On trial the learned Magistrate found the first accused not guilty, and accordingly the first accused was acquitted by judgment dated 30.08.2014 in C.C. No.374/2009. The learned Magistrate acquitted the first accused on legal and factual grounds. The finding on facts is that there is no satisfactory evidence or material to prove the prosecution case. The finding on the question of law is that the whole prosecution is vitiated because search was conducted by an unauthorised officer. Investigation was also conducted by him and the very same officer submitted final report also. Now the petitioner seeks orders quashing the prosecution against her on the ground that the very substratum of the prosecution case stands totally lost in view of the finding of the trial court and also acquittal of the first accused. On an examination of Annexure - A3 judgment I find that the prosecution cannot in any

manner improve the case against the petitioner herein. The very substratum of the prosecution case stands lost. Admittedly the search was conducted by a Sub Inspector who is not authorised under the law. The very same Sub Inspector conducted the investigation, and also submitted final report in court. No doubt the whole prosecution is vitiated. The prosecution initiated by an unauthorised officer cannot be sustained. The first accused was rightly found not guilty by the learned Magistrate. Continuance of the prosecution will not serve any purpose other than wasting the precious time of the court.

In the result, the petition is allowed. Prosecution as against the petitioner herein in C.C. No.1470 of 2014 of the Judicial First Class Magistrate Court - III, Thiruvananthapuram will stand quashed under Section 482 Cr.P.C. Accordingly, the petitioner will stand released from prosecution, and the bail bond, if any, executed by her will stand discharged.

Sd/-
P. UBAID, JUDGE

//true copy//

P.A. To Judge

smv