

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 11TH DAY OF FEBRUARY 2015/22ND MAGHA, 1936

Crl.MC.No. 862 of 2015 ()

**CC 613/2013 of JUDICIAL FIRST CLASS MAGISTRATE COURT-II, PERINTHALMANNA
CRIME NO. 80/2013 OF MANKADA POLICE STATION, MALAPPURAM DISTRICT**
=====

PETITIONER/8TH ACCUSED:

**FEBIN NISAR, S/O.HAMSA, KADANTHODI
HOUSE, VALAMBUR AMSOM
TIRURKKAD, MALAPPURAM DISTRICT.**

BY ADV. SRI.U.K.DEVIDAS

RESPONDENT/COMPLAINANT/STATE:

**STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT. S. HYMA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 11-02-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

**ANNEXURE I: TRUE COPY OF THE FIRST INFORMATION REPORT IN CRIME
NO.80/2013 OF MANKADA POLICE STATION DATED 23/2/2013.**

**ANNEXURE II: TRUE COPY OF THE RELEVANT PAGE OF THE CHARGE SHEET IN
CRIME NO.80/2013 OF MANKADA POLICE STATION DATED 25/3/2013.**

**ANNEXURE III: TRUE COPY OF THE JUDGMENT IN CC NO.613/2013 BEFORE THE
JUDICIAL FIRST CLASS MAGISTRATE COURT-II, PERINTHALMANNA
DATED 31/12/2014.**

RESPONDENT'S EXHIBITS

NIL

// TRUE COPY // P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.862 of 2015

Dated this the 11th day of February, 2015

O R D E R

The petitioner herein is the original 8th accused in C.C.No.613/2013 of the Judicial First Class Magistrate Court-II, Perinthalmanna. The offences involved in this case are under Sections 143,147,148,448,427,341 and 294(b) IPC read with 149 IPC. The original accused Nos.1 to 7 faced trial before the trial court and obtained a judgment of acquittal under Section 248(1) Cr.P.C., when the prosecution failed to prove the charges against the accused beyond reasonable doubt. The prosecution examined four witnesses in the said case including the first informant, and also marked Ext.P1. 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 to 7. The case against the petitioner herein was split up and refiled as C.C.No.1169/2014. 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 prosecution against him will not serve any purpose. Annexure-III judgment in C.C.613/2013 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 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.1169/2014 of the Judicial First Class Magistrate Court-II, Perinthalmanna, 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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