

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE P.UBAID**

**THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936**

**Crl.MC.No. 878 of 2015 ()**  
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**IN LP 10/2014 of ADDL.SESIONS COURT (ADHOC)-II, PATHANAMTHITTA  
CRIME NO. 289/2004 OF THIRUVALLA POLICE STATION , PATHANAMTITTA**

**PETITIONER(S):**  
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**SUNU PHILIP @ SUNU  
S/O.PHILPOSE, KOCHUPARAMBIL VEEDU  
NEAR MARTHOMA COLLEGE, EAST MUTHOOR MURI  
KUTTAPUZHA VILLAGE, THIRUVALLA TALUK  
PATHANAMTHITTA DISTRICT.**

**BY ADVS.SRI.G.P.SHINOD  
SRI.RAM MOHAN.G.  
SRI.MANU V.  
SRI.GOVIND PADMANAABHAN  
SRI.AJIT G.ANJARLEKAR**

**RESPONDENT(S):**  
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**STATE OF KERALA  
REPRESENTED BY THE PUBLIC PROSECUTOR  
HIGH COURT OF KERALA, ERNAKULAM 682 031.**

**R BY PUBLIC PROSECUTOR SMT. S. HYMA**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12-02-2015, THE  
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

**Crl.MC.No. 878 of 2015 ()**  
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**APPENDIX**

**PETITIONER(S)' EXHIBITS**  
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**ANNEXURE A. COPY OF THE FIRST INFORMATION REPORT IN CRIME NO.289 OF 2004 OF THIRUVALLA POLICE STATION.**

**ANNEXURE B. COPY OF THE CHARGE SHEET IN SESSIONS CASE NO.480 OF 2010 OF THE SESSIONS COURT, PATHANAMTHITTA.**

**ANNEXURE C. COPY OF HTE JUDGMENT DATED 20.09.10 IN SESSIONS CASE NO.129 OF 2008 OF THE LEARNED ADDITIONAL SESSIONS JUDGE (ADHOC) FAST TRACK COURT II, PATHANAMTHITTA.**

**RESPONDENT(S)' EXHIBITS: NIL**  
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/TRUE COPY/

PA TO JUDGE  
sab

**P.UBAID, J.**

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**Crl. M.C No. 878 of 2015**  
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Dated this the 12<sup>th</sup> day of February, 2015.

**O R D E R**

The petitioner herein is the original 8<sup>th</sup> accused in S.C No.129 of 2008 of the Court of Session, Pathanamthitta. The offences involved in this case are under Sections 143, 147, 148, 341, 324 and 308 r/w 149 of IPC. The other accused faced trial before the learned Additional Sessions Judge, Adhoc II, Pathanamthitta in S.C No.129 of 2008, and obtained a judgment of acquittal under Section 232 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 6 witnesses in the said case and also marked Exts.P1 to P5. None of the material witnesses examined in the case supported the prosecution. In such a circumstance, examination of the others was dispensed with and evidenced was closed by the trial court. In the absence of any evidence or incriminating circumstance, the learned trial judge acquitted the others. The case against the petitioner herein was split up and refiled as S.C No.480 of 2010, and it now stands transferred to the register of long pending cases as L.P No. 10 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 C judgment in S.C No. 129 of 2008 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 L.P No.10 of 2014 before the Sessions Court, Pathanamthitta will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioner will stand released from prosecution.

P.UBAID,  
JUDGE