

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 27TH DAY OF FEBRUARY 2015/8TH PHALGUNA, 1936

Crl.MC.No. 950 of 2015 ()

**SC 461/2010 of ADDITIONAL ASSISTANT SESSIONS COURT, THALASSERY
CRIME NO. 110/2006 OF KANNUR TOWN POLICE STATION, KANNUR DISTRICT**
=====

PETITIONER/ACCUSED:

**K.V.SUANID, AGED 35 YEARS
S/O.MAJEED, RESIDING AT ASURAS
CHALAD, KANNUR.**

**BY ADVS.SRI.G.SREEKUMAR (CHELUR)
SRI.K.ASHIS**

RESPONDENTS/COMPLAINANT:

**STATE OF KERALA
REPRESENTED BY THE SUB INSPECTOR OF POLICE
KANNUR TOWN POLICE STATION
THROUGH THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT. S. HYMA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 27-02-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

ANNEXURE I: CERTIFIED COPY OF THE FIR IN CRIME NUMBER 110 OF 2006 OF KANNUR TOWN POLICE STATION.

ANNEXURE II: CERTIFIED COPY OF THE FINAL REPORT IN CRIME NUMBER 110 OF 2006 OF KANNUR TOWN POLICE STATION.

ANNEXURE III: CERTIFIED COPY OF THE DEPOSITION OF PW1 IN S.C.NO. 266 OF 2007 OF ADDITIONAL ASSISTANT SESSIONS JUDGE, THALASSERY.

ANNEXURE IV: CERTIFIED COPY OF THE DEPOSITION OF PW2 IN S.C.NO. 266 OF 2007 OF ADDITIONAL ASSISTANT SESSIONS JUDGE, THALASSERY.

ANNEXURE V: CERTIFIED COPY OF THE DEPOSITION OF PW 3 IN S.C.NO. 266 OF 2007 OF ADDITIONAL ASSISTANT SESSIONS JUDGE, THALASSERY.

ANNEXURE VI: CERTIFIED COPY OF THE JUDGMENT IN S.C.NO. 266 OF 2007 OF THE ADDITIONAL ASSISTANT SESSIONS JUDGE, THALASSERY.

RESPONDENT'S EXHIBITS

NIL

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

SD

P. UBAID, J.

Crl.M.C.No.950 of 2015

Dated this the 27th day of February, 2015

O R D E R

The petitioner herein is the original 8th accused in S.C No.266/2007 of the Additional Assistant Sessions Court, Thalassery. The offences involved in this case are under Sections 143, 147, 148, 447, 427 and 436 read with 149 IPC. All the accused except the 11th accused and the petitioner herein faced trial before the trial court and obtained a judgment of acquittal under Section 232 Cr.P.C. The prosecution examined three witnesses in the said case, 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 trial judge acquitted the accused. The case against the petitioner herein was split up and refiled when he remained consistently absent, and it is now pending as C.P.No.461/2010. 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 -VI judgment in S.C.266/07 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.P.No.461/2010 before Additional Assistant Sessions Court, Thalassery, will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioner will stand released from prosecution.

Sd/-

P. UBAID, JUDGE

sd

The case number "C.P.461/2010" occurring in the penultimate line at page 1 and in the second line of the last

paragraph at page 2 of the final order dated 27.02.2015 in Crl.M.C.No.950/2015 is corrected and substituted as "S.C.No.461/2010", vide order dated 12.03.2015 in Crl.M.A.No.2033/2015 in Crl.M.C.No.950/2015.

Sd/-
Registrar(Judicial) in-charge