

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.UBAID

THURSDAY, THE 26TH DAY OF MARCH 2015/5TH CHAITHRA, 1937

Crl.MC.No.1000 of 2015

**CC NO.73/2011 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-I,HOSDRUG
CRIME NO.1344/2010 OF HOSDURG POLICE STATION,KASARGOD.
L.P.C.NO.125/2014 OF THE JUDICIAL FIRST CLASS MAGISTRATE-I,HOSDURG.**

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PETITIONER/ACCUSED NO.4:

**SHOUKATH.K,AGED 26 YEARS,
S/O.K.M.ASSAINAR,HOUSE NO.AP XV-269,
KOLAVAYAL,AJANUR VILLAGE,
HOSDURG TALUK.**

BY ADV.SRI.A.ARUNKUMAR

RESPONDENT/COMPLAINANT/STATE:

**STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,ERNAKULAM-682 031.**

BY PUBLIC PROSECUTOR SMT.S.HYMA.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 26-03-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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Crl.MC.No.1000 of 2015

APPENDIX

PETITIONER'S EXHIBITS:

**ANNEXURE A I:A CERTIFIED COPY OF THE FIR IN CRIME NO.1344 OF 2010 BY
THE HOSDURG POLICE STATION,KASARAGOD.**

**ANNEXURE A II:A CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.1344 OF
2010 BY THE HOSDURG POLICE STATION,KASARAGOD.**

**ANNEXURE A III:COPY OF THE JUDGMENT IN CC NO.73/2011 ON THE FILES OF
JUDICIAL FIRST CLASS MAGISTRATE-I,HOSDURG,
KASARAGOD,DTD.24.9.2014.**

RESPONDENT'S EXHIBITS: **NIL**

//TRUE COPY//

P.S. TO JUDGE

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P.UBAID, J.
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**Crl.M.C No.1000 of 2015**  
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Dated this the 26th March, 2015

ORDER

The petitioner herein is the original accused No.4 in C.C No.73 of 2011 of the Judicial First Class Magistrate's Court-I, Hosdurg. The original accused Nos.1,2,3,5 and 6 faced trial before the trial court and obtained a judgment of acquittal under Section 248 (1) of Cr.P.C when the prosecution failed to produce any witness during trial. In the absence of any evidence or incriminating circumstance, the learned Magistrate acquitted the accused Nos.1,2,3,5 and 6. The case against the petitioner herein was split up and refiled as C.C No.2648 of 2014. Now it stands transferred to the register of long pending cases as L.P. No.125 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-AIII judgment in C.C 73 of 2011 shows that the prosecution did

not produce any witness in court in spite of repeated opportunities. In such a situation, it is quite definite that the prosecution cannot in any manner improve the case against the petitioner. In short, such proceeding will be a sheer waste of time. The report submitted by the police in this proceeding also shows that the material witnesses are not available at the locality, and the prosecution cannot procure their presence, if the case against the petitioner goes to trial.

In the result, this petition is allowed. The prosecution against the petitioner herein in C.C No.2648 of 2014 now stands transferred to the register of long pending cases as L.P.125 of 2014 of the Judicial First Class Magistrate's Court-I, Hosdurg will stand quashed under Section 482 of the Code of Criminal Procedure.

**Sd/-
P.UBAID
JUDGE**

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/True copy/

P.S to Judge