

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 19TH DAY OF FEBRUARY 2015/30TH MAGHA, 1936

Crl.MC.No. 1015 of 2015 ()

IN SC 508/2011 of I ADDITIONAL ASSISTANT SESSIONS COURT, THRISSUR

PETITIONER(S)/1ST ACCUSED:

**IRSHAD AGED 23 YEARS
S/O.ABDULLAKUTTY, CHUTTAPARABIL HOUSE, PALLOM DESOM
DESHAMANGALAM, VILLAGE, WADAKKANCHERY
THRISSUR DISTRICT.**

BY ADV. SRI.RAJIT

RESPONDENT(S)/STATE:

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

R BY PUBLIC PROSECUTOR SMT. P. MAYA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 19-02-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 1015 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A: TRUE COPY OF THE FINAL REPORT FILED BY THE CHERUTHURUTHY POLICE BEFORE THE LEARNED JUDICIAL FIRST CLASS MAGISTRATE COURT, WADAKANCHERY

ANNEXURE B: TRUE COPY OF THE JUDGMENT DATED 21/1/2015 IN S.C 508/2011 ON THE FILE OF THE I ADDITIONAL ASSISTANT SESSIONS JUDGE OF THRISSUR ARISING FROM CRIME 13/2011 OF THE CHERUTHURUTHY POLICE STATION, THRISSUR DISTRICT

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

PA TO JUDGE
sab

P.UBAID, J.

Crl. M.C No.1015 of 2015

Dated this the 19th day of February, 2015.

O R D E R

The petitioner herein is the original first accused in S.C No. 508 of 2011 of the Court of Session, Thrissur. The offences involved in this case are under Sections 143, 147, 148, 341, 323, 324 and 307 r/w Section 149 of IPC. The other accused faced trial before the learned First Additional Assistant Sessions Judge, 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 9 witnesses in the said case, and also marked Ext.P1. PW1 to PW3 are the injured persons, and PW4 to PW9 are the eye witnesses. None of the material witnesses examined in the case supported the prosecution. In such a circumstance, examination of the others was dispensed with and evidencing 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 when he absconded. 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 B judgment in S.C No. 508 of 2011 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 Crime No.13 of 2011 of the Cheruthuruthy Police Station will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioner will stand released from such prosecution.

P.UBAID,
JUDGE