

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 23RD DAY OF FEBRUARY 2015/4TH PHALGUNA, 1936

Cr1.MC.No. 1054 of 2015

IN SC 65/2015 OF THE PRINCIPAL ASSISTANT SESSIONS COURT,
THIRUVANANTHAPURAM

PETITIONER/ACCUSED:

HAKKIM SHAH,
S/O. ABDUL RASHEED, CHARUVILA VEEDU, NEAR MOSQUE
PACHALLOOR, PUNCHAKKARI, THIRUVALLAM,
THIRUVANANTHAPURAM

BY ADV. SRI.T.K.ANANDA KRISHNAN

RESPONDENTS/COMPLAINANT:

1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
OFFICE OF THE ADVOCATE GENERAL,
HIGH COURT OF KERALA,
ERNAKULAM.
2. SYAM RAJ, S/O. RAJENDRAN,
KARTHIKA, VETTIKKUZHI, NEMOM,
THIRUVANANTHAPURAM - 695 006

R1 BY SR. PUBLIC PROSECUTOR SMT.SAREENA GEORGE.P

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 23-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

The Sessions Case Number S.C No.65/2015 occurring in the
cause title of the final order dated 23.2.2015 in Cr1.M.C
No.1054/2015 is corrected and substituted as 'S.C No.66/2015' as
per order dated 21.11.2015 in Cr1.M.A No.10816/2015 in Cr1.M.C
No.1054/2015.

Sd/-
Assistant Registrar

Cr1.MC.No. 1054 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A1: COPY OF THE FINAL REPORT IN S.C.NO. 1193/2009 ON
THE FILE OF THE PRINCIPAL ASSISTANT SESSIONS COURT,
THIRUVANANTHAPURAM WHICH IS NOW REFILLED AS S.C. NO. 65/2015

ANNEXURE A2: COPY OF THE JUDGMENT IN S.C.NO. 1193/2009 ON THE
FILE OF THE PRINCIPAL ASSISTANT SESSIONS COURT,
THIRUVANANTHAPURAM

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

ab

P.UBAID, J.

Crl.M.C No.1054 of 2015

Dated this the 23rd day of February, 2015

O R D E R

The petitioner herein is the original 2nd accused in S.C No.1193/2009 of the Principal Assistant Sessions Court, Thiruvananthapuram. The offences involved in the case are under Sections 143, 147, 148, 149, 323, 324 and 307 of the Indian Penal Code. The original accused Nos.1 and 3 to 5 faced trial before the trial court and obtained a judgment of acquittal under Section 232 of the Code of Criminal Procedure when all the material witnesses including the de facto complainant turned hostile to the prosecution in view of an amicable settlement made by the parties out of court. Of the ten witnesses examined, PW1 is the first informant who sustained injuries in the incident, and PW2 to PW5 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 evidence was closed by the trial court. In the absence of any evidence or incriminating circumstance, the learned trial judge acquitted the accused Nos.1 and 3 to 5. The case against the petitioner herein was split up and refiled, and it is now pending as S.C No.65/2015 before the same court. 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 I judgment in S.C No.1193/2009 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 S.C No.65/2015 before the Principal Assistant Sessions Court, Thiruvananthapuram 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.

**P.UBAID
JUDGE**

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“S.C No.65/2015” occurring in the last line at page 1 and the 2nd line of the operative portion at page 2 of the final order dated 23.2.2015 in Crl.M.C No.1054/2015 is corrected and

substituted as "S.C No.66/2015" as per order dated 21.11.2015 in Crl.M.A No.10816/2015 in Crl.M.C No.1054/2015.

Sd/-
Registrar (Judicial)