

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 24TH DAY OF FEBRUARY 2015/5TH PHALGUNA, 1936

Crl.MC.No. 1126 of 2015 ()

PETITIONER/1ST ACCUSED:

**SHAJAHAN @ SHAJI, AGED 35 YEARS
ILLIYASKUNJU, THAZHOORAYYATH VEEDU, KARUNAGAPALLY MURI
KULASEKHARAPURAM VILLAGE.**

**BY ADVS.SRI.ARUN BABU
SRI.G.HARIPRASAD**

RESPONDENTS/STATE & COMPLAINANT:

- 1. STATE OF KERALA
REP. BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA-682031.**
- 2. CIRCLE INSPECTOR OF POLICE
SASTHAMCOTTAH POLICE STATION, KOLLAM-690 521.**
- 3. SASI, S/O.CHELLAPAN, KOLLANTAZHIKATHU VEEDU
PANAPPETI MURI, SASTHAMCOTAH VILLAGE-690 521.**

R1,R2 BY Sr. PUBLIC PROSECUTOR SMT. SAREENA GEORGE P.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 24-02-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

CRMC 1126/2015

APPENDIX

PETITIONER'S EXHIBITS

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| ANNEXURE A1 | CERTIFIED COPY OF THE JUDGMENT IN C.C.NO.320/96
BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE,
SASTHAMCOTAH DATED 11.02.2004 |
| ANNEXURE A2 | COPY OF THE CHARGE SHEET NO.236/1995 SUBMITTED BY
THE 2ND RESPONDENT BEFORE THE JUDICIAL FIRST CLASS
MAGISTRATE, SASTHAMCOTAH DATED 15.10.1995 |

RESPONDENTS' EXHIBITS

NIL

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

SD

P. UBAID, J.

Crl.M.C.No.1126 of 2015

Dated this the 24th day of February, 2015

O R D E R

The petitioner herein is the original 1st accused in C.C.No.320/1996 of the Judicial First Class Magistrate Court, Sasthamcotta. The offences involved in this case are under Sections 406,420 and 34 IPC. The original 2nd accused faced trial before the trial court and obtained a judgment of acquittal under Section 248(1) Cr.P.C., when the prosecution failed to prove the case. The prosecution examined four 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 Magistrate acquitted the 2nd accused. The case against the petitioner herein was split up and refiled as C.C.No.182/2004, and now it stands transferred to the register of long pending cases as L.P.No.93/2007. 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 2nd accused, and continuance of prosecution against him will not serve any purpose. Annexure -A1 judgment in C.C.320/1996 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.93/2007 of the Judicial First Class Magistrate Court Sasthamcotta will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioner will stand released from prosecution.

Sd/-

P. UBAID, JUDGE

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