

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 5TH DAY OF MARCH 2015/14TH PHALGUNA, 1936

Crl.MC.No. 1185 of 2015 ()

AGAINST SC 101/2012 of PRL. ASSISTANT SESSIONS COURT, THRISSUR
CRIME NO. 225/2008 OF PAVARATTY POLICE STATION, THRISSUR

PETITIONER(S)/3RD & 8TH ACCUSED :

1. SREEJITH @ JITH AGED 25 YEARS
S/O. VELAYUDHAN, KALLINGAL HOUSE, MARUTHAYOOR DESOM
PAVARATTI VILLAGE, THRISSUR DISTRICT.
2. BABURAJ @ BABU AGED 26 YEARS
S/O. BALAN, PANAKKAL VEETIL HOUSE, MARUTHAYOOR DESOM
PAVARATTY VILLAGE, THRISSUR DISTRICT.

BY ADV. SRI.T.PRASAD

RESPONDENT(S)/COMPLAINANT:

STATE OF KERALA
REPRESENTED BY THE SUB INSPECTOR OF POLICE
PAVARATTY POLICE STATION, THRISSUR DISTRICT
THROUGH THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM-682 031.

BY PUBLIC PROSECUTOR SMT.P.MAYA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
05-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 1185 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE I : COPY OF THE FIR AND FIS IN CRIME NO.225/2008 OF PAVARATTY POLICE STATION IN THRISSUR DISTRICT.

ANNEXURE II: COPY OF THE FINAL REPORT IN CRIME NO.225/2008 OF PAVARATTY POLICE STATION IN THRISSUR DISTRICT.

ANNEXURE III: COPY OF THE JUDGMENT DTD.31.10.2011 IN SC NO.103/2009 OF THE PRINCIPAL ASSISTANT SESSIONS COURT, THRISSUR.

RESPONDENT(S)' EXHIBITS

/TRUE COPY/

P.S TO JUDGE

P.UBAID, J.
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**Crl.M.C No.1185 of 2015**  
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Dated this the 5th March 2015

ORDER

The petitioners herein are the original accused Nos.3 and 8 in S.C No.103 of 2009 of the Court of Session, Thrissur. The offences involved in the case are under Sections 143, 147, 148, 341, 323, 324 and 308 read with 149 of Indian Penal Code. The crime was registered on the complaint of one Muhammed Raphi. The other six accused in the case faced trial before the learned Principal Assistant Sessions Judge, Thrissur and obtained a judgment of acquittal on 31.10.2011. The case against the petitioners herein was split up and refiled when they remained consistently absent. Now the case stands transferred to the register of long pending cases as L.P No.3 of 2014. The petitioner now seeks orders quashing the prosecution as against them on the ground that the very substratum of the prosecution case is totally lost by the acquittal of the others, and the prosecution cannot in any manner improve the case as against them in such a circumstance.

2. I heard both sides and perused the materials. Annexure III judgment in S.C No.103 of 2009 will show that even the injured and the de facto complainant could not adduce any satisfactory evidence to prove the case. The only eye-witness examined by the prosecution practically turned hostile. Thus, the others obtained judgment of acquittal in the absence of any satisfactory materials or incriminating circumstance. The learned Assistant Sessions Judge conclude the findings in paragraf 11 of the Annexure-III judgment.

“ On going through the entire evidence, I find that the injured himself has no consistent case. He has given different versions before the Investigating Officer. Further, it is very pertinent to note that the evidence of PW4, who was cited as an eye-witness would not support the case. To crown all these facts, there is evidence of PW1 who stated that there is no chance of causing the injuries noted in Ext.P1 with M.O.1. In a criminal case, it is the bounden duty of the prosecution to prove the case against the accused beyond all the reasonable doubt. Here I am satisfied that the prosecution was not able to prove the case against the accused beyond reasonable doubt. In

this circumstance I cannot enter into a conclusion that the accused herein had unlawfully restrained PW3 and attacked him with M.O.1 and by beating and kicking as alleged by the prosecution. I cannot enter into a conclusion about the involvement of the accused on the basis of surmises and conjectures.

3. I am well satisfied that the very substratum of the prosecution stands totally lost by the acquittal of the others. Annexure-III judgment shows definitely that the prosecution cannot in any manner improve the case as against the petitioners herein and the witnesses also cannot in any manner help the prosecution, if the case against the petitioners go to trial. It is submitted that there is no appeal against the acquittal of the others. In such a circumstance, continuance of the prosecution against the petitioners will not serve any purpose, other than wasting the precious time of the trial court.

In the result, this petition is allowed. The prosecution against the petitioners in S.C.101 of 2012 of the Principal Assistant Sessions Court, Thrissur which now stands

transferred to the register of long pending cases as L.P. No.3 of 2014 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