

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 2ND DAY OF MARCH 2015/11TH PHALGUNA, 1936

Crl.MC.No.1262 of 2015 ()

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AGAINST THE ORDER IN CC 734/2014 of C.J.M.,KASARAGOD IN
CRIME NO. 22/2007 OF KASARAGOD POLICE STATION , KASARGOD
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PETITIONER/12TH ACCUSED :

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ABDUL BASHEER C.M
S/O.ABDUL RAZAK, 21/07, CHALAKUNNU
VIDYA NAGAR, KASARAGOD.**

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENT/COMPLAINANT/STATE :

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- 1. STATION HOUSE OFFICER
KASARAGOD POLICE STATION - 673 121.**
 - 2. STATE OF KERALA,
REP; BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM - 682 031.**

BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE. P

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 02-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

VS

Crl.MC.No.1262 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE I: COPY OF THE FINAL REPORT

**ANNEXURE II: COPY OF THE JUDGMENT IN CC 655/2010 ON THE FILE
OF THE CHIEF JUDICIAL MAGISTRATE COURT, KASARAGOD**

RESPONDENT(S)' EXHIBITS

NIL

/TRUE COPY/

PA TO JUDGE

VS

P.UBAID, J

Crl.M.C.No.1262 of 2015

Dated this the 2nd day of March, 2015

ORDER

The petitioner herein is the original 12th accused in C.C No.655 of 2010 of the Chief Judicial Magistrate Court, Kasaragod. The offences involved in this case are under Sections 143, 147, 148, 341, 323, 427 and 153 r/w 149 of IPC. The original accused Nos 1 to 11 and 13 faced trial before the trial court and obtained a judgment of acquittal under Section.248(1) of 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 5 witnesses in the said case and also marked Exts.P1 and P2. 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 accused Nos.1 to 11 and 13. The case against the petitioner herein was split up and refiled as CC.No.734/14 and it is now pending before Chief Judicial Magistrate 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 the prosecution against him will not serve any purpose. Annexure - II judgment in C.C No.655/10 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 CC.No.734/14 before the Chief Judicial Magistrate court will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioner will stand released from prosecution.

**P.UBAID
JUDGE**

VS