

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

FRIDAY, THE 12TH DAY OF JUNE 2015/22ND JYAISHTA, 1937

Crl.MC.No. 1324 of 2015

**CC 1125/2014 OF JUDICIAL CLASS MAGISTRATE COURT, THALASSERY.
CRIME NO. 52/2012 OF DHARMADAM POLICE STATION, KANNUR DISTRICT.**
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PETITIONER/ACCUSED NO.2:

**SUBIN K., S/O.SURENDRAN, AGED 28 YEARS,
RESIDING AT " USHAS", P.O.DHARMADAM,
NEAR BRANNAN COLLAGE, THALASSERY,
KANNUR DIST.**

**BY ADVS.SRI.C.K.SREEJITH
SRI.N.BHARAT**

RESPONDENT(S)/COMPLAINANT, STATE & DEFACTO COMPLAINANTS:

- 1. STATION HOUSE OFFICER, DHARMADAM POLICE STATION,
KANNUR DISTRICT, REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.**
- 2. STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM 682 031.**
- 3. RAMITH, S/O.RAVEENDRAN, AGED 22 YEARS,
KELOTH HOUSE, P.O.MORAZHA, KANNUR - 670 331.**
- 4. VYSHAK, AGED 21 YEARS, S/O.RAJAN,
RESIDING AT MENOTH HOUSE, KANHIRAKOLLY P.O.,
PAYYANNUR, KANNUR DIST - 670 307.**
- 5. RAJU MATHAI, S/O.MATHAI, AGED 21 YEARS,
ETHLIL VEEDU, P.O.ARALAM, KANNUR DIST - 670 704.**

R1 & R2 BY PUBLIC PROSECUTOR SMT.S.HYMA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 12-06-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' ANNEXURES:

- ANNEXURE A1:** THE CERTIFIED COPY OF THE FIR IN CRIME NO.52/12 OF DHARMADAM POLICE STATION, KANNUR DISTRICT.
- ANNEXURE A2:** THE CERTIFIED COPY OF THE FIRST INFORMATION STATEMENT GIVEN TO THE POLICE BY THE 3RD RESPONDENT.
- ANNEXURE A3:** THE CERTIFIED COPY OF THE CHARGE SHEET FILED BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE NO.1, THALASSERY.
- ANNEXURE A4:** THE CERTIFIED COPY OF THE JUDGMENT IN CC.NO.644/2012 ON THE FILE OF JUDICIAL 1ST CLASS MAGISTRATE COURT NO.1, THALASSERY.

RESPONDENTS' ANNEXURES: NIL.

//TRUE COPY//

P.S. TO JUDGE

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ALEXANDER THOMAS, J.

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Dated this the 12th day of June, 2015.

ORDER

The petitioner herein is the original 2nd accused in Crime No.52/2012 of Dharmadam Police Station, Kannur District, registered for offences punishable under Secs.143, 147, 148, 323 & 324 r/w 149 IPC. The prosecution allegation is that the accused along with 7 others formed themselves into an unlawful assembly, armed with deadly weapons, and attacked the defacto complainant and others. The police after investigation submitted Anx-A3 final report/charge sheet, which has led to the institution of C.C.No.644/2012 on the file of the Judicial First Class Magistrate Court, Thalassery, in which the 1st accused faced trial, and the said court by Anx-4 judgment acquitted the 1st accused, as the witnesses were not available to adduce evidence. As the petitioner was not available for trial, the case against him was split up and renumbered as C.C.No.1125/2014 on the file of the Judicial First

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Class Magistrate Court, Thalassery. It is submitted that the matter has been settled out of court long back and that the parties are not intending to proceed further with the case. It is the specific case of the petitioner that the substratum of the prosecution case has been shattered by the acquittal of the co-accused as per Anx-A4 judgment. It is in the light of these aspects that the prayer for quashment of the impugned criminal proceedings has been made by the petitioner in the instant Crl.M.C.

2. On a close scrutiny of the evidence on record, the court below held that the defacto complainant and other injured witnesses were not available for examination even after repeated coercive steps taken against them and hence the prosecution has also closed the evidence. From a reading of Anx-A4 judgment it can be seen that the substratum of prosecution case has been shattered by the acquittal of the co-accused. No meaningful purpose will be subserved by prolonging the agony of the impugned criminal proceedings now pending against the petitioner. Any further continuance of the impugned criminal

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proceedings would amount to mere wastage of precious resources of the State including that of the judiciary.

3. In this view of the matter, it is ordered in the interest of justice that the impugned Anx-A3 Final Report/Charge Sheet filed in Crime No.52/2012 of Dharmadam Police Station, which is now pending as C.C.No.1125/2014 on the file of the Judicial First Class Magistrate Court, Thalassery, and all further proceedings arising therefrom pending against the petitioner herein stand quashed under Sec.482 of the Cr.P.C.

With these observations and directions, this CrI.M.C stands disposed of.

ALEXANDER THOMAS,
Judge.

bkn/-