

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 6TH DAY OF OCTOBER 2015/14TH ASWINA, 1937

Crl.MC.No. 1494 of 2015

**CC 1403/2014 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, MALAPPURAM
CC.424/2008 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, MALAPPURAM
CRIME NO. 1079/2007 OF MALAPPURAM POLICE STATION, MALAPPURAM**

PETITIONER/ACCUSED NO.4:

**IRFAN HABEEB,
S/O UMMER, PICHANVEETIL HOUSE,
KOZHIKKATTUKUNNU,
MELAKKAYAM, MANJERI.**

BY ADV. SRI.P.M.RAFIQ

RESPONDENT/COMPLAINANT:

**STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682031.**

BY PUBLIC PROSECUTOR SMT.SAREENA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 06-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

Crl.MC.No. 1494 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES

**ANNEXURE A: TRUE COPY OF THE FINAL REPORT IN CC NO.424/2008 OF THE COURT
OF JUDICIAL MAGISTRATE OF FIRST CLASS, MALAPPURAM.**

**ANNEXURE B: TRUE COPY OF THE JUDGMENT IN C.C.NO.424/2008 OF THE COURT
OF JUDICIAL MAGISTRATE OF FIRST CLASS, MALAPPURAM, DATED
29.11.2014.**

RESPONDENT(S)' ANNEXURE

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

B.KEMAL PASHA, J.

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CRL.M.C. No.1494 of 2015

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Dated this the 6th day of October, 2015

ORDER

The petitioner is A4 in Crime No. 1079 of 2007 of the Malappuram Police Station. Altogether there were 5 accused. A1 to A3 were absconding. The petitioner and A5 participated in the trial in C.C.No.424 of 2008 before the Judicial First Class Magistrate's Court, Malappuram in the matter. At the stage of Section 313 Cr.P.C., it seems that the petitioner absconded. The case against A5 alone was proceeded with, which culminated in an acquittal through Annexure B judgment. The court below has split up and re-filed the case against A1 and A4 as C.C.No.1403 of 2014.

2. The present request of the petitioner is to extent the benefit given to A5 through Annexure B judgment to the petitioner also. The petitioner being an absconding accused, is not entitled to encash the judgment passed in the case of

A5.

3. The learned Public Prosecutor has pointed out that the petitioner was identified by the prosecution witnesses. Whatever it is, it is not possible to quash the proceedings against the petitioner based on Annexure B judgment. At the same time, the court below is directed to have an expeditious disposal of the case against the petitioner. In case A1 to A3 are still absconding, the case against them can be split up and the case against the petitioner can be proceeded with.

With the said observations, this CrI.M.C. is closed.

Sd/-

B. KEMAL PASHA
JUDGE

DSV/7/10/15

// True Copy //

P.A. To Judge