

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.UBAID

FRIDAY, THE 15TH DAY OF MAY 2015/25TH VAISAKHA, 1937

CrI.MC.No.1518 of 2015

**CRIME NO.350/2004 OF PANDALAM POLICE STATION,PATHANAMTITTA.
C.C.NO.1714/2008 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT,ADOOR.**

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PETITIONER:

**VISHWAMBHARAN,AGED 51 YEARS,
S/O.JANAKI ANMMAL,CHARUVKALAYIL VEETIL,
MEZHUVELI,IHAVUMTHITTA,NEDUMPARA,
KALLURUTTI P.O.,ARYANKAVU.**

**BY ADVS.SRI.K.B.PRADEEP
SRI.ASHOK SURESH**

RESPONDENT:

**THE STATE OF KERALA,
REPRESNETED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,PIN - 682 031.**

BY PUBLIC PROSECUTOR SRI.C.K.JAYAKUMAR

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 15-05-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

pk

Crl.MC.No.1518 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

**ANNEXURE I:TRUE COPY OF THE FIR AND CHARGE LAID BY PANDALAM POLICE
IN CC.NO.1714/08 IN THE FILE OF JFCMC, ADOOR.**

**ANNEXURE II:TRUE COPY OF THE JUDGMENT IN CC NO.592/2005 ON THE FILE
OF JFCMC, ADOOR.**

RESPONDENT'S ANNEXURES:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

P. UBAID, J.

Crl.M.C.No.1518 of 2015

Dated this the 15th day of May, 2015

O R D E R

The petitioner herein is the original second accused in C.C.592/2005 of the Judicial First Class Magistrate Court, Adoor. The offences involved in this case are under Sections 143, 147, 148, 149, 506(ii), 447 and 188 IPC. The original accused Nos.1 and 3 faced trial before the trial court and obtained a judgment of acquittal on 31.12.2008, 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 two witnesses in the said case and also marked Exts.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 accused Nos. 1 and 3. The case against the petitioner herein was split up and refiled as C.C.No.1714/2008. 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 prosecution against him will not serve any purpose. Annexure - 2 judgment in C.C.592/2005 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 C.C.No.1714/2008 of before the Judicial First Class Magistrate Court, Adoor will stand quashed under Section 482 of the Code of Criminal Procedure.

Sd/-

P. UBAID, JUDGE

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