

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

THURSDAY, THE 28TH DAY OF MAY 2015/7TH JYAISHTA, 1937

Crl.MC.No. 1549 of 2015 ()

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LPC.172/2008 IN CP. NO.219/2005 OF JUDICIAL FIRST CLASS MAGISTRATE
COURT, KASARAGOD.**

CRIME NO. 80/2004 OF KASARAGOD POLICE STATION.

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PETITIONER/47TH ACCUSED:

**MUHAMMED MUSTHAFI, S/O.KUNHAMMED,
AGED 30 YEARS, AKKAREKUNNU, BLARKKOD,
KUDLU VILLAGE, KASARAGOD.**

BY ADV. SRI.T.G.RAJENDRAN.

RESPONDENT/COMPLAINANT/STATE:

- 1. THE SUB INSPECTOR OF POLICE,
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.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 28-05-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE-I: COPY OF THE FINAL REPORT.

ANNEXURE-II: COPY OF THE ORDER IN CRL.M.P. 1492/2008 IN SC.629/2006, SC. 284/07, SC.87/2008 OF ADDITIONAL SESSIONS JUDGE (ADHOC I), KASARAGOD DATED 30.05.2008.

ANNEXURE-III: TRUE COPY OF THE ORDER IN CRL.M.C. NO.6369/2013 OF THIS HON'BLE COURT.

RESPONDENTS' ANNEXURES:

NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

ALEXANDER THOMAS, J.

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Crl.M.C.No. 1549 of 2015

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Dated this the 28th day of May, 2015

ORDER

The petitioner herein is the 47th accused in Crime No.80/2004 of Kasargod Police Station, now pending as L.P.C. No.172/2008 on the file of the Judicial First Class Magistrate's Court,-I, Kasargod. The offences alleged are punishable under Secs.143, 147, 148, 332, 333, 307, 153A read with Sec.149 of the IPC. The instant Crl.M.C. has been filed to quash the impugned Anx.A-1 final report/charge sheet filed in the above said criminal proceedings against the petitioner.

2. By Anx.II order, rendered on 30.5.2008, the Court of Additional Sessions Judge (Ad hoc-I), Kasargod, passed an order in Crl.M.P.No.1492/2008 in S.C.No.629/2006 and connected cases, whereby the prayer of the Prosecutor for withdrawing the cases against the 60 accused therein was allowed and the said accused persons were ordered to be discharged. As the petitioner was not available for trial, the case against him was split up and Anx.II order

related only to 60 persons against whom the court has framed charges in the above said crime. The learned Sessions Judge observed in Anx.II that there are practical difficulties for bringing home with convincing evidence the guilt of the accused when members of different community clashed themselves and turned to the police it is difficult to get impartial independent witness also and that in such circumstances there is merit in the submission of the prosecutor that for preserving the peace of the locality, the withdrawal of the case is necessary in the instant crime. It is in these circumstances that the learned Sessions Court allowed the plea and discharged the said accused in Anx.II order. The Sessions cases mentioned in Anx.II arose out of the instant Crime No.80/2004 of Kasargod Police Station. Since the petitioner was abroad, he could not appear before the court below and his case was transferred to the long pending list as LPC No.172/2008 and therefore he could not be a beneficiary of the discharge as per Anx.II order consequent to the permission for withdrawal of the prosecution. In the case of the similar accused, who was also not the beneficiary of Anx.II order, as his case was split up, this Court quashed the impugned criminal proceedings against him as per

Anx. III order rendered on 19.12.2013 in Crl.M.C.No.6369/2013. Since this Court has taken considered opinion in Anx.III order in Crl.M.C.No.6369/2013 that the impugned criminal proceedings against the accused therein are to be quashed in the interest of justice in the light of the discharge granted by the court below as per Anx.II order, it is only just and proper that the benefit of the said order is extended to the petitioner herein also. In the result, the impugned Anx.I final report/charge sheet filed in Crime No.80/2004 of Kasargod Police Station, which led to the pendency of LPC No.172/2008 on the file of the Judicial First Class Magistrate's Court-I, Kasardgod and all further proceedings arising therefrom pending against the petitioner stand quashed.

With these observations and directions, the Crl.M.C. stands finally disposed of.

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Sd/-
ALEXANDER THOMAS, JUDGE

///True copy///

P.S. to Judge