

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.UBAID

WEDNESDAY, THE 11TH DAY OF MARCH 2015/20TH PHALGUNA, 1936

Crl.MC.No.1557 of 2015

**CP NO.2/2012 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT, PATTAMBI .
CRIME NO.40/2009 OF CHALISSERY POLICE STATION,PALAKKAD.**

...

PETITIONER/14TH ACCUSED:

**MANSOOR,AGED 26 YEARS,S/O.SIDHEEQ,
KIZHAKKETH VALAPPIL,NELLIKATTIRI P.O.,
KOOTTANAD,PATTAMBI,PALAKKAD DISTRICT.**

BY ADV.SRI.A.HAROON RASHEED

RESPONDENT/COMPLAINANT:

**STATE OF KERALA,
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
CHALISSERY POLICE STATION,PALAKKAD DISTRICT,
THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,ERNAKULAM.**

BY SENIOR PUBLIC PROSECUTOR SMT.SAREENA GEORGE.P

**THIS CRIMINAL MISC.CASE HAVING COME UP FOR ADMISSION
ON 11-03-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

pk

CrI.MC.No.1557 of 2015

APPENDIX

PETITIONER'S ANNEXURE'S:

**ANNEXURE-1:THE TRUE COPY OF THE FINAL REPORT OF CRIME NO.40/2009 OF
CHALISSERY POLICE STATION.**

**ANNEXURE-2:THE CERTIFIED COPY OF THE JUDGEMENT OF S.C.NO.53/2012
AND 399/2013 OF THE SESSIONS COURT,PALAKKAD
DATED 26.11.2013.**

**ANNEXURE-3:THE COPY OF THE JUDGEMENT OF CRL.M.C 3454/2014 OF THE
HON'BLE HIGH COURT OF KERALA DATED 1.8.2014**

RESPONDENT'S ANNEXURE'S:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

P. UBAID, J.

Crl.M.C.No.1557 of 2015

Dated this the 11th day of March, 2015

O R D E R

The petitioner herein is the original 14th accused in Crime No.40/2009 of the Chaliserry Police Station. The offences involved in this case are under Sections 143, 147, 148, 324 326 and 307 read with 149 IPC. The other accused in the case faced trial before the Court of Session, Palakkad in SC.Nos. 53/2012 and 399/2013, and obtained a judgment of acquittal under Section 232 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 case against the 9th accused was quashed by this Court as per order dated 01.08.2014 in Crl.M.C.No.3454/2014. The case against the petitioner was split up and refiled at the committal stage, and it is now pending as C.P.No.2/2012. The prosecution examined twenty two witnesses in the said case, and also marked Exts.P1 to P34. 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. 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-A2 common judgment in S.C.Nos.53/2012 and 399/2013 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.P.No.2/2012 before the Court of Session, Palakkad will stand quashed under Section 482 of the Code of Criminal Procedure.

Sd/-

P. UBAID, JUDGE

sd

"Court of Session, Palakkad" occurring in the last paragraph of the final order dated 11/03/2015 in Crl.M.C.1557/2015 is corrected and substituted as "Judicial First Class Magistrate Court, Pattambi", vide order dated 01/04/2015 in Crl.M.A.2749/2015 in Crl.M.C.1557/2015.

Sd/-

Registrar (Judicial)