

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

Cr1.MC.No. 1564 of 2015

AGAINST C.C NO. 624/2011 OF THE JUDICIAL FIRST CLASS MAGISTRATE
COURT-I, ATTINGAL

PETITIONER/1ST ACCUSED:

ABHILASH, AGED 28 YEARS,
S/O.MURALEEDHARAN NAIR,
THALAPPIL VEEDU, SARKKARA VILLAGE,
CHIRAYINKEEZH TALUK,
THIRUVANANTHAPURAM DIST.

BY ADV. SRI.J.JAYAKUMAR

RESPONDENTS/COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM

BY PUBLIC PROSECUTOR SMT.S.HYMA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 17-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 1564 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A1: COPY OF THE COMPROMISE PETITION FILED BY THE PARTIES IN C.C. NO.559/2007 BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT I, ATTINGAL.

ANNEXURE A2: COPY OF THE JUDGMENT DATED 18.6.2011 IN C.C NO.559/2007 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT I, ATTINGAL.

RESPONDENT'S ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.1564 of 2015

Dated this the 17th day of March, 2015

O R D E R

The petitioner herein is the original 1st accused in C.C No.559/2007 of the Judicial First Class Magistrate Court I, Attingal. The offences involved in the case are under Sections 341, 143, 147, 148, 323 r/w 149 of the Indian Penal Code. The original accused Nos.2, 4, 5 and 6 faced trial before the trial court and obtained a judgment of acquittal under Section 248(1) of the Code of Criminal Procedure 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 five witnesses in the said case and also marked Exts.P1 to P3. 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.2, 4, 5 and 6. The case against the petitioner herein and the 3rd accused was split up when they remained absent consistently. Now the case against the petitioner is pending as C.C No.624/2011 before the Judicial First Class Magistrate Court I, Attingal. 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 No.559/2007 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.624/2011 before the Judicial First Class Magistrate Court I, Attingal will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioner will stand released from prosecution.

**P.UBAID
JUDGE**

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