

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 13TH DAY OF MARCH 2015/22ND PHALGUNA, 1936

CrI.MC.No. 1608 of 2015 ()

**IN SC 701/2010 of ADDL. DISTRICT COURT (ADHOC-III), KASARAGODE
CRIME NO. 372/2009 OF KASARAGOD POLICE STATION , KASARGOD**

PETITIONER(S):

**SHAFEEQUE V.A. AGED 31 YEARS
S/O ABDUL RAHIMAN
OPP. BILAL MASJID, GUDDE TEMPLE ROAD
KUDLU, KASARAGOD**

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENT(S):

**1. SAMBATH K.
S/O RAMANANDA
AGED 29 YEARS, NEAR GUDDE TEMPLE
KUDLU GRAMAM, KASARAGOD 673125**

**2. THE SUB INSPECTOR OF POLICE
KASARAGOD POLICE STATION 673121**

**3. STATE OF KERALA REP. BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM 682031**

**R1 BY ADV. SRI.CIBI THOMAS
R3 BY PUBLIC PROSECUTOR SMT. SAREENA GEORGE. P.**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 13-03-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 1608 of 2015 ()

PETITIONERS ANNEXURES:

- I TRUE COPY OF THE FINAL REPORT IN CR.NO.372 OF 2009**
- II. THE TRUE COPY OF THE JUDGMENT IN SC. NO.701/10 ON THE FILE OF THE
 ADDITIONAL DISTRICT AND SESSIONS JUDGE (ADHOC III), KASARAGOD**
- III. TRUE COPY OF THE AFFIDAVIT OF THE 1ST RESPONDENT**

REPPONDENTS ANNEXURES: NIL

/TRUE COPY/

PA TO JUDGE
sab

P.UBAID, J.

Crl. M.C No. 1608 of 2015

Dated this the 13th day of March, 2015.

O R D E R

The petitioner herein is the original third accused in Crime No.372 of 2009 of the Kasaragod Police Station. The offences involved in this case are under Sections 143, 147, 148, 341, 324, 506(ii) and 308 r/w 149 of IPC. The accused Nos.1 and 2 faced trial before the trial court and obtained a judgment of acquittal under Section 235(1) 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 prosecution examined 2 witnesses in the said case and also marked Exts.P1and P2. None of the witnesses examined in the case supported the prosecution. In the absence of any evidence or incriminating circumstance, the learned trial judge acquitted the accused Nos.1 and 2. The case against the petitioner herein was split up in the committal court itself as CP No.147 of 2010, which now stands transferred to the register of long pending cases as L.P No. 21

of 2014. 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 the prosecution against him will not serve any purpose. Annexure II judgment in S.C No.701 of 2010 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 L.P No. 21 of 2014 before the Judicial First Class Magistrate Court-I, Kasaragod will stand quashed under Section 482 of the Code of Criminal Procedure.

P.UBAID,
JUDGE