

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

Crl.MC.No. 1656 of 2015 ()

**IN LP 74/2010 of ADDITIONAL DISTRICT COURT (ADHOC-I), MANJERI
CRIME NO. 122/2005 OF KONDOTTY POLICE STATION , MALAPPURAM**

PETITIONER(S)/ACCUSED:

- 1. NEMMINIPARAMBAN MUHAMMED ANWAR SADATH
S/O. HYDER HAJI, PULIKKAL AMSOM, OLAVATTOOR
KARIYATHAN-KOTTAMMAL, MALAPPURAM DISTRICT.**
- 2. KOLEKATH ABDUL GAFOOR
S/O. MUHAMMED, THONDIPURAM HOUSE, CHAVITTANIKUTHU
PULIKKAL AMSOM, OLAVATTOOR, MALAPPURAM DISTRICT.**

**BY ADVS.SRI.BABU S. NAIR
SRI.K.RAKESH**

RESPONDENT(S)/STATE:

**STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM, KOCHI - 682 031.**

R BY PUBLIC PROSECUTOR SMT. SAREENA GEORGE. P.

**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. 1656 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

A - TRUE COPY OF THE FINAL REPORT/CHARGE IN CRIME NO. 122/2005 OF THE KONDOTTY POLICE STATION.

B - TRUE COPY OF THE JUDGMENT DT. 22.8.08 IN SC NO. 227/07 OF THE ADDITIONAL SESSIONS JUDGE (ADHOC -I), MANJERI.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

PATO JUDGE
sab

P.UBAID, J.

Crl. M.C No. 1656 of 2015

Dated this the 17th day of March, 2015.

O R D E R

The petitioners herein are the original accused Nos.4 and 8 in Crime No.122 of 2005 of the Kondotty Police Station. The offences involved in this case are under Sections 143, 147, 148, 341, 323, 324, 308, 506(i) r/w 149 of IPC. The original accused Nos.1 to 3, 6, 9 to 12, 14 and 15 in the crime faced trial before the trial court, and obtained a judgment of acquittal under Section 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 petitioners herein was split up and refiled, when they remained consistently absent. It stands now transferred to the register of long pending cases as L.P No.74 of 2010 before the Additional Sessions Court (Adhoc -I), Manjeri. The petitioners now seek orders quashing the prosecution as against them 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 them will not serve any purpose. Annexure B judgment in S.C 227 of 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 petitioners 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 petitioners in L.P No.74 of 2010, of the Additional Sessions Court, Manjeri will stand quashed under Section 482 of the Code of Criminal Procedure.

P.UBAID,
JUDGE