

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 5TH DAY OF MAY 2015/15TH VAISAKHA, 1937

Cri.MC.No. 1658 of 2015

**CRIME NO.322 OF 2014 OF CHIRAYINKIL POLICE STATION ,
THIRUVANANTHAPURAM**

PETITIONER(S)/5TH ACCUSED :

**SUBASH, S/O.SUDEVAN,
KUNCHALIVILAKOM VEEDU, PERUMKUZHY DESOM,
AZHOOR VILLAGE, THIRUVANANTHAPURAM.**

BY ADV. SRI.M.R.SARIN PANICKER

RESPONDENT(S)/COMPLAINANT :

- 1. THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. SATHYAM, AGED 62 YEARS,
S/O. KALI VAYALTHITTA VEEDU, KUZHIYAM HARIJAN COLONY,
PERUMKUZHI, AZOOR, THIRUVANANTHAPURAM.**
- 3. SHIJU, AGED 38 YEARS,
S/O. KARUNAKARAN, APV1/76, KARUVILA,
THIRUVATHIRAKARA COLONY, KATTADIMUKKU, AZOOR,
THIRUVANANTHAPURAM - 695 501.**

**R1 BY SR.PUBLIC PROSECUTOR SRI.K.K.SAIDALAVI
R2 & R3 BY ADV. SRI.AJAYA KUMAR. G**

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

Msd.

APPENDIX

PETITIONER(S)' ANNEXURES :

- ANNEXURE A1:** CERTIFIED COPY OF THE FIR NO. 62/2000 OF CHIRAYINKEEZHU POLICE STATION.
- ANNEXURE A2:** CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO. 62/2000 OF CHIRAYINKEEZHU POLICE STATION.
- ANNEXURE A3:** THE CERTIFIED COPY OF THE JUDGMENT IN S.C.NO.77/2003 ON OF ADDITIONAL SESSION JUDGE FAST TRACK-III, THIRUVANANTHAPURAM.
- ANNEXURE A4:** STATEMENT SIGNED BY THE 2ND RESPONDENT.
- ANNEXURE A5:** STATEMENT SIGNED BY THE 3RD RESPONDENT.

RESPONDENT(S)' ANNEXURES :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

P. UBAID, J.

Crl.M.C.No.1658 of 2015

Dated this the 5th day of May, 2015

O R D E R

The petitioner herein is the original 5th accused in Crime No.62/2000 of the Chrayankeeazhu Police Station. The offences involved in this case are under Sections 143, 147, 148, 324 IPC, Sections 3 and 5 of the Explosive Substance Act and Section 27 of the Arms Act. After investigation the police submitted final report in court. He was arraigned as 4th accused in the final report, on which the learned Sessions Judge took cognizance. The other accused faced trial before the learned Additional Sessions Judge (Fast Track-III), Thiruvananthapuram in S.C.Nos. 77/2003 and 723/2006, and obtained a judgment of acquittal on 01.07.2008, 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 petitioner herein was split up and refiled as S.C.2178/2014. Now, he seeks orders quashing the prosecution against him, on the ground that the very substratum of the prosecution case stands totally lost by the acquittal of the others, and that it will be a futile exercise to continue the

prosecution when nobody will support the prosecution, in any manner, if the case goes to trial. The prosecution examined fourteen witnesses in the said case and also marked Exts.P1 to P14. 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 - A3 judgment in S.C.Nos.77/2003 and 723/2006 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 S.C.2178/2014 of the Additional District & Sessions Court, Thiruvananthapuram-VI will stand

quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioner will stand released from prosecution, and the bail bond, if any, executed by him will stand discharged.

Sd/-

P. UBAID, JUDGE

sd